REVISED

MUNICIPAL ORDINANCES

CITY OF HARRISBURG, SOUTH DAKOTA

Ordinance No. 2015-10

Effective Date: January 20, 2016

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

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

ORDINANCE NO. 2015-10

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

BE IT ORDAINED BY THE CITY OF HARRISBURG, SOUTH DAKOTA:

Pursuant to SDCL 9-19-16, this Ordinance in Revision of the Municipal Ordinances of the City, revising regulations as set forth in the document titled "Revised Municipal Ordinances," is hereby read, approved, and adopted as follows:

First Reading: November 17, 2015

Second Reading and Adoption: December 21, 2015

Publication Date: December 31, 2015

Effective Date: January 20, 2016

_____
Mayor

ATTEST:

_____
Finance Officer

Seal

NOTICE OF ADOPTION

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

Notice is hereby given Ordinance No. 2015-10, an Ordinance in Revision of the Municipal Ordinances of the City of Harrisburg, was duly adopted by the City Council on December 21, 2015, and shall become effective January 20, 2016, according to South Dakota law.

The Ordinance revises the Municipal Ordinances of the City heretofore adopted, and repeals all ordinances or parts of ordinances in conflict therewith. The Ordinance does not repeal special ordinances, the planning and zoning ordinance, appropriation ordinances, levying ordinances for the issuance of bonds, and other special ordinances of like character. Such ordinances not included in the revision and still having force and effect may be found in the Finance Office.

A copy of the Revised Municipal Ordinances is available for public inspection at the Harrisburg City Office and may be viewed during normal business hours.

Mary McClung
Finance Officer

Published once at the approximate cost of _____.

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TITLE 1 - ADMINISTRATIVE CODE

Chapter 1.01 - Municipal Employees
Chapter 1.02 - Mayor and City Council
Chapter 1.03 - Advisory Park and Recreation Board
Chapter 1.04 - Finance Regulations
Chapter 1.05 - Library Board of Trustees

CHAPTER 1.01 - MUNICIPAL EMPLOYEES

1.0101 Appointive Officers, Method of Appointment. All appointive officers shall be appointed by the Mayor with the approval of the City Council and shall hold office until their successor shall be appointed and qualified. (SDCL 9-14-3)

1.0102 Appointive Officers, Salaries, Bonds. The following offices or positions of the City, as hereinafter created, are continued, and the amounts of salaries to and bonds to be furnished by them shall be fixed by resolution of the City Council and shall be adjusted as deemed necessary by resolution of the City Council of the City of Harrisburg and said amounts shall be on file at the office of the Finance Officer: Attorney, Finance Officer, City Administrator, Planning and Zoning Administrator, Maintenance Superintendent and such other officers as may be prescribed by ordinance or state statute.

The salaries of such designated officers or employees shall be paid biweekly except that of the City Attorney shall be paid an hourly rate on a monthly basis.

1.0103 Employees Other Than Appointive. In addition to appointive officers, the Mayor with the approval of the City Council shall hire such other personnel, professional and otherwise, required and necessary for municipal purposes. The compensation of such employees shall be fixed by resolution at anytime regardless of the time when any City employee may have been hired.

1.0104 Personnel Policies. Vacation, sick leave and other employment policies in effect are on file in the office of the City Finance Officer.

CHAPTER 1.02 - MAYOR AND CITY COUNCIL

1.0201 Composition. The City Council shall consist of the Mayor elected at large, who shall hold office for four years, and four aldermen, two elected from each ward, who shall hold office for three years. (SDCL 9-8-14)

1.0202 Regular Meetings. The regular monthly meetings of the City Council shall be held at the Liberty School Board Room or other designated place on the first Monday of each month at 6:00 p.m. and on the third Monday of each month at 6:00 p.m. except when Monday is a legal holiday, and in that case the meeting shall be held on another specified date. Meetings may be held on other specific dates as set by the Mayor with the majority vote of the City Council. (SDCL 9-8-8)

1.0203 Special Meetings. Special meetings of the City Council may be held at any time on call of the Mayor, or in case of absence or inability to act, then by the President of the City Council; or if the Mayor and President of the City Council refuse to act, then by two (2) of the Aldermen. It shall be the duty of the City Finance Officer to contact the Aldermen before the time specified for such meetings, and this may be done by telephone. (SDCL 9-8-8)

1.0204 Committees. The mayor may appoint such committees of the members of the City Council as he or she deems desirable to accomplish an efficient division of the work and duties to be performed by the City Council.

1.0205 Boards and Commissions. The City Council shall have the authority to create such boards and commissions as are allowed under the statutes of the State of South Dakota as it may consider necessary and desirable and shall make such bylaws, rules, and regulations as are necessary for the orderly transaction and conduct of its business of which a record shall be placed on file in the office of the City Finance Officer.

1.0206 Compensation - Mayor, City Council and Board or Commission Members. The compensation of the Mayor and City Council members shall be fixed by resolution and said amounts shall be placed on file in the office of the City Finance Officer. Compensation for board or commission members shall be fixed by resolution which shall be placed on file in the office of the City Finance Officer.

CHAPTER 1.03 - ADVISORY PARK AND RECREATION BOARD

1.0301 Created. There shall be created an Advisory Park and Recreation Board for the City that shall act as an advisory group to the Mayor and City Council regarding planning and developing parks and their improvements. They shall also act as an advisory group in the development and operation of the City Recreation Program. The board shall have such other powers and duties as may be referred to it by ordinance, resolution or by the Mayor.

1.0302 Composition and Appointment. The Advisory Park and Recreation Board shall be composed of seven members appointed and subject to removal by the Mayor. The members of the Board shall not hold any elective office of the City. Initially the members shall be appointed to staggered terms, not to exceed three years. Annually thereafter appointments or reappointments shall be for a term of three years or to complete an unexpired term. Such appointees shall hold office until their successors are appointed and qualified.

At the first regular meeting of the Park and Recreation Board in May of each year, the Board shall elect from its members a Chairman, Vice Chairman, and Secretary, each of whom shall serve until the first regular meeting of the Board in April of the following year. The Park Board shall hold regular meetings at least once per quarter and as many special meetings as it deems proper. It shall adopt rules and regulations governing its proceedings. All meetings shall be open to the public.

CHAPTER 1.04 - FINANCE REGULATIONS

1.0401 Revenues and Special Funds. All money belonging to the City from taxation, licenses, fines, permits, the operation of utilities, or from any other source, shall be paid into the City

treasury, and the City Council shall designate by resolution to what fund or funds such money shall be applied. The Finance Officer shall keep full, true and just accounts of all financial affairs of such form and in such manner from time to time as required by the South Dakota Department of Revenue. (SDCL 9-14-18)

1.0402 Records Retention and Destruction. The Records Retention and Destruction Schedule Manual, authorized for South Dakota municipalities by the Office of Records Management, Bureau of Administration, State of South Dakota, shall be adopted by the City Council, and a printed copy of such manual shall be filed with the Finance Officer.

CHAPTER 1.05 - LIBRARY BOARD OF TRUSTEES

1.0501 Establishment. There shall be maintained a Library Board of Trustees for the supervision of the Harrisburg Public Library, as prescribed in Chapter 14-2 of the South Dakota Codified Laws, as amended. (SDCL 14-2-28 and 14-2-29)

1.0502 Members. The Library Board of Trustees shall be composed of five competent citizens broadly representative of the population. In addition to the five appointees, the City Council shall appoint one of its own members to serve as a full voting member of the Library Board of Trustees. Initially the five citizen members shall be appointed for terms as follows:

One for a term of one year, two for terms of two years each, and two for terms of three years each. Annually thereafter appointments or reappointments shall be for a term of three years or to complete an unexpired term. The term of the City Council member shall be for that member's term of office, or when appointed to fill an unexpired vacancy, for the remainder of such unexpired vacancy. (SDCL 14-2-35)

1.0503 Head Librarian. The head librarian for Public Library shall be appointed by the Library Board of Trustees with approval by the City Council, and shall serve as secretary for such Board. (SDCL 14-2-40)

1.0504 Bylaws. The Library Board of Trustees shall adopt bylaws describing the duties, powers, and functions of such Board and the librarian(s), which shall be approved by the City Council. Duties, powers and functions shall be carried out in compliance with Section 14-2 of the South Dakota Codified Laws, as amended. (SDCL 14-2-40)

TITLE 2 - BOUNDARIES, WARDS AND PRECINCTS

Chapter 2.01 - Boundaries
Chapter 2.02 - Wards and Voting Precincts

CHAPTER 2.01 - BOUNDARIES

2.0101 Boundaries. The corporate limits of the City shall be declared to be such as have been legally established and amended by law and ordinances of the City as shown on the official map on file in the office of the Finance Officer. Such map shall be incorporated in this ordinance by reference and adopted as the official map showing the boundaries and limits of the City. (SDCL 9-3-2, SDCL 9-4-1)

CHAPTER 2.02 - WARDS AND VOTING PRECINCTS

2.0201 Wards and Voting Precincts. The City shall be divided into two wards, which shall be combined and consolidated into one election precinct, and shall be designated respectively as Wards One and Two. The wards shall be described by setting for the certain street or avenue designations or other landmarks that divide and border the wards. Any reference to street or avenue below shall mean an imaginary line running down the approximate middle of each street or avenue. The wards of the City of Harrisburg are as set forth below and the map thereof on file in the office of the Finance Officer. Any discrepancies shall be resolved by reference to the map rather than the physical descriptions set forth herein.

The First Ward shall include all of that part of the City west of Cliff Avenue located north and south of Willow Street. It shall also include all of that part of the City north of Willow Street located between Cliff Avenue and the railroad tracks. It shall also include all of that part of the City south of Willow Street and north of Maple Street located between Emmett Trail and Cliff Avenue.

The Second Ward shall include all of that part of the City east of the railroad tracks located north and south of Willow Street. It shall also include all of that part of the City south of Willow Street located between Emmett Trail and the railroad tracks. It shall also include all of that part of the City south of Maple Street and east of Cliff Avenue.

TITLE 3 - HEALTH AND SANITATION

Chapter 3.01 - Nuisances
Chapter 3.02 - Collection of Garbage

CHAPTER 3.01 - NUISANCES

3.0101 Definitions. For the purpose of this Chapter, the following terms are hereby defined:

A. Abandoned Property – Any junk car, car body, or equipment of any type, except in an authorized junk yard, or any accumulations of other unsightly trash or junk which would constitute a health hazard, a rodent harborage, a breeding area for insects of rodents, a dangerous place for children to play in and around or which tends to be unsightly and which does or tends to lower the value of adjacent real property because of its unsightliness.

B. Abandoned Vehicle – Any vehicle that is left unattended or stored on any public property in the same or substantially same place within the City for a period longer than 24 hours.

C. Building Official – The official in charge of the City's Building Services Agency.

D. Code Official – The Code Official shall be appointed by the Mayor, with the consent of the City Council, to enforce the provisions of this Chapter. The Code Official shall have the authority to render interpretations of this Chapter and to adopt policies and procedures in order to clarify the application of its provisions. Such interpretations, policies and procedures shall be in compliance with the intent and purpose of this Chapter and shall not have the effect of waiving requirements specifically provided for in this Chapter.

E. Developed Lot or Area – A lot or area with a finished building or building under construction.

F. Inoperable Vehicle – Any vehicle which is not in operating condition due to damage, removal, or inoperability of one of more tires and/or wheels, the engine, or other essential parts required for the operation of the vehicle, or which does not have lawfully affixed thereto unexpired license plates, or which constitutes an immediate health, safety, fire, or traffic hazard.

G. Noxious Weeds – All actively growing plants declared to be statewide noxious weeds by the South Dakota Weed and Pest Control Commission.

H. Nuisance – Unlawfully doing an act, or omitting to perform a duty, which act or omission either: annoys, injures or endangers the comfort, repose, health, or safety of others; offends decency; unlawfully interferes with, obstructs, or tends to obstruct, or renders dangerous for passage any lake or navigable river, bay, stream, canal, or basin, or any public park, square, street, or highway; in any way renders other persons insecure in life, or in the use of property.

I. Private Nuisance – A public nuisance is a nuisance which affects, at the same time, an entire community or neighborhood, or any considerable number of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal. Every other nuisance shall be a private nuisance.

J. Private Property – Any real property within the City that is privately owned and which is not public property.

K. Public Nuisance – A public nuisance consists of doing an act without lawful authority, or omitting to perform a duty, which act or omission either:

1. Annoys, injures, or endangers the comfort, repose, health, or safety of others;

2. Offends decency;

3. Unlawfully interferes with, obstructs, or tends to obstruct, or renders dangerous for passage any lake, river, bay, stream, creek, drainage ditch, canal, or basin, or any public park, square, street, alley, right-of-way, or sidewalk; or

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

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

M. Removal Agency – Any public body, private, or nonprofit organization authorized, hired, or appointed by the City to remove and salvage vehicles.

N. Undeveloped Lot or Area – A vacant lot or area with no structure on it.

O. Vehicle – Any conveyance, whether or not self-propelled, and which is designed to travel along the ground or in or on the water and shall include, but not be limited to, automobiles, buses, motorbikes, motorcycles, motor scooters, trucks, tractors, pull trailers, go-karts, golf carts, boats, jet skis, campers, and trailers.

P. Weeds – Any plants growing uncultivated and out of context with the surrounding plant life when such plant has a seed head formed or forming and with a height of eight inches or more, except as otherwise provided in this Chapter.

3.0102 Enumeration of Public Nuisances. The following specific acts, conditions, or things are hereby enumerated as examples of public nuisances, however this enumeration shall not be deemed to be exclusive:

A. Waste, including, but not limited to, items such as paper, rags, trash, sweepings, garbage, clothing, shoes and other apparel, curtains, linen, cans, containers, boxes, plastic wrap, cardboard, batteries, cleaning utensils, cooking utensils, discarded household fixtures, tree branches, dead leaves or grass, wood shavings, wood scraps,

ashes, sewage, refuse, offal, excrement, discarded or decaying fruit, vegetables or other food items, magazines or books when such items are stored, collected, piled, or kept in view of adjacent properties or public rights-of-way which constitutes or tends to create a danger to public health, safety, and welfare;

B. Building materials including, but not limited to, such items as lumber, plaster, lath, pallets, old iron or other metal, concrete, brick or tile, piles of rock, sand, dirt, or gravel, doors, windows, and scrap or salvage building materials, boxes, barrels, or other containers when such items are stored, collected, piled, or kept which are not stored inside a building. On construction sites it shall be the responsibility of the general contractor to have a container, with lid, for all lightweight construction debris and ensure that construction debris is disposed of in a prompt and proper manner. An exception to this enumeration shall be made for building materials which are temporarily stored on the premises in a neat and workmanlike manner for use in either a project authorized by a valid building permit for the premises or in a project that does not require the issuance of a building permit for the premises but does show evidence of project progress (and, like a project authorized by a building permit, is to be completed within one year of commencement or, with the prior approval of the Building Official, to be completed more than one year after commencement). Another exception to this enumeration shall be made for building materials stored, collected, piled, or kept in a neat and workmanlike manner on the property of a landscaping business, contractor's yard, or other building-related business;

C. Appliances, fixtures, and furniture, including, but not limited to, items such as furnaces, stoves, refrigerators, freezers, sinks, cabinets and other kitchen appliances or fixtures, bedroom furniture, mattresses, tables, chairs, clothes washing or drying machines, bathroom appliances or fixtures, light fixtures, washtubs, couches, bookcases, furniture, when such items are stored, collected, piled, or kept but are not stored inside a building, except that patio furniture or other furniture designed primarily for outdoor use shall not constitute a nuisance. It shall be a violation of this Ordinance to leave or permit to remain outside of any dwelling or within any unoccupied building or structure in a place accessible to children any abandoned or discarded icebox, refrigerator, or other container which has an airtight door or lid, snap lock, or other locking device, without first removing said door, lid, snap lock, or other locking device;

D. Dismantled motor vehicles, motor vehicle bodies, and disassembled parts thereof, disassembled bicycles and bicycle parts, tires (except for tires used as swings or planters), and other mechanical machines (such as trailers, boats, snowmobiles, motorcycles, lawn mowers, tillers, chainsaws, snow blowers, and garden equipment), motors, or parts thereof when such items are stored, collected, piled, or kept but are not stored inside a building, except that dismantled farm machinery need not be stored inside a building when located in a district zoned as agricultural, and except dismantled motor vehicles and motor vehicle bodies when such items are stored, collected, piled, or kept in a salvage yard, used car-parts yard, body shop, auto repair shop, towing service, or other vehicle-related business;

E. Motor vehicles, snowmobiles, motorcycles, and other mechanical devices used for transportation which are not stored inside a building and which are not licensed or in running condition, or which remain unmoved for a period in excess of fourteen days except when such motor vehicles and devices are stored, collected, piled, or kept in a

salvage yard, used-car-parts yard, body shop, auto repair shop, towing service, auto sales, or other vehicle-related business;

F. Off-street parking in residential zoning districts of motor vehicles, snowmobiles, motorcycles, recreational vehicles, campers, boats, trailers, and other mechanical devices used for transportation in any rear yard or on any portion of a front or side yard other than on a paved driveway or parking pad except on those lots between the rear lot lines of the lots on the north side of Willow Street and the rear lot lines of the lots on the south side of Walnut Street and between the centerlines of Columbia Street and Southeastern Avenue, excluding all lots in the Sunrise and Hunters Glen Additions, where parking will be allowed on an existing gravel-surfaced parking pad and/or driveway. However, parking of non-motorized vehicles, such as trailers, pull campers, trailered boats, snowmobiles on trailers, etc. in rear yards will not be considered a public nuisance if parked on a parking pad that consists of pavement, pavers, or crushed rock;

G. Off-street parking in the Central Business Zoning District of motor vehicles, snowmobiles, motorcycles, recreational vehicles, campers, boats, trailers, and other mechanical devices used for transportation in front, side, or rear yards for more than twenty-four hours;

H. Trucks or mobile/manufactured homes used for storage in districts zoned agricultural or residential;

I. Carcasses of animals remaining exposed outside of a building more than twenty-four hours after death, excepting legally tagged game, which shall be allowed outside of a building for no more than seventy-two hours after death, and all green or salted hides left deposited in any open place which is in view of adjacent properties or rights-of-way;

J. Liquid refuse, slop, foul or polluted water, liquor or beer washings, filth, refuse, grease, lard, manure, excrement, or offal discharged through drains or spouts or otherwise thrown or deposited in or upon any lot, premises, street, alley, right-of-way, sidewalk, public way, park, public square, pond, stream, stream bed, creek, creek bed, drainage ditch, canal, basin, sewer system, or public enclosure;

K. Excavations, depressions, containers, or objects in which stagnant or polluted water is permitted to collect or allow for the multiplication of insects;

L. Vegetables, vegetable matter, compost piles, or other articles that emit or cause a harmful gas or an offensive, noxious, or disagreeable smell or odor which invades any district zoned residential, commercial, or industrial, or which attracts rodents, vermin, or other disease-carrying pests, animals, or insects, except that the presence of earthworms in a compost pile shall not constitute a nuisance;

M. Noxious weeds and those weeds whose pollen is known to cause hay fever, or, within a district zoned residential, commercial, or industrial, permitting grasses or weeds to grow to a height of more than eight inches, or of such a height which would allow the undetected presence of rodents, vermin, or other disease-carrying animals. An

exception to this enumeration shall be made for properties not zoned as agricultural whose owners or tenants have first obtained a haying permit;

N. Decayed, dead, or diseased trees, bushes, or hedges except for stored firewood that has been cut to length for fuel wood use and is neatly stacked in the rear or side yard;

O. Failure of a property owner to comply with the planting, minimum spacing or separation distance, trimming, care, or tree removal provisions of the City's Tree Care regulations;

P. Obstruction of the sight triangle at street intersections. There shall be provided an unobstructed view across the triangle formed by joining points measured forty feet along the back-of-curb line (or edge of pavement or graveled surface when there is no curb) of intersecting streets or alleys. Within said triangle there shall be no sight-obscuring walls, fences, or foliage higher than thirty-six inches above grade or, in the case of trees, lower than eight feet above grade. This provision does not apply to chain-link fences so long as no obstructions are attached to the fence within the sight triangle;

Q. Ice, snow, or other obstructions of sidewalks. Snow and ice shall be removed from sidewalks by the owner or resident of the property abutting the sidewalk within twenty-four hours of the end of each snow or ice event;

R. Disposal of refuse and/or other combustible material by open burning, or causing, allowing, or permitting the conducting of a salvage operation by open burning in the City unless first authorized by the City Council or Harrisburg Fire Department. Fires used solely for outdoor preparation of food or for recreational purposes in fire pits or outdoor fireplaces are not included in this enumeration.

S. No person shall abandon, leave, or place, in any street, alley, right-of-way, sidewalk, public way, lot, park, square, pond, stream, stream bed, creek, creek bed, drainage ditch, canal, basin, or any public enclosure any property of any kind;

T. The occupant and/or landowner of the property shall be responsible to maintain free of nuisances (which includes obstructed culverts) that area which is adjacent to the property and which extends from the property line to the edge of the adjacent right-of-way, alley, or street pavement or driving surface;

Notwithstanding anything herein to the contrary, the above enumerations shall not in any way be construed as a limitation on the definition of public nuisance.

3.0103 Public nuisances prohibited. No person, owner, occupant, or person in charge of any house, building, lot, or premises shall create, maintain, commit, or permit to be created, maintained, or committed any public nuisance.

3.0104 Screening not excused. Any condition upon property otherwise deemed a public nuisance under the provisions of these regulations shall not be relieved or excused from being a public nuisance for the reason that such nuisance condition is screened from public view by means of a fence, wall, or other visual barrier.

3.0105 Diseased Vegetation.

A. Any owner, occupant, or person in charge of any property under the jurisdiction of the City shall remove at his own expense any diseased, dying, or dead trees, brush, branches, wood, or debris infected with Dutch Elm Disease, Ash Borer, Pine Beetle, or other infestation or infectious disease when so notified by the City to do so.

B. The Code Official shall cause to be mailed by certified mail, return receipt requested, or by personal service to each owner, occupant, or person in charge, or by posting on the property, written notice that they may appear before the City Council at an appointed time not less than ten days from the date of mailing, personal service, or posting of said written notice to show cause why said diseased trees, brush, branches, wood, or debris should not be declared a public nuisance. Failure by any person to actually receive any document sent to him by certified mail or to sign and return any receipt card acknowledging receipt by certified mail shall not invalidate service made upon such person by certified mail. Such notice is deemed completed at the time it is mailed, hand delivered, or posted, and any period to reply or abate begins to run from the date of mailing, personal service, or posting.

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

D. Any diseased vegetation stored in the City shall be debarked or covered with four- to six-mil-thick clear plastic from April 1st to October 1st, such plastic to be sealed by placing all edges in a trench at least four inches deep and then covered with soil. In addition, any diseased vegetation which is removed and not stored in accordance with the provisions of this Section shall be properly disposed of by burying in a designated disposal site, per SDCL 9-32-12.

3.0106 Vegetation Nuisance.

A. Duty to control weeds and other vegetation. Each owner, occupant, or person in possession or control of any land within the jurisdiction of the City shall: cut or otherwise destroy all noxious weeds thereon and shall keep said land free of such growth; be responsible to keep said land and abutting public right-of-way (from the edge of the right-of-way to the nearest driving surface or travelled way) free of any noxious weeds and to keep grasses and weeds mowed to a height of no more than eight inches (this does not apply to land subject to an approved haying permit, land being used to grow a crop or garden, land that is zoned as agricultural and being used to pasture livestock, or land that has been approved by the City Council for a wildflower or prairie grass display garden); or allow any plant growth of any sort to remain in such a manner as to render the streets, alleys, or public ways adjoining said land unsafe for public travel or in any manner so as to impede pedestrian or vehicular traffic upon any public place or way.

B. Notice to Abate and Abatement by the City. The Finance Officer shall annually, on or before May 1st of each year, publish once a week for two consecutive weeks in the official newspaper, a Notice to Property Owners generally setting forth the duty to control weeds and other vegetation which might be a nuisance in violation of this

Chapter. A Code Official may cause a Notice to Abate Nuisance to be served, by posting of notice on such property or by personal delivery to the owner, occupant, or person in possession or control of the property who fails to comply with the published notice or any person who at any other time has weeds or other vegetation in violation of this Chapter. Upon failure, neglect, or refusal of any owner, occupant, or person in possession or control so notified to comply with said notice within five days thereof, the Code Official or his designee is hereby authorized and empowered to provide for the cutting, destroying, or removal of the weeds, grass, or other noxious matter and stabilize the soil if necessary. The City may defray the cost of the work, including administrative costs, by special assessment against the property.

C. Abatement Cost Recovery. The Finance Officer shall cause an account to be kept against each lot upon which work has been done pursuant to an abatement and shall, after completion of the work, bill the owner of the property for such work and, if not paid within thirty days thereafter, shall add such assessment to the general assessment against said property. The Finance Officer shall certify such special assessment together with the regular assessment to the Lincoln County Auditor to be collected as municipal taxes for general purposes. Said assessment shall be subject to review and equalization the same as assessments or taxes for general purposes. In lieu of special assessment, the City Council may institute a civil action against the owner or occupant of such property to recover said account.

D. Habitual Violators. If the owner occupant, or person in control of any land that has previously received a Notice to Abate Nuisance relating to weeds or tall grass within the preceding twenty-four months, then the Notice to Abate Nuisance may include notice that such owner, occupant, or person in control of said property will be considered to be a habitual violator of this Chapter and that, if the nuisance is not abated within the allowed time, the City will consider the property to be subject to having a contract let by the City for mowing the property as needed up to a weekly basis for the following twenty-four month period of time and that the full cost of said contract together with a monthly administrative fee of two hundred dollars will be assessed against the property.

3.0107 Littering in Public Places. No person shall throw or deposit litter in or upon any street, sidewalk, or other public place within the City except in authorized public or private receptacles. The following further identifies acts and conditions that constitute nuisances and are therefore prohibited:

A. No person shall sweep into or deposit in any gutters, streets, or other public place within the City the accumulation of litter from any building or lot or from any public or private sidewalk or driveway. Persons owning or occupying property or places of business shall keep the sidewalk and gutter in front of such premises free of litter.

B. No person, while a driver or passenger in a vehicle, shall throw or deposit litter or yard waste upon any street or other public place or upon private property within the City.

C. No person shall drive or move any truck or other vehicle within the City unless such vehicle is so constructed or loaded as to prevent any load, contents, or litter from being blown or deposited upon any street, alley, or public place.

D. No person shall throw or deposit litter on any occupied, open, or vacant private property within the City, whether owned by such person or not, except that the owner or person in control of private property may maintain authorized private receptacles for collection in such a manner that litter will be prevented from being deposited upon any street, sidewalk, or other public place or upon any private property.

3.0108 Removal of Abandoned or Inoperable Vehicles from Public Property.

A. Whenever a Code Official or any law enforcement officer finds an abandoned or inoperable vehicle on public property within the City, a written notice shall be placed on the vehicle that it will be removed to a garage or place of safety unless the owner removes the vehicle from public property within twenty-four hours of the giving of the notice. After the expiration of the twenty-four-hour period, the vehicle may be removed by a Removal Agency to a garage or place of safety. Nothing in this Section precludes the Code Official or any law enforcement officer from immediately removing a vehicle that constitutes an imminent health, safety, or fire hazard.

B. The Removal Agency shall have the rights and obligations conferred upon it by SDCL 32-36 in regard to titling or disposition of such unclaimed, abandoned or inoperable vehicle, except that if not otherwise provided by state law, it shall have a possessory lien upon any vehicle removed under provisions of this Chapter for the costs in taking custody of and storing such vehicles.

3.0109 Removal of Abandoned or Inoperable Vehicles from Private Property.

A. A written notice shall be placed on the abandoned or inoperable vehicle by a Code Official or by any law enforcement officer requesting the removal of such vehicle in the time specified in the notice. Written notice shall also be placed on the front door of any dwelling located on the private property requesting the removal of such vehicle in the time specified in the notice. In the event the owner and the occupant or tenant of the real property are not the same person, written notice shall be given to the owner by certified mail, return receipt requested, requesting the removal of such vehicle in the time specified in the notice. In the event the private property is not occupied, written notice shall be given to the owner by certified mail, return receipt requested, requesting the removal of such vehicle in the time specified in the notice. Failure by any person to actually receive any document sent to him by certified mail or to sign and return any receipt card acknowledging receipt by certified mail shall not invalidate service made upon such person by certified mail. Such notice is deemed completed at the time it is mailed, and any period to reply or abate begins to run from the date of mailing.

B. Upon notice having been given, the owner of the abandoned or inoperable vehicle and the owner or occupant of the private property on which the vehicle is located, either or all of them, shall be responsible for its removal.

C. The notice shall request removal of the abandoned or inoperable vehicle within fourteen days after the date of the posting, mailing, or personal service of such notice, and the notice shall advise that failure to comply with the notice to remove shall be a violation of this Chapter, that the City may take steps to abate the same, and that in addition to abatement directly or by civil action, the City may pursue criminal fines and penalties against the owner, occupant, tenant, or other person in charge of the real property as provided in this Chapter.

3.0110 Remedies Against Nuisances. The remedies against any public nuisance shall be: a civil action; abatement; or indictment or information as prescribed in this Chapter or by the South Dakota Codified Laws and the rules relating thereto.

3.0111 Abatement.

A. A public nuisance may be abated without civil action upon written notice by the City Attorney or by a Code Official. Upon completion of the abatement process, the Finance Officer shall bill the property owner for all disposal, labor, administrative, and investigative costs related to the abatement. If full payment is not received from the owner within thirty days of billing, the abatement costs may be recovered by a special assessment against the real property on which the public nuisance occurred. The primary responsibility for the cost of abatement of a declared public nuisance lies with the owner of the property which contained the public nuisance.

B. The abatement notice may be hand delivered or sent by certified mail, return receipt requested, addressed to the owner of record, agent, or occupant to remedy or abate the public nuisance within fourteen days of the date the notice was hand delivered or mailed. Failure by any person to actually receive any document sent to him by certified mail or to sign and return any receipt card acknowledging receipt by certified mail shall not invalidate service made upon such person by certified mail. Notice is deemed completed at the time it is mailed and said period to reply or abate begins to run from the date of mailing.

3.0112 Right of Entry. A Code Official or his designee shall have the right to enter upon the property of any person at reasonable times and in a reasonable manner to perform an abatement. Before entering said property, the Code Official shall notify the owner or occupant of the purpose of the entry. The Code Official or his designee may, when entering onto said property, make photographs, videotapes, or measurements and bring a person(s), equipment, machinery, or thing necessary to perform the abatement. While the Code Official or his designee is conducting an abatement on said property, no person shall interfere with the Code Official or his designee or fail to comply with any reasonable request of the Code Official or his designee.

3.0113 Appeals. Any order issued by a Code Official may be appealed to the City Council, in writing, within ten days of the issuance of said order. Said written notice of appeal shall state the objection or basis for the appeal and shall be submitted to the City Finance Officer for consideration by the City Council. The City Council may authorize such exception from the terms of these regulations as will not be contrary to the public interest and the intent of these regulations. Any action on the order being appealed shall be stayed until the City Council makes their determination. Such City Council action may be appealed to the Circuit Court.

3.0114 Public Nuisance Penalty and Remedy. A violation of any provision of this Chapter or any amendment thereto by any person who creates, commits, maintains, or fails to abate a public nuisance as required under the provisions of this Chapter is a Class II Misdemeanor. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues. In addition to any penalty assessed herein or any fine or penalty assessed by the court, any violator found guilty shall pay all court costs and expenses incurred by the City in the case. In addition, the City may also use the remedies of civil action and abatement as set forth in SDCL 21-10-5 through 21-10-9.

CHAPTER 3.02 - COLLECTION OF GARBAGE

3.0201 License for Commercial Collectors. It shall be unlawful for any person, firm or corporation to use the street of the City of Harrisburg for the collection, removal or disposal of any garbage or rubbish for a fee or charge, without having first procured from the City Council of the City of Harrisburg, a license so to do in the manner as provided herein, in paying to the City Finance Officer the license fee hereinafter specified which application for such license shall be made to the City Council of the City of Harrisburg.

3.0202 License Terms. Said license shall commence on 1st day of July and terminate on the 30th day of June, unless revoked as hereinafter provided or as provided by the ordinances of the City of Harrisburg.

3.0203 License Fees. The fees provided for said license shall be two hundred dollars ($200.00).

3.0204 Issuance of License. Any person or firm desiring to obtain a license under the provisions of this Chapter shall make and file application with the City Finance Officer of the City of Harrisburg, a sworn application in writing on a form furnished by the City Finance Officer which form shall include the following information:

A. Name of person, persons, partnership or corporation, making application.

B. Address of applicant.

C. Licenses held elsewhere.

D. Name of local agent, if any.

E. Location of business headquarters, if not local, including business telephone number.

F. Proof of liability insurance coverage and terms of coverage.

G. Listing of equipment to be used in conduction of business activity.

H. South Dakota sales tax license number, if available.

I. Proposed garbage collection schedule.

J. Proposed recyclable collection plan.

K. List of references.

Attached also to the application shall be the appropriate licensing fee which shall be returned to the applicant in the event that the licenses is not issued.

3.0205 Criterion for issuance of a License. The City Council of the City of Harrisburg shall consider all license applications submitted. In approving a license regarding the collection and handling of garbage within the corporate limits of the City of Harrisburg, the City Council shall among other things consider the following criterion, to wit:

A. Past dealing of applicant with the City of Harrisburg and/or other municipalities.

B. Dependability of service and personnel.

C. Quality of equipment and personnel.

D. Ability to safely and efficiently collect garbage including driving record of owners and operating personnel and passed criminal record.

E. Reputation of licensee in collection personnel regarding safety, dependability and efficiency.

F. Financial responsibility of licensee including ability to post a performance bond and general liability insurance coverage as may be required by the City.

G. Collection schedule regarding garbage and recyclable.

H. Other valid licenses held by applicant and service to other municipalities.

I. Such references as may be requested or required by the City Council of the City of Harrisburg.

J. The best interest of the City of Harrisburg and its residents.

K. Any other factors deemed relevant to the City Council.

In evaluating applicants for a license, weight given to each of the above criteria will be determined by the City Council of the City of Harrisburg.

3.0206 Vehicle. A garbage licensee shall provide themselves with suitable vehicles which shall be watertight and permanently covered so as to prevent the escape of odors and contents, and so as to hide the contents from the public view. Such vehicle shall be kept in a clean and sanitary condition and shall be thoroughly washed at such times and intervals as may be directed by the City Council of the City of Harrisburg or its designee or as may be directed in order to keep said vehicles in proper sanitary conditions. Such vehicles, when conveying garbage shall be so loaded and unloaded that the contents shall not fall or spill upon the ground. No article or item shall be carried in such vehicle so as to drag upon the city street.

3.0207 Equipment. A licensee hereunder is to provide all of its own equipment and personnel necessary to satisfactorily collect and dispose of garbage and refuse of the City of Harrisburg and its residents and businesses.

3.0208 Revocation of License. A license may be revoked by the City Council of the City of Harrisburg prior to the expiration of its term for the following reasons:

A. Failure to safely and efficiently collect garbage.

B. Failure to comply with all city, state and federal regulations concerning the collection and handling of garbage and other solid waste as they may from time to time be established.

C. Failure to provide proof of financial responsibility as may be required by the City of Harrisburg from time to time.

D. Failure to maintain a valid South Dakota sales tax licenses and failure to remit South Dakota sales tax to the South Dakota Department of Revenue.

E. Failure to deliver solid waste generated within the corporate limits of the City of Harrisburg to the solid waste facility as designated by the City.

F. Any other substantial reason as may be deemed relevant by the City Council of the City of Harrisburg, given due consideration for the health, safety and welfare of the residents of the City of Harrisburg.

TITLE 4 - LICENSES

Chapter 4.01 - General Provisions
Chapter 4.02 - Peddlers
Chapter 4.03 - Alcoholic Beverages
Chapter 4.04 – Day Care Registration Regulations

CHAPTER 4.01 - GENERAL PROVISIONS

4.0101 Licenses Required. No person shall engage in any activity for which a license is required, or for which a fee is prescribed, by this Chapter or other ordinance, without first having obtained such license. (SDCL 9-34-1)

4.0102 Applications for License. Any person, persons, firm or corporation wishing to obtain a license as herein provided, shall make written application to the Finance Officer or his or her designee stating the name of the applicant, address, purpose of the activity, the length of time for which said license is wanted, and the particular place at which said license is to be used.

Fees for all licenses shall be fixed by the City Council where not specified in this Title, and all license fees shall be paid in full at the time of application in such manner as approved by said Council.

4.0103 License Expiration. Unless otherwise provided, all licenses shall take effect when issued and shall terminate on December 31st in the year for which issued. Except as otherwise provided, the license fee or charge shall be paid on the basis of a full year. There shall be no rebate made on the termination of said calling, vocation, or kind of business for which said license was issued.

4.0104 Revocation. The City Council shall have the authority at any time to suspend or revoke any license granted under the provision of this Title whenever said Council shall be satisfied upon written complaint that such calling, vocation, or kind of business for which said license has been issued, has been made or conducted in an improper or illegal manner.

4.0105 Issuance of License. Except as otherwise provided, all licenses shall be issued by the Finance Officer and the applicant shall have complied with all requirements for issuance of such license. Unless otherwise provided, all licenses shall be signed by the Finance Officer and shall have affixed thereto the official seal of the City.

4.0106 Record of Licenses. The Finance Officer shall keep a record of all licenses issued by the City stating when and to whom issued, for what purpose and for what length of time, the amount of money paid for said license, and the place where such activity is to be carried on. (SDCL 9-34-1)

CHAPTER 4.02 - PEDDLERS

4.0201 Definitions. For the purpose of this Chapter, the following terms are hereby defined:

A. "Peddler" – any person, whether a resident of this City or not, traveling from place to place, from house to house, or from street to street for the purpose of selling, or soliciting for sale goods, wares, merchandise, or services, including food and beverages, and shall also mean and include any person transacting a temporary business within the City.

B. "Temporary business" - means the sale of goods, wares, merchandise, or services, including food and beverages, sold by a person, business, or other entity for fewer than 90 days within any period of 12 consecutive months, or from a car, truck, other motor vehicle, trailer, or any structure other than a permanent building.

4.0202 Exceptions to Chapter. The provisions of this Chapter shall not apply to the following:

A. Solicitations, sales or distributions made by charitable, educational, or religious organizations.

B. Traveling salespersons doing business exclusively with retail merchants, manufacturers, jobbers or public officials.

C. Persons selling jams, jellies, vegetables, fruits, or flowers grown or produced by them and not purchased by them for resale.

D. Bona fide garage, rummage, yard, or moving sales which do not occur at the same location more than four times per year, for more than four days each time.

4.0203 Refusing to Leave. It shall be unlawful for any peddler who enters upon premises owned or leased by another to fail to promptly leave the premises after having been notified by the owner or possessor of the premises, or his agent, to leave the premises. (SDCL 22-35-5 and 22-35-6)

4.0204 Entrance to Premises Restricted. It shall be unlawful for any peddler to enter upon any private premises when the premises is posted with a sign stating "No Peddlers Allowed," "No Soliciting," or words to that effect.

4.0205 Misrepresentation. No peddler shall make false or fraudulent statements concerning the quality or nature of their goods, wares, merchandise, or services for the purpose of inducing another to purchase the goods, wares, merchandise, or services.

4.0206 Hours of Operation. No peddler shall peddle door-to-door between the hours of 8:00 p.m. and 9:00 a.m. the following morning, except by specific appointment with or invitation from the prospective customer.

4.0207 Prohibited Conduct. Any peddler selling or soliciting for sale goods, wares, merchandise or services by traveling from place to place, house to house, or street to street shall not remain in any one place for a period longer than necessary to make a sale after having been approached or stopped for that purpose.

4.0208 Permit Required. It shall be unlawful for any person to engage in business as a peddler within this city without first obtaining a permit to do so from the Finance Officer.

4.0209 Application for Permit. The application for a permit required by the provisions of this article shall specify:

A. A statement as to whether or not the applicant has been convicted of any crime, whether state or federal law or municipal ordinance or code other than minor traffic offenses; the nature of the offense; the punishment or penalty assessed therefore, if previously convicted; and the place of conviction.

B. Whether the applicant, upon any sale or order, shall demand, accept or receive payment, or deposit of money in advance of final delivery.

C. The period of time the applicant wishes to engage in business within the City.

D. The local and permanent addresses of the applicant.

E. The local and permanent addresses and the name of the entity, if any, that the applicant represents.

F. The kind of goods, wares, merchandise, or services the applicant wishes to peddle within the city.

G. The last five cities or towns wherein the applicant has worked before coming to this City.

H. The applicant's date of birth and social security account number or other identifying number.

I. Proof of a current South Dakota Sales Tax License.

4.0210 False Information. No person shall give any false or misleading information in connection with his or her application for a permit required by this chapter.

4.0211 Fee. Before any permit shall be issued under the provisions of this chapter, the applicant shall pay a fee of $50.00. This fee may be adjusted by resolution by the City Council.

4.0212 Issuance Restricted. No peddler's permit shall be issued to a corporation, partnership or other impersonal legal entity, unless that entity is operating a temporary business at a fixed location, but each individual person engaging in the business of peddling from door-to-door or street-to-street within the City shall be required to have a separate permit, whether acting for himself or herself or as an agent or representative of another.

4.0213 Display. Every peddler having a permit issued under the provisions of this chapter and doing business within the city shall display his permit upon the request of any person, and failure to do so shall be a violation of this Chapter.

4.0214 Revocation. Any permit issued under the provisions of this Chapter may be revoked for the violation by the permittee of any provision of this Title, state law, or City ordinance by the Finance Officer. Upon such revocation, such permit shall immediately be surrendered, and failure to do so shall be a violation of this Chapter.

CHAPTER 4.03 - ALCOHOLIC BEVERAGES

4.0301 Definitions. Terms used in this Chapter shall have the meanings as set forth by SDCL 35-1-1 unless a different meaning is set forth within this Chapter.

4.0302 License Required. No person shall sell, offer for sale, keep for sale, exchange, distill, manufacture, produce, bottle, blend or otherwise concoct, within the City of Harrisburg, any alcoholic beverages defined by statute without having a license as required by South Dakota law. It shall be unlawful for any person or persons within the City of Harrisburg to engage in the business of selling or offering for sale any intoxicating liquors or malt beverages without first having procured a license therefore.

4.0303 Application for License. All applications for alcoholic beverage licenses shall be made in accordance with South Dakota Codified Laws, Chapter 35.

4.0304 The Number of Off-Sale and On-Sale Licensees to be Issued May Not Exceed the Maximum as Set Forth at SDCL 35-4-10 and SDCL 35-4-11. The maximum number of off-sale licenses and on-sale licenses that may be issued to operate within the City of Harrisburg shall be established as the maximum number as authorized by SDCL 35-4-10 and SDCL 35-4-11 as they may from time to time be amended based upon population of the City of Harrisburg. Nothing contained herein requires the City of Harrisburg to issue the maximum number of on-sale and off-sale licenses available.

The fees to be charged by the City of Harrisburg for the various licenses shall be as established for the maximum fees per each class of license as set forth at SDCL 35-4-2. The fee for off-sale licenses issued to municipalities, under local option, shall be four hundred dollars ($400.00).

4.0305 Hours of Business - Sales Restricted to Premises.

A. Wine and Malt Beverage Retailer and Package Dealer. It shall be unlawful for any wine or malt beverage retailer and package dealer to sell, serve or allow to be consumed on the licensed premises any malt beverage, wine, or other alcoholic beverages between the hours of 2:00 a.m and 7:00 a.m. on the same day.

B. On-Sale and Off-Sale Liquor Licenses. It shall be unlawful for any on-sale and off- sale licensee to sell, serve or allow to be consumed on the premises covered by the license, alcoholic beverages between the hours of 2:00 a.m. and 7:00 a.m. or at any time on Christmas Day.

4.0306 Possession of Alcoholic Beverages. Unless a special permit license shall be obtained from the City pursuant to this Chapter, it shall be unlawful to possess in any public place, street, alley, sidewalk, public park, place of amusement, or business establishment, not authorized to sell alcoholic beverages, pursuant to South Dakota law and the ordinances of the City of Harrisburg, any bottle whether or not containing alcoholic beverages on which the seal has been broken and which bottle either did or does contain alcoholic beverages, or any glass, can or other container, containing alcoholic beverages.

It shall be unlawful for any on-sale alcohol and malt beverage establishment of any employees, managers, or owners thereof to allow any person to leave the licensed premises

within the City of Harrisburg, with a container of alcoholic beverage in their possession except for the sale of unopened containers of alcohol and malt beverages, where the licensee has sold the same under an off-sale license.

It shall be unlawful for any person to consume any alcoholic beverage upon the premises of a licensed on-sale dealer if the alcoholic beverage was not purchased from the on-sale dealer.

4.0307 Permit - Public Location. Notwithstanding, Section 4.0306, the City Council of the City of Harrisburg may permit the consumption, but not the sale of any alcoholic beverage on property owned by the public or by a non-profit corporation within the city limits of the City of Harrisburg. A permit for the consumption must be obtained from the City. The permit period shall be set by the City Council and the hours of authorized consumption may not exceed those permitted for on-sale licenses. A permit fee to be established by resolution of the City Council and/or a security deposit may, at the discretion of the City of Harrisburg, be charged. The City of Harrisburg may permit the sale of alcoholic beverages on publically owned property or property owned by a non-profit corporation if it is during a special event for which a temporary license has been issued, pursuant to Section 4.0308 of this Chapter.

4.0308 Special Event Alcoholic Beverage Licenses.

A. Special event alcoholic beverage licenses may be issued by the City Council in conjunction with special events held within the City of Harrisburg. Any license issued pursuant to this section may be issued for a period of time established by the City Council, not to exceed fifteen consecutive days. The license shall be issued to a person at a specific place in the same manner as licenses issued pursuant to Section 4.0304.

B. The special alcoholic beverage licenses available are as follows:

1. *Special event malt beverage retailer*. Special event malt beverage retailers licenses are available to any civic, charitable, educational, fraternal, or veterans organization or any licensee licensed pursuant to SDCL 35-4-2(4) or (16) in addition to any other licenses held by the special events license applicant.

2. *Special event on-sale wine retailer*. Special on-sale wine retailers licenses are available to any civic, charitable, educational, fraternal, or veterans organization or any licensee licensed pursuant to SDCL 35-4-2(4), or to a person licensed by the Department of Revenue under SDCL 35-12.

3. *Special event on-sale dealer*. Special on-sale dealer licenses are available to any civic, charitable, educational, fraternal, or veterans organization or any licensee licensed pursuant to SDCL 35-4-2(4) or (16) in addition to any other licenses held by the special events license applicant.

4. *Special event off-sale package wine dealer*. Special off-sale package wine dealers licenses are available to any civic, charitable, educational, fraternal, or veterans organization or any licensee licensed pursuant to SDCL 35-4-2(5), or licensed pursuant to SDCL 35-4-2(19) or SDCL 35-12. A special off-sale package wine dealer licensee may only sell wine manufactured by a farm winery that is licensed pursuant to SDCL 35-12.

C. Persons requesting a special event alcoholic beverage license shall make application on forms available from the Finance Officer, and shall be subject to the same background check, notice and public hearing requirements as an applicant for a license under Section 4.0304. No public hearing is required for the issuance of a special event license pursuant to this Section if the person applying for the special event license holds an eligible permanent license and the special event license is to be used on publicly-owned property.

D. The hours of operation of each special event alcoholic beverage license shall be as set by the City Council, but in no event shall the special event license hours exceed those for an on-sale dealer provided by Section 4.0305.

E. Persons applying for a special event alcoholic beverage license shall pay a non-refundable application fee as follows:

1. Special event malt beverage retailer - $50.

2. Special event on-sale wine retailer - $50.

3. Special event on-sale dealer - $150.

4. Special event off-sale package wine dealer - $50.

F. No person may be issued more than twenty (20) special event alcoholic beverage licenses within any calendar year. Notwithstanding the foregoing, any combination of licenses issued to the same person, at the same place, for the same time, and for the same special event, shall be counted only as one (1) license for purposes of the twenty-license limit.

4.0309 Video Lottery Machine Licenses. There is herby imposed on any person who is licensed pursuant to SDCL 35-4-2 subdivisions 4, 11, 13 or 16 and who is issued a video lottery establishment license pursuant to SDCL 42-7A-41 an annual license fee for the privilege of locating video lottery machines on the licensed premises. The fee for each video lottery machine is fifty dollars ($50.00) per year.

4.0310 Penalties. Any person or any licensee hereunder found to have violated this Chapter shall be subject to the following penalties.

A. A fine not to exceed $500.00 for each day of violation of this Chapter.

B. The City Council of the City of Harrisburg may by majority vote, find that this Chapter has been violated and may recommend to the South Dakota Secretary of Revenue that the license of any alcoholic beverage licensee/establishment, found to have violated said Chapter may be suspended or revoked pursuant to SDCL 35-2-10 and/or that, civil penalties as provided by SDCL 35-2-10.1 be imposed.

1. Said findings and recommendations shall be made only after a hearing has been held by the City Council of the City of Harrisburg.

2. The licensee shall have received at least 30 days notice of said hearing and shall be informed in writing of the alleged charges against said licensee.

3. Notice of such hearing shall be published in the official legal newspaper for two weeks prior to such hearing to allow those citizens concerned, to be present and be heard.

4.0311 Full-Service Restaurant On-Sale Licenses.

A. An applicant for an on-sale full-service restaurant license shall provide documentation to the Harrisburg Finance Officer that the applicant meets all requirements of state law for an on-sale full-service restaurant license. (SDCL 35-4-112)

B. The renewal of an on-sale full-service restaurant license is conditioned upon the applicant satisfying all state requirements for renewal including payment of the renewal fee.

C. The City Council shall set the on-sale full-service restaurant license fee within ninety days of the initial adoption of this Section or within thirty days after the resolution of any appeal pursuant to SDCL 35-4-120. After the fee has been determined, changes in the license fee shall not be made for a period of ten years unless a growth in population reported by the federal decennial census requires an increase in the fee. (SDCL 35-4-116)

D. As required by state law, the price charged for an on-sale full-service restaurant license shall be at or above the current fair market value. However, any fair market value so established shall be a minimum of one dollar for each person residing within the City as measured by the last preceding decennial federal census. (SDCL 35-4-117)

E. The City will maintain a registry of each on-sale license that is being offered for sale and will provide a copy of the registry to anyone who requests a new on-sale full-service restaurant license. Prior to the issuance of a new license, the applicant shall submit an affidavit showing that there is no on-sale license on the registry or that the applicant is unable to purchase the on-sale license at fair market value and on terms satisfactory to both the potential buyer and seller. (SDCL 35-4-118)

F. Any existing on-sale license holder who wishes to sell their on-sale license at the fair market value established by the City Council may register the on-sale license with the Harrisburg Finance Officer. (SDCL 35-4-119)

CHAPTER 4.04 - DAY CARE REGISTRATION REGULATIONS

4.0401 Definitions:

DAY CARE BUSINESS: An establishment providing care and supervision of more than two non-familial children on a regular basis for part of a day as a supplement to regular parental care, without transfer of legal custody or placement for adoption, with or without compensation. This definition does not include public schools.

DAY CARE PROVIDER: The owner or operator of a Day Care Business.

4.0402 Day Care Registration Regulations.

A. All Day Care Businesses within the City shall be required to register with the City pursuant to these regulations.

B. No person who has been convicted of child abuse pursuant to SDCL 26-10 or a sex offense pursuant to SDCL 22-22, may reside in the premises in which the Day Care Business is being conducted or be employed by or otherwise involved in the operation of the Day Care Business.

C. No person between the ages of 14 years of age and 18 years of age shall provide child care services in a Day Care Business unless the Day Care Provider is actually present in the day care facility. No person under the age of 14 years shall provide child care services in a Day Care Business.

D. All Day Care Providers shall maintain an Infant and Child Cardiopulmonary Resuscitation (CPR) Certification from the American Red Cross, American Heart Association, or suitable equivalent (online certification is not considered to be suitable). Employees of a Day Care Business are recommended to have such certification.

E. The premises of each Day Care Business shall maintain compliance with Appendix M of the current Residential Code of the City.

F. All Day Care Providers shall report to the Planning and Zoning Administrator within forty-eight hours of occurrence any law enforcement action or activity within their Day Care Business premises.

G. The owner of every Day Care Business operating within the City on the effective date of these regulations shall submit a Day Care Business registration application to the Planning and Zoning Administrator within six months of the effective date of these regulations.

H. The owner of every Day Care Business established within the City after the effective date of these regulations shall submit a Day Care Business registration application to the Planning and Zoning Administrator within thirty days of the establishment of the business.

I. A Day Care Business registration shall be renewed annually after initial registration.

J. The Day Care Business registration certificate shall be posted in a conspicuous location within the Day Care Business.

K. The application fee for a Day Care Business registration shall be $10.00.

TITLE 5 - OFFENSES

Chapter 5.01 - Offenses Against Public Welfare
Chapter 5.02 - Animals
Chapter 5.03 - Weapons
Chapter 5.04 - Minors
Chapter 5.05 - Fireworks

CHAPTER 5.01 - OFFENSES AGAINST PUBLIC WELFARE

5.0101 Interfering with Public Improvements, Etc. It shall be unlawful for any person to hinder or obstruct the City or any employee or agent of the City in lawfully making any improvements in any street, road, alley or on any other public ground in the City or in performing any other official duty.

5.0102 Intentional Damage to Property. Any person who intentionally injures, damages or destroys public property without the lawful consent of the appropriate governing body having jurisdiction thereof, or private property in which other persons have an interest, other than by arson under SDCL 22-23, without the consent of the other person.

5.0103 Disorderly Conduct. A person shall be guilty of disorderly conduct if, with the purpose of causing public danger, alarm, disorder, nuisance, or if his conduct is likely to cause public danger, alarm, disorder or nuisance, he willfully does any of the following acts in a public place:

A. Engages in fighting or in violent or threatening behavior, including, but not limited to, the use of obscene or profane language directed at a person present;

B. Makes unreasonable noise;

C. Operates amplified sound equipment at an unreasonably high volume;

D. Disturbs any lawful assembly or meeting of persons without lawful authority;

E. Obstructs vehicular or pedestrian traffic;

F. Resists or obstructs the performance of duties by a law enforcement officer or other authorized official;

G. Addresses abusive language or threats to any law enforcement officer, or any other authorized official of the City who is engaged in the lawful performance of his duties, or any other person when such words have direct tendency to cause acts of violence. Words merely causing displeasure, annoyance or resentment shall not be prohibited; or

H. Commits any act which tends to corrupt the public morals or outrages public decency, is guilty of disorderly conduct which is hereby prohibited.

5.0104 Open Containers. It shall be unlawful to consume any beer or alcoholic beverage or to possess any glass, can or other container containing beer or any alcoholic beverage on which the seal has been broken, in any public place, vacant building, automobile, street, alley, sidewalk or place of amusement or business establishment not authorized to sell beer or alcoholic beverages, unless approved by the City Council. (SDCL 35-1-5.3, SDCL 35-1-9.3)

5.0105 Indecency. No person shall willfully and lewdly expose his or her person, or the private parts thereof, in any public place where there are present other persons to be offended or annoyed thereby.

5.0106 Public Urination and Defecation Prohibited. Any person who urinates or defecates on any public street, alley, sidewalk, or floor of any public building or of any building where the public gathers or has access, or in any other place, whether public or private, where the act could be observed by any member of the public, except in the place that has been designated as a restroom is guilty of an offense and in violation of this section.

5.0107 Bikes, Roller Skates and Skateboards Prohibited in the Business District. No person shall ride upon, in or by means of bikes, roller skates, coasters, go-karts, skateboards or other similar wheeled device upon a sidewalk in any business district. (SDCL 9-32-1)

A. Definition as used in this Section:

"Business District" - An area in which 50% or more of the street footage for a distance of 200 ft. or more is occupied by buildings used for business commercial, educational, governmental or religious purposes and/or is used for parking vehicles either as a parking lot or a parking ramp.

B. Exception. Provisions of this Section do not apply to:

1. Physically handicapped persons who have been disabled in such a manner as to make it difficult and burdensome to walk and who use a wheelchair or other wheeled device on the sidewalk.

2. A wheeled vehicle used to transport a person under five years of age.

CHAPTER 5.02 - ANIMALS

5.0201 Definitions. For the purposes of these regulations, and in order to carry out the provisions and intentions as set forth herein, certain words, terms, and phrases are to be used and interpreted as defined hereafter. Words used in the present tense shall include the future tense; words in the singular number include the plural; words in the plural number include the singular; the word "person" includes a firm, partnership, or corporation as well as an individual; the term "shall" is always mandatory and not discretionary; and the word "may" is permissive. The terms “used” or “occupied” as applied to any land or building shall be construed to include the terms “intended, arranged, or designed to be used or occupied”.

Abandonment: Giving up with the intent of never again regaining one’s interests in, or rights to, an animal other than placing ownership with a responsible party.

Animal: Any mammal, bird, reptile, amphibian or fish, except humans.

At Large: Any animal shall be deemed to be at large when: it is off of or away from the property of its owner and not under the immediate control of a competent person; or, when on the property of its owner, is not under the immediate control of a competent person unless the animal is chained, restrained, enclosed, or confined in a manner preventing it from leaving said property.

Dangerous Animal: Any animal which, when unprovoked, in a threatening or terrorizing manner approaches in an apparent attitude of attack, or bites, inflicts injury, assaults, or otherwise attacks a person or animal upon the streets, sidewalks, or any public place; or upon private property that is not owned or rented by the animal's owner; or any animal which, on its owner's private or rented property, when unprovoked, in a threatening or terrifying manner approaches in an apparent attitude of attack, or bites, inflicts injury, assaults, or otherwise attacks a mailman, meter reader, serviceman, journeyman, delivery man, or other employed person who is on private property by reason of permission of the owner or occupant of such property or who is on private property by reason of a course of dealing with the owner of such private property.

Fowl: Any chicken, duck, goose, guinea fowl, poultry, turkey, or other domestic fowl.

Kennel: Any premise, or portion thereof, where more than five dogs, cats, or other household pets are maintained, boarded, bred, or cared for in fenced or wired runs, cages, or pens that have direct access by the pet to any area outside of the kennel building, in return for remuneration, or are kept for the purpose of sale.

Leash: A cord, thong, or chain not more than six feet in length by which an animal is controlled by the person accompanying the animal.

Livestock: Any horse, cow, mule, donkey, swine, sheep, goat, buffalo, or llama. For the purposes of this ordinance, the term livestock shall include bees.

Muzzle: A device constructed of strong, soft material or of metal designed to fasten over the mouth of an animal to prevent the animal from biting any person or other animal.

Owner: Any person, group of persons, or corporation who has a right of property in an animal, keeps or harbors an animal, or who has an animal in his care or acts as its custodian, or permits an animal to remain on or about any premises owned, leased, rented, or occupied by him.

Pet: Any dog, cat, or other tame species of animal kept for purposes of domestication, companionship, or display.

Pet Boarding Facility: A building where more than five dogs, cats, or other household pets are boarded or cared for in indoor runs, cages, pens, or rooms that do not grant unsupervised pet access to areas outside of the boarding facility building, in return for remuneration.

Pigeon: Any kind of pigeon, whether wild, kept as a pet, or kept for hobby purposes such as breeding, showing, or sporting.

Proper Enclosure: A secure confinement, indoors or in a securely enclosed or locked facility that is suitable to prevent an animal from escaping and to prevent any physical threat to the well-being of any person or other animal, while not constituting inhumane treatment.

Restraint: An animal is under restraint if it is controlled by a leash; is confined within a vehicle in such a manner as not to allow it to reach outside the confines of that vehicle; or is confined within an enclosure sufficient to keep said animal restrained from escaping such enclosure. An animal is under leash or is considered restrained only when the person bearing that leash is physically capable of effecting positive physical control and restraint of the animal at all times.

Service Dog or Animal: Any dog or animal owned by a law enforcement agency or police department which has been trained to aid law enforcement officers and is actually being used for law enforcement or rescue purposes or any dog or animal specially trained to lead blind or deaf persons or to provide support for mobility-impaired persons.

Wild Animal: Any in, but not limited to, the following orders and families, whether bred in the wild or in captivity, and any animal hybrid resulting from the breeding of an animal that is a member of the following orders and families: Non-human primate and prosimians (e.g. chimpanzees, monkeys), Felidae (e.g. feral cats, lions, tigers, captive-bred cougars, jaguars, cheetahs, leopards, snow leopards, and clouded leopards except domesticated cats), Canidae (e.g. wolves, wolf hybrids, and foxes, but excluding domesticated dogs), Ursidae (e.g. bears), Proboscidae (e.g. elephants), Cetacea (e.g. whales, dolphins, porpoises), Crocodilia (e.g. alligators, caimans, crocodiles), Marsupialia (e.g. kangaroos, opossums), Reptilia over two feet in length and snakes and reptiles of the venomous variety, Perissodactyla (e.g. rhinoceroses, tapirs, not horses or donkeys, or mules), Artiodactyla (e.g. hippopotamuses, giraffes, camels, not cattle, buffalo, swine, sheep or goats), Hyaenidae (e.g. hyenas), Mustelidae (e.g. skunks, weasels, otters, badgers), Procyonidae (e.g. raccoons, coatis), Edentata (e.g. anteaters, sloths, armadillos), Viverridae (e.g. mongooses, civets, and genets), Pinnipedia (e.g. seals, sea lions, walruses), Struthioniformes (e.g. ostriches), or Anatidae (undomesticated ducks and geese).

5.0202 General Regulations.

A. Animals At Large.

1. It shall be deemed a violation of these regulations for any person who owns or who has under his care any animal to allow said animal to run at large. Any animal shall either be on a leash or tether controlled by a person, or properly secured to a leash which has been tied to an immovable object, or confined within an enclosure sufficient to keep said animal restrained from escaping such enclosure. No animal shall be leashed to an immovable object so as to permit the animal to walk on or over any public sidewalk or street, or any property of another person other than that of the owner of said animal. Any person that controls or restrains any animal by hand, leash, or tether shall be physically capable of effecting positive physical control and restraint of the animal at all times. Any animal not confined by leash, tether, or enclosure as set forth herein, is hereby declared to be running at large and is hereby declared to be a public nuisance.

2. The fine for an animal running at large is $100.00. The owner of the animal found in violation of this Section may, within eleven business days of the time when the notice of violation was given, pay to the office of the Finance Officer, as fine for and in full satisfaction of the violation, the sum of $100.00, thereafter the fine shall be increased to $150.00. Upon failure of the owner to pay either of

the sums to the office of the Finance Officer within twenty–two business days from the notice of violation, the fine shall be increased to $215.00 plus court costs, which fine may be collected by the Magistrate Court. The owner also has the right to contest the charges or plead "not guilty" within the time periods indicated above, and have the matter transferred to Magistrate Court. The penalties in this Section may be adjusted by resolution of the City Council. If the animal has been declared a dangerous or vicious animal, the fine amount shall be doubled.

3. If it is a first notice of violation for an animal, the City may waive the fine above if the owner submits documentation within the above eleven-day period indicating that the owner and the animal will undertake animal behavior/obedience training with a licensed location within sixty days. Such documentation must be presented to the Finance Officer prior to the training and include the name, number and location of licensed company doing the training. Training must be complete within one hundred twenty days and a completion notice must be provided to the Finance Officer. If the training is not completed in the time periods above, the notice of violation shall be reinstated, and the fine amount shall be doubled.

B. Animal Abandonment. It shall be deemed a violation of these regulations for any person to abandon any animal upon a public right of way, or upon the property of another, or upon property owned by that person.

C. Disturbing the Peace. It shall be deemed a violation of these regulations for any person owning or possessing any animal to suffer or permit such animal to disturb the peace and quiet of the neighborhood by barking, howling, crowing, crying, or making other loud or unusual noises. It shall be the duty of any person in possession of any such animal which disturbs the peace and quiet to dispose of the disturbance even if disposing of the animal is the only effective means. In the event that an animal is making any noise to disturb the peace and quiet of a neighborhood and the person owning or having the care or custody or control over the animal cannot be found to remedy the disturbance or, if found, refuses or fails to remedy the disturbance, then the animal may be impounded.

D. Unattended Animals in Standing/Parked Vehicles. It shall be deemed a violation of these regulations for any person to leave an animal unattended in a standing or parked vehicle in a manner that endangers the health or safety of such animal. The owner or operator of a vehicle containing an unattended animal will be contacted if possible before reasonable force may be used to remove such animal by any Code Compliance Officer, law enforcement officer, or agent/officer of a humane society. Removal of an unattended animal by a Code Official, law enforcement officer, or agent/officer of a humane society shall not constitute an offense, nor shall such person be held civilly or criminally liable for any damage caused by removing the animal from the vehicle.

E. Fights Between Animals. It shall be deemed a violation of these regulations for any person to willfully allow any animal to fight, worry, or injure another animal, nor shall any person keep any house, pit, or other place to be used in permitting any fighting, worrying, or injuring of animals, nor shall any person instigate or encourage any animal, bird, or fowl to attack, bite, wound, or worry another animal, bird, or fowl for any bet, stake, reward, or entertainment.

F. Harassment of a Service Animal. It shall be deemed a violation of these regulations for any person to maliciously beat, injure, attempt to injure, harass, intimidate, entice, distract, or otherwise interfere with any service animal accompanying either a person with a disability or a law enforcement officer if the service animal is being controlled by the person.

G. Animal Excreta. The person charged with the care or control of any animal, except livestock in compliance with Section 12 (below), shall remove and dispose of in a sanitary manner any excreta deposited by such animal upon said person's property no less frequently than every three days and upon any public or other person's private property immediately after excretion.

Anyone walking an animal on public or private property other than his own must carry with him visible means of cleaning up any excreta left by the animal. The fine for not promptly removing and properly disposing any excreta is $50.00. The owner of the animal found in violation of this Section may, within eleven business days of the time when the notice of violation was given, pay to the office of the Finance Officer, as fine for and in full satisfaction of the violation, the sum of $50.00, thereafter the fine shall be increased to $100.00. Upon failure of the owner to pay either of the sums to the office of the Finance Officer within twenty–two business days from the notice of violation, the fine shall be increased to $215.00 plus court costs, which fine may be collected by the Magistrate Court. The owner also has the right to contest the charges or plead "not guilty" within the time periods indicated above, and have the matter transferred to Magistrate Court. The penalties in this Section may be adjusted by resolution of the City Council.

H. Number of Dogs and Cats Limited. No person, or group of persons shall own, harbor, or keep more than five dogs or five cats, nor any combination of dogs and cats greater than five in number, over the age of six months old, at any one location (in or on property or vehicles owned, rented, leased, or occupied by said person or group of persons) within the municipal limits of the City unless said dogs and/or cats are kept in a kennel, pet boarding facility, or veterinary clinic that complies with the City's zoning regulations.

I. Packs. A Code Official, law enforcement officer, or agent/officer of a humane society shall have authority to destroy animals in packs which are actively chasing, barking, harassing, or attacking any livestock, animal, or human if, in his opinion, all other means of controlling or subduing the pack would fail. Two or more animals shall constitute a pack.

J. Keeping of Wild Animals Prohibited. No person shall own, keep, or maintain a wild animal(s) unless such animal is participating in a circus, menagerie, carnival, show, exhibition, or parade, provided that such animals shall only be allowed for said purpose for the length of time necessary to participate in said event.

K. Feeding of Wild Animals Prohibited. No person shall deliberately and knowingly feed any wild animal on any public or private property or public right-of-way when the placement of feed, bait, or other edible substance causes them to congregate or be drawn into an area.

L. Livestock.

1. Livestock shall only be allowed on land within an Agricultural Zoning District.

2. All livestock, except those on land used as sales pavilions, stockyards, slaughterhouses, locker plants, or truck terminals which must of necessity temporarily confine animals for the purpose of sale, slaughter, or transportation, other than those allowed in Section 12.A. (above) are hereby deemed to be in violation of these regulations.

3. No building or enclosure for use in sheltering or keeping of livestock shall be allowed within one hundred and fifty feet of any dwelling or building used for human habitation other than that of the owner of said livestock.

4. No person shall keep or maintain any land, building, or enclosure where livestock is kept unless said land, building, or enclosure is kept at all times in a clean, neat, and sanitary condition and free from substances that attract rodents or insects. It is deemed an unsanitary condition for pastures and grazing areas to be grazed or trampled to the extent that a majority of the grass is destroyed, resulting in bare or weed-infested ground.

5. It shall be deemed a violation of these regulations for any person to fail to maintain fencing that is adequate to ensure that livestock remains on the owner's property.

M. Pigeons, Chickens, and Fowl. No person shall keep or cause to be kept upon any premises within the municipal limits of the City any pigeons, chickens, or fowl without first obtaining the approval of the City Council. The City Council reserves the right to adopt criteria for and impose conditions upon the approval of keeping pigeons, chickens, or fowl.

N. Designation of Pet Areas in Parks. The City Park Board is hereby authorized to designate areas within City parks or upon public ground as No Pet Areas or as Leash-Free Pet Areas. The Maintenance Department shall post such areas as shall be required to give reasonable notice to the public. It shall be deemed a violation of these regulations for any person to permit any animal under his ownership or control to be present upon any park or public ground designated as a No Pet Area.

O. Interference. It is hereby deemed to be a violation of these regulations for any person, who by using or threatening to use violence, force, or physical interference or obstacle, intentionally obstructs, impairs, or hinders the enforcement of the provisions of these regulations by a Code Official, a law enforcement officer, or agent/officer of a humane society.

P. False Reporting. It is hereby deemed to be a violation of these regulations for any person to make a report or intentionally cause the transmission of a report of a violation of these regulations to authorities empowered herein, knowing that it did not occur, or to provide false information about any violation of these regulations.

Q. Unauthorized Release. No person shall seek to release any animal in the custody of the Code Official, law enforcement officer, or agent/officer of a humane society except as herein provided.

R. Owner Liability. The owner of any animal responsible for damage to person or property resulting from the actions of said animal shall be deemed liable for such damage. Should the City, its agents, contractors, or designees incur any costs for the investigation and enforcement of the provisions of these regulations, the owner of the offending animal or the offender, if the offense is against an animal or its owner, shall be deemed liable for such damage.

S. Police, Military, and Rescue Animals. Nothing in these regulations shall be construed to limit, affect, or apply to the use of animals by law enforcement, military, or rescue organizations.

T. Poisoning Prohibited. It shall be deemed a violation of these regulations for any person to willfully or maliciously administer, or cause to be administered, poison of any sort to any animal other than vermin, with the intent to injure or destroy such animal, or to willfully or maliciously place any poison or poisoned food where such is accessible to any animal other than vermin.

U. Trapping of Animals. It shall be deemed a violation of these regulations for any person to set a trap or traps to apprehend an animal or animals except:

1. To trap mice, rats, or other vermin;

2. To destroy moles or other underground pests, so long as the trap used may be triggered only by subsurface action; or

3. By, or with the written permission of the City Council, a Code Compliance Officer, law enforcement officer, or humane society officer.

5.0203 Rabies Control.

A. Keeping Rabid Animals Prohibited. No person shall knowingly harbor or keep any animal infected with rabies or any animal known to have been bitten by an animal known to be infected with rabies.

B. Report of Suspected Cases. Any person who shall suspect any animal to be infected with rabies shall report said animal to the Code Official, describing the animal and giving the name and address of the owner, if known.

C. Compulsory Vaccination of Animals.

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

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

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

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

D. Destruction of Rabid Animals. Any animal displaying symptoms or characteristics of rabies may be destroyed by the Code Official, a law enforcement officer, an agent/officer of a humane society, or a veterinarian.

E. Muzzling Proclamation. If the Code Official, a law enforcement officer, an agent/officer of a humane society, or a veterinarian determines that there is danger of the existence or spread of rabies, he shall make the facts known in writing to the Mayor. The Mayor may, upon receipt of said facts, by proclamation in the interest of public safety, order all animals in the affected area to be muzzled when off the premises of the owner for a specified period of time. Forty-eight hours after the publication of said proclamation, any animal found unmuzzled off the premises of the owner shall be seized and impounded or may be immediately destroyed if all reasonable efforts to seize said animal fail. All animals seized and impounded shall be held for observation for ten days and, if cleared by a licensed veterinarian, may be claimed by the owner, and the owner must pay the expenses incidental thereto. Any animal not claimed may be disposed of in a humane manner.

F. Quarantine for Observation.

1. When any person owning or harboring an animal has been notified that said animal has bitten or attacked any person, the owner shall within twenty-four hours place the animal under the care and observation of the humane society and/or a licensed veterinarian for a period of not less than ten days. However, in those cases when the owner has a current rabies vaccination for said animal, the Code Official may, if he feels the facilities are adequate and if the owner is a responsible person, quarantine the animal on the owner's premises. In this case the owner must sign a statement that he understands the responsibility and will assume the liability that is involved with the quarantine of an animal that has bitten. The quarantined animal must at all times be available for inspection during the quarantine.

2. At the end of said ten day observation period the animal shall be examined by a veterinarian, and if cleared, may be reclaimed by the owner. The owner must pay the expense incurred incidental thereto.

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

4. When an animal under quarantine has been diagnosed as being rabid or suspected by a licensed veterinarian as being rabid and dies while under such quarantine, the veterinarian shall ensure that the head of said animal shall immediately be sent to a competent laboratory for pathological examination. The veterinarian shall notify the proper public health officer to report human contacts with, and the diagnosis made on, said animal.

5. Any animal that has bitten or attacked that cannot be captured may be destroyed in such a manner that the head is not damaged and can be immediately submitted by the Code Compliance Officer to a competent laboratory for pathological examination. The Code Compliance Officer shall notify the proper public health officer to report human contacts with, and the diagnosis made on, such animal.

5.0204 Vicious Animals.

A. Vicious Animal Complaints.

1. The Code Official shall initiate an investigation to determine whether or not an animal is vicious upon receipt of: a written complaint from a community resident; an oral or written complaint from a physician, veterinarian, agent/officer of a humane society, or law enforcement officer; or based upon his own observations.

2. The Code Official may impound the animal being investigated at any time during the course of the investigation if the Code Official determines that the preservation of public safety is best served by impoundment.

3. A Code Official, law enforcement officer, or agent/officer of a humane society may use all necessary means to control a dangerous or vicious animal so as not to immediately jeopardize the health or safety of themselves or others.

4. An owner of any animal having knowledge that his animal has caused injury, bitten, or is suspected of causing injury or biting a person shall immediately report the incident to the Lincoln County Sheriff's Department.

B. Vicious Animal Investigation.

1. The Code Compliance Officer shall thoroughly investigate each complaint to determine if the animal is vicious. The Code Compliance Officer shall initiate the investigation within two business days (inclusive) of receiving the complaint.

2. The Code Compliance Officer shall consider all relevant factors including, but not limited to, the severity of injury to the victim, statements from the victim and/or witnesses, previous aggressive history of the animal, observable behavior of the animal, the ability of the animal to inflict injury to another animal or person, previous incidents of a similar nature, and circumstances of the incident.

3. Upon initiating an investigation to determine whether or not an animal is vicious, the Code Compliance Officer shall notify the owner of the animal that an investigation has begun. The notification shall be made either in person, by first

class mail, or by posting the notification upon the front door of the owner's residence.

4. An animal does not have to be declared to be vicious if an injury or damage is sustained to any person who was committing a willful trespass or other tort upon premises occupied by the owner or keeper of the animal, or who was teasing, tormenting, abusing, or assaulting the animal or was committing or attempting to commit a crime.

5. At the conclusion of an investigation, but before his finding is issued, the Code Compliance Officer shall review the results of the investigation with the City Administrator.

6. At the conclusion of an investigation the Code Compliance Officer may find:

   a. The animal is not vicious and, if the animal is impounded and not quarantined for rabies evaluation, release the animal to its owner upon payment of any impoundment fees and expenses; or

   b. The animal is dangerous and order the owner to comply with requirements that the Code Compliance Officer deems reasonable to control the dangerous behavior of the animal and, if the animal is impounded and not quarantined for rabies evaluation, release the animal to its owner upon payment of any impoundment fees and expenses; or

   c. The animal is vicious and order the owner to comply with the requirements for vicious animals and, if the animal is impounded and not quarantined for rabies evaluation, release the animal to its owner within seven calendar days upon the owner providing proof of compliance and payment of any impoundment fees and expenses; or

   d. The animal is unredeemably vicious and order the animal to be destroyed. The owner is responsible for payment of any impoundment fees and expenses and the costs for destroying the animal.

7. If the Code Compliance Officer cannot with due diligence locate the owner of an animal that has been impounded pursuant to this Section within seven calendar days (inclusive), or if the owner of the animal has been notified that the animal has been determined to be dangerous or vicious but has not secured the release of the animal within ten calendar days (inclusive) of notification (exclusive of the time of appeal to the City Council), then the Code Compliance Officer may cause the animal to be destroyed.

C. Notification of Finding that an Animal is Vicious.

1. The Code Compliance Officer shall notify the owner within three business days after concluding the investigation and issuing the finding concerning the animal's designation as a dangerous or vicious animal. This notification may be in person and/or by certified mail and shall provide the specific restrictions and conditions for keeping the animal if the animal has been found to be dangerous or for removing the animal from the City's jurisdiction if the animal has been found to

be vicious. The notice shall inform the owner that he may request a hearing to contest the finding and shall contain instructions on how to appeal the finding. Such a request for hearing shall be filed in writing with the Finance Officer within seven calendar days (inclusive) of receipt of notification.

2. The Code Compliance Officer shall notify the complainant within three business days after concluding the investigation and issuing the finding concerning the animal's designation as a dangerous or vicious animal. This notification may be in person and/or by first class mail and shall provide the specific action to be taken if the animal has been found to be dangerous or vicious. The notice shall inform the complainant that he may request a hearing to contest the finding and shall contain instructions on how to appeal the finding. Such a request for hearing shall be filed in writing with the Finance Officer within seven calendar days (inclusive) of receipt of notification.

3. The Code Compliance Officer shall notify the Finance Officer and the Lincoln County Sheriff within three business days after concluding the investigation and issuing the finding concerning the animal's designation as a dangerous or vicious animal. The notification shall describe the animal and specify any requirements or conditions placed upon the animal or owner.

4. Failure of either the owner or the complainant to request a hearing within the prescribed time shall result in the Code Compliance Officer's finding being a final determination.

D. Appeal of Finding.

1. The City Council shall have the authority to review findings made by the Code Compliance Officer. The City Council shall convene as it deems necessary to hear appeals from the Code Compliance Officer's findings.

2. If the owner or complainant files a written request as described in Section 3, the Council shall hold a hearing, preferably at a regular Council meeting, not less than two nor more than ten business days after the day of receipt of the appeal. The purpose of the hearing shall be to uphold, overturn, or modify the Code Compliance Officer's finding. The Finance Officer, or her designee, shall provide notice of the date, time, and location of the hearing to the owner, the complainant, and the Code Compliance Officer a minimum of two calendar days prior to the hearing. The notification shall be made either in person, by first class mail, or by posting the notification upon the front door of the residence of the owner or complainant.

3. At the hearing, all interested persons shall be given the opportunity to present evidence on the issue of the finding. Criteria to be considered in the hearing shall be all relevant factors including, but not limited to, the severity of injury to the victim, statements from the victim and/or witnesses, previous aggressive history of the animal, observable behavior of the animal, the ability of the animal to inflict injury to another animal or person, previous incidents of a similar nature, and circumstances of the incident.

4. The City Council shall issue a determination upholding, modifying, or overturning the Code Compliance Officer's finding. This determination may be issued at the hearing or within three calendar days after the hearing.

5. A determination by the City Council upholding the finding that the animal is vicious shall subject the animal and its owner to the provisions of Section 5 (below). A determination that the animal is unredeemably vicious shall result in the animal being destroyed no sooner than five calendar days after the hearing.

6. Failure of either the owner or the complainant to file an appeal to the Circuit Court within said five calendar days after the City Council's determination shall result in the Code Compliance Officer's finding being a final determination.

E. Removal of a Vicious Animal.

1. It is deemed a violation of these regulations, and is hereby declared to be a public nuisance, for any person to keep within the City's jurisdiction an animal found to be vicious after the date of the Code Compliance Officer's final determination.

2. It is deemed a violation of these regulations for any owner to possess an unredeemable vicious animal. All animals determined to be unredeemably vicious shall be destroyed.

3. It is deemed a violation of these regulations for any owner of a vicious animal to fail to comply with the requirements and conditions set forth in this Section. Any vicious animal found by a Code Compliance Officer to be in violation of this Section shall be immediately seized and destroyed.

4. Upon the third violation of this Section by one owner, the Finance Officer shall refuse to issue that owner any future Pet Licenses.

F. Retroactivity. No animal may be declared to be a vicious animal based solely on the animal's activity prior to the effective date of these regulations. However, the activity, including but not limited to substantiated reports of bites or aggressive behavior, may be considered during a Code Compliance Officer's investigation.

5.0205 Abuse and Neglect.

A. Killing of Animals. It shall be deemed a violation of these regulations for any person to willfully or maliciously kill any animal of any age or value except when necessary to protect the lives of any person or animal from being attacked by such animal. This section may not be construed to prevent euthanasia by a licensed veterinarian with proper authority from the animal's owner nor may it prevent acts of euthanasia authorized by these regulations. This section may not be construed to prohibit euthanasia conducted by the City or under the City's animal control activities.

B. Abuse and Neglect of Animals. It shall be deemed a violation of these regulations for any person to willfully or maliciously wound, injure, mistreat, inhumanely beat, torture, deprive of necessary sustenance, drink, or shelter, or overload any animal of any age or value, in any way; or to engage in any act or omission whereby unnecessary, unjustifiable, or unreasonable physical pain or suffering is caused, permitted, or

allowed to continue, including acts of mutilation; or to willfully or maliciously administer poison to any animal or to expose any such poisonous substance with the intent that the same shall be ingested by any animal.

C. Seizure of Abused or Neglected Animals. A Code Official, law enforcement officer, or agent/officer of a humane society who finds an animal to be inhumanely treated shall, pursuant to a warrant or court order, cause the animal to be impounded or otherwise properly cared for, and the expenses of such impoundment or care shall be a lien on the owner of the animal to be paid before the animal may be lawfully recovered. However, a warrant or court order is not necessary if the animal is severely injured, severely diseased, or suffering and any delay in impounding the animal would continue to cause the animal extreme suffering or if other exigent circumstances exist. If any abused or neglected animal is impounded or subjected to other action under these regulations without a court order, the officer or agent shall subsequently show cause for the impoundment or other action to the court, and the court shall issue an order ratifying the impoundment or action or, if sufficient cause for the impoundment or action is not shown, the court shall order the return of the animal to the owner or other appropriate remedy.

5.0206 Pet Licensing.

A. License Required. It shall be deemed a violation of these regulations for any person to own, keep, maintain, or harbor or to have in his custody or under his control within the municipal limits of the City any cat or dog over the age of six (6) months without first having obtained a pet license from the City Finance Department. No pet license will be required for any pet that arrives and departs from the City within a thirty (30) day period if such pet is licensed in another jurisdiction or if the pet is kept within a kennel, pet boarding facility, or veterinary clinic that is in compliance with the City's zoning regulations. A pet license shall not be transferable from owner to owner or from pet to pet.

B. License Application. Any person desiring to keep, maintain, or have in his custody or control within the municipal limits of the City any cat or dog shall, within seven days of acquiring such pet and thereafter every three years, submit to the City Finance Department a Pet License Application. A valid rabies certificate shall accompany each application, stating the name of the veterinarian who administered the inoculation, the date it was given, and the length of time during which such inoculation will be effective, which shall be at least as long as the license period.

C. License Fee. Each Pet License Application shall be submitted with a license fee according to the following schedule:

Neutered/spayed cat or dog:	$ 5.00
Unneutered/unsprayed cat or dog:	$ 10.00

License fees are not refundable. Service animals shall be exempt from the License Fee requirement. Cats or dogs in the custody of a veterinarian, kennel, or pet boarding facility shall be exempt from the License Fee requirement. Documentation from a veterinarian or other sufficient medical proof must be provided when licensing a neutered or spayed cat or dog. The City Council may revise any or all license fees by

resolution. The City Council may in special instances, after a hearing, exempt the license fee in individual cases.

D. Collar Required. It shall be the duty of the owner of each licensed pet to place a collar around the neck of the pet to display the animal license issued to that animal.

E. Issuance Of Tag. It shall be the duty of the Finance Officer, or her designee, at the time of the issuance of a license under these regulations, to furnish and deliver to the applicant for such license a tag for each pet for which such license is issued. The number of the license shall be stamped or engraved on the tag. The Finance Officer shall keep a record of all tags issued.

F. Replacement Tag. In the event of the loss of any tag issued under these regulations, the Finance Officer is hereby authorized to issue another tag upon payment of $5.00 upon application being made that such tag has been lost.

5.0207 Impoundment.

A. Authority. A Code Official, law enforcement officer, agent/officer of a humane society, or veterinarian may impound any animal found within the City's jurisdiction that is found to be in violation of these regulations. Said impoundment shall take place at a location and for a duration as ordered by the impounding officer.

B. Microchip Implantation Required. Any dog that has been impounded for biting a person and subsequently released to its owner shall be implanted with a microchip prior to its release from impoundment, with the cost of implantation to be borne by the owner.

C. Cost Of Impoundment. An impounded animal shall be released to the owner thereof upon payment to the City Finance Office, or designee of the Council, of the daily boarding cost plus the cost of any other services rendered (such as veterinary services or microchip implantation) plus an impoundment fee according to the following schedule:

First violation:	$25.00
Second violation within a twelve-month period:	$50.00
Third and subsequent violations within a 12-month period:	$100.00

E. Notice to Owner. The Code Official, law enforcement officer, agent/officer of a humane society, or veterinarian who is impounding an animal shall notify, within twenty-four hours of an animal being impounded, the owner of said animal if his identity and location can be obtained by reasonable means.

F. Disposition of Impounded Animals.

1. An impounded animal wearing a license or bearing other means of identification shall be impounded for a period of five days, excluding Sundays and holidays and including the day of impoundment.

2. An impounded animal not wearing a license or bearing other means of identification shall be impounded for a period of three days, excluding Sundays and holidays and including the day of impoundment.

3. If the owner of any impounded animal shall fail to redeem such animal during the impoundment period, then any other person may, upon complying with the provisions of these regulations, redeem such animal from impoundment and be the lawful owner thereof.

4. The Code Official or his designee may dispose of any impounded animal after the impoundment period by any humane means.

5. The Code Official or his designee may dispose of any found or impounded animal that is sick or injured or is a feral cat without holding said animal for the entire impoundment period if the animal's condition is such that euthanization is the most humane manner to dispose of the animal.

G. Records. The Code Official shall keep accurate records of the investigation, impounding, and disposition of all animals coming into his custody and an accurate record of all animal bites.

CHAPTER 5.03 - WEAPONS

5.0301 Discharging Weapon. No person shall discharge any pistol, gun, revolver, or other firearm, or any bow and arrow, or any device capable of firing a projectile either by air or compressed gas or any other means which would likely cause injury to any person, or discharge any dangerous weapon, within the City limits.

The following weapon discharges within City limits are exempt from this section:

A. Proper discharge of weapons in a licensed shooting range.

B. Weapon discharge by law enforcement or code compliance officers in the discharge of their official duties, or to persons who are authorized by the City.

C. Weapon discharge by persons engaged in instructional courses using air guns, BB or pellet guns, or bows and arrows if the course administrator has obtained a permit from the City and has been approved by the City Council if conducted on City property. The City Council may establish conditions for granting a permit to protect the health, safety, and well-being of the general public.

D. The owner or inhabitant (if over 18 years of age) of a parcel of real estate within the City may discharge air guns or BB guns to control predators or pests on said property, provided that all such activities comply with South Dakota Statute.

E. Discharge of air guns, BB or pellet guns, or bows and arrows on a practice range established by the Park Board during posted hours of operation and while in compliance with posted range rules for use.

It shall be a defense to a charge of violation of this section that a person was engaged in lawful self defense as set forth in SDCL 22-5-1, SDCL 22-5-9, and SDCL 22-18-4.

CHAPTER 5.04 - MINORS

5.0401 Definitions. For the purpose of this section the following terms, phrases, words and their derivations shall have the meanings given in this section.

A. City. Is all area within 1 mile beyond the city limits of the City of Harrisburg.

B. Custodian. Is any person over the age of 18 who is in loco parentis to a juvenile.

C. Guardian. Is any person other than a parent who has legal guardianship of a juvenile.

D. Juvenile. Is any person under the age of 16.

E. Parent. Is the natural or adoptive parent of a juvenile.

F. Public Place. Shall mean any street, alley, highway, sidewalk, park, playground or place to which the general public has access and a right to resort for business, entertainment or other lawful purpose. The public place shall include but not be limited to any store, shop, restaurant, tavern, bowling alley, café, theater, drugstore, pool room, shopping center and any other similar place, and including the area immediately adjacent to the place.

5.0402 Curfew for Juveniles.

A. It is unlawful for any person under the age of 16 years to idle, wander about with no specific destination, stroll, play, congregate or otherwise be present in any public place, either on foot or in a motor vehicle after the hour of 10:00 p.m. or before the hour of 5:00 a.m. on any Sunday, Monday, Tuesday, Wednesday or Thursday, or after the hour of 11:00 p.m. or before 5:30 a.m. on any Friday or Saturday, unless accompanied by a parent, guardian or custodian.

B. The foregoing notwithstanding, it shall not be a violation of this section for a juvenile to be present in a public place if the juvenile can establish that the presence is necessary to perform an errand or other specific activity at the direction of the juvenile's parent, guardian or custodian or to travel in the most practical and expeditious route from 1 non-public place to another non-public place at the specific direction of the juvenile's parent, guardian or custodian.

C. Further, it shall not be a violation of this section for any juvenile to attend a special function or entertainment sponsored by any church, school, club or other organization if the juvenile can establish that the attendance is with the specific permission of the juvenile's parent, guardian or custodian.

5.0403 Responsibilities of Owners of Public Places. It is unlawful for any person, firm or corporation operating or having charge of any privately owned public place to permit or suffer the presence of a juvenile upon the premises with the knowledge that the juvenile is in violation of Section 5.0402(C).

5.0404 Parents' Responsibility. It is unlawful for the parent, guardian or custodian of any juvenile to permit or suffer by negligent or inefficient control of the juvenile to violate any provision of this section. It shall not be a violation of this section for the parent, guardian or custodian of a juvenile to direct and permit the juvenile to be present in a public place for the purpose of carrying out a specific errand or other specific business activity or to participate in a specific activity of any church, school, club or organization, or to direct and permit a juvenile to travel from one nonpublic place to another nonpublic place by the most practical and direct route and means.

5.0405 Procedures. Law enforcement officers are directed to follow the following procedures in enforcing the ordinance codified in this section:

A. A law enforcement officer, upon finding a juvenile in a public place during the prohibited hours, shall ascertain the name and address of the juvenile, shall warn the juvenile that he or she is in violation of this section, and shall direct the juvenile to proceed directly and at once to his or her home or usual place of abode. The law enforcement officer shall make a written record of the contact and warning and shall report the contact to the juvenile investigation section of the Police Department, which shall notify the parent, guardian or custodian of the juvenile by telephone or by letter.

B. If a juvenile refuses to comply with the direction of the law enforcement officer, or refuses to give the law enforcement officer his or her correct name and address, or if the juvenile has been warned on a previous occasion, the juvenile shall be taken into custody. The parent, guardian or custodian of the juvenile shall be notified to come and take custody of the juvenile. If the parent, guardian or custodian cannot be located or fails or refuses to take custody of the juvenile, the juvenile shall be remanded to the juvenile authorities.

5.0406 Penalty. A violation of this section shall be punishable by a fine not to exceed fifty dollars ($50.00) plus court costs for each offense.

CHAPTER 5.05 - FIREWORKS

5.0501 Definitions.

A. Fireworks. Devices designed to produce audible and/or visible effects by combustion as set forth in SDCL 34-37.

B. Fireworks Sales. The retail or wholesale sale of fireworks as set forth in SDCL 34-37.

5.0502 Fireworks Sales License Required.

A. No person shall sell fireworks within the City's jurisdiction without first obtaining an approved Fireworks Sales License.

B. Any person licensed under this Ordinance must also hold a license under SDCL 34-37-2.

C. Fireworks shall be considered consumer goods for zoning purposes of the City's municipal code.

D. The holder of an approved Fireworks Sales License may sell fireworks within the City's jurisdiction at wholesale during the term of the Fireworks Sales License or at retail to individuals during the period beginning May first and extending through August thirty-first and during the period beginning December twenty-sixth and extending through January second.

5.0503 Fireworks Sales License Application.

A. Any person who is required by this Chapter to possess a Fireworks Sales License shall first submit an Application to the Planning and Zoning Administrator.

B. A Fireworks Sales License Application shall consist of an application form, a Fireworks Sales License Application Fee, proof of liability insurance coverage of at least $1,000,000, a scaled site plan of the proposed sales site, a copy of the applicant's South Dakota Sales Tax License, and a copy of the appropriate state fireworks sales license(s).

C. The Fireworks Sales License Application Fee shall be two hundred dollars ($200.00) and is non-refundable.

D. The Planning & Zoning Administrator shall review each Fireworks Sales License Application after the complete Application is received. The Application may be approved or denied based upon the Applicant's proposed sales location, zoning, proposed signage, building code compliance of the sales location, code enforcement compliance history, record of compliance with City fireworks regulations, record of compliance with state fireworks regulations, and/or other factors considered relevant by the Planning & Zoning Administrator.

E. The action of the Planning & Zoning Administrator may be appealed to the City Council if a written appeal is submitted to the Finance Officer within ten (10) days (inclusive) of the action.

5.0504 Storage and Sales.

A. No person shall store or sell fireworks within the City's jurisdiction without first obtaining the written permission of the landowner of the sales location.

B. The storage and sale of fireworks within the City shall be restricted to structures that are no closer than fifty feet (50') to any other structure used for agricultural, commercial, industrial, or residential use.

C. All structures used for the storage and/or sale of fireworks shall comply with the City's currently adopted building code and shall have adequate means of egress before commencement of and during said storage or sales. One or more inspections by a Building Official may be required as a condition of approval of a Fireworks Sales License. Random, unannounced inspections by a Building Official or Code Compliance Officer may be conducted to ensure continuing compliance with the adopted building code and/or the requirements of this Chapter.

5.0505 Use or Discharge of Fireworks. The use or discharge of fireworks as defined in SDCL 34-37 within the jurisdiction of the City is hereby allowed from June 29 through July 5, from 9:00

a.m. until 11:00 p.m. unless banned by resolution by the City Council. Such resolution may be adopted when the South Dakota grassland fire danger index is, or is expected to remain, at the very high or extreme category.

5.0506 Exemptions to Regulations. Nothing in this Chapter shall be construed to prohibit the manufacture, storage, sale, use, or possession within the City of pyrotechnical signal devices necessary for the safe operation of railroads or other classes of public or private transportation, nor applying to the military forces of the United States or its various states, or to peace officers, nor blank cartridges for ceremonial, theatrical, or athletic events, nor items commonly known as sparklers or toy paper caps.

TITLE 6 - STREETS, SIDEWALKS AND PUBLIC PLACES

Chapter 6.01 - Street Names and Addresses
Chapter 6.02 - Streets, Sidewalks, Curb and Gutter
Chapter 6.03 - Snow Removal
Chapter 6.04 - Moving Buildings
Chapter 6.05 - Municipal Trees
Chapter 6.06 - Municipal Parks
Chapter 6.07 - City American Legion Hall

CHAPTER 6.01 - STREET NAMES AND ADDRESSES

6.0101 Names of Streets and Avenues. The names of all streets and avenues in the City approved by the City Council shall be kept on file in the office of the Planning & Zoning Administrator. It is intended that east-west thoroughfares shall be designated as streets and that north-south thoroughfares shall be designated as avenues. Other thoroughfare designations may be approved by the City Council in accordance with guidelines included in the City's Street Design Standards. Any such act of naming, establishing, or vacating any street, alley or public way in the City by the City Council shall be kept in the records of the Planning & Zoning Administrator.

6.0102 Numbering Plan. An address assignment plan for all parcels of property within the City shall be established and kept in the records of the Planning & Zoning Administrator. A listing of the assigned addresses and maps showing the location of assigned addresses shall be maintained and filed in the office of the Planning & Zoning Administrator. The Planning & Zoning Administrator shall be responsible for assigning new addresses and updating the listing of such addresses on the location maps.

6.0103 Central Point. The dividing line for address assignments on all avenues running north and south shall be the centerline of Willow Street. The dividing line for address assignments on all streets running east and west shall be the centerline of Emmett Trail. Address number assignments shall begin at 100 and increase in a symmetric pattern from the central point. Avenue names that are used on both sides of Willow Street shall be designated by suffixing the avenue name with the word "South" for the portion located south of Willow Street and with the word "North" for the portion located north of Willow Street. In like manner, all street names that are used on both sides of Emmett Trail shall be designated by suffixing the street name with the world "West" for the portion located west of Emmett Trail and with the word "East" for the portion located east of Emmett Trail.

6.0104 Duty of Numbering. That all houses and lots within the corporate limits of City of Harrisburg, South Dakota, shall be numbered in accordance with the provisions of Chapter 6.01. It shall be the duty of the owner of such houses and lots to so place and construct such numbers as to be easily visible from the street and said numbers shall be not less than four inches in height. If the owner of any dwelling house, building, business establishment or lot fronting on a street or avenue within the City shall fail, refuse or neglect to place the number, or replace the number when necessary, an authorized agent of the City may cause to be mailed by certified mail, return receipt requested, or by personal service to such owner,

occupant or person, or by posting on the property a notice to the last known address ordering him to do so. Failure by any person to actually receive any document sent to him by certified mail or to sign and return any receipt card acknowledging receipt by certified mail shall not invalidate service made upon such person by certified mail. Such notice is deemed completed at the time it is mailed, hand delivered or posted, and any period to reply or abate begins to run from the date of mailing, personal service or posting. In case of failure of such owner to comply with such notice within ten days after the date of such notice, the authorized agent may cause the same to be done, and assess the cost thereof against the property or premises numbered. (SDCL 9-45-2)

CHAPTER 6.02 - STREETS, SIDEWALKS, CURB AND GUTTER

6.0201 Street Surfacing. The surfacing of streets shall be at the expense of the owners of the property abutting the street(s) to be surfaced, with materials to be approved by the City Council. Cost of the street improvements including legal, engineering, grading and any other costs related to the improvement, may be assessed against said property on a frontage foot basis. The cost of each street or alley intersection shall be assessed on a front footage basis to all lots or property included within a project area. (SDCL 9-45-31)

6.0202 Street Excavations. No person shall make or cause to be made any excavation except as hereafter provided, in or under any street, sidewalk, alley, or public ground or remove any earth, soil, paving, gravel or materials therefrom without first having called One Call and having had any underground utilities identified. The Excavation Permit Application for approval of such excavation shall state who will make such excavation, where such excavation is to be made, the extent thereof, and the purpose of such excavation. Excavation Permit Applications shall be made to the City's Maintenance Supervisor.

6.0203 Excavation Permits. Excavation Permit Applications for excavations other than emergency situations may require a deposit in such sum as deemed necessary by the City Council to ensure proper replacement and refilling of any such excavation and to cover the costs of any damages and administrative expenses which may be caused by such excavation. Any required deposit shall be paid to the City Finance Office before approval of an Excavation Permit Application is made and any unused portion of said deposit shall be refunded to the applicant upon approval of the City Council.

6.0204 Excavation Repairs. Approval for any excavation covered by this Chapter shall be issued only upon the express condition that the applicant shall refill such excavation in accordance with the requirements of the City Council, and shall restore the pavement or surfacing, as the case may be, to its former condition. The City Council may adopt by resolution and amend as necessary such requirements which shall set forth the manner in which various types of excavations shall be backfilled or refilled and the manner in which any street surfacing shall be replaced. Applicant shall be responsible to the City for any such excavation for a period of two years.

6.0205 Excavation Inspections. It shall be the duty of the Maintenance Supervisor or his designee to inspect all authorized excavation work at any stage of construction and to ensure compliance with approved requirements. If all backfilling, refilling, or surfacing is not completed in accordance with approved requirements, notice thereof in writing shall be given to the applicant, who shall put the same in proper order within a maximum of ten (10) days. If the

applicant fails after such notice to complete all requirements, the City Council may authorize the necessary repairs and such applicant shall pay the costs thereof.

6.0206 Excavation Barriers. Any person receiving approval 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 signs, fences or signals so as to prevent injury to persons, animals, or vehicles on account of such excavations. No open trench shall be left open for any more time than considered absolutely necessary or reasonable.

6.0207 Sidewalks. Sidewalk construction shall include base material of three inches in thickness, of approved materials. Sidewalks shall be no less than four inches in thickness, of Portland Cement Construction, and not less than four feet nor more than five feet wide in residential areas, with slope toward street of one-fourth inch per foot. When considered necessary and advisable for the peace, welfare, and safety of the people, the City Council may direct that new sidewalk be constructed and assessed to any abutting property owner in accordance with SDCL 9-46.

6.0208 Driveway Approaches. No driveway approaches shall protrude or extend into the streets beyond the curb line, unless otherwise so authorized by the City Council. Concrete driveway approaches shall be of five-inch Portland Cement Construction, with the slope gradual to accommodate modern vehicles. On gravel thoroughfares driveway approaches constructed shall permit flow of surface water without drainage interference and shall permit proper blading and maintaining of streets. A driveway approach is defined as the portion of a driveway from the edge of the abutting street driving surface to the property line where the driveway proper on the property begins.

6.0209 Curb and Gutter. Curb and gutter shall be of Portland Cement Construction, not less than 3,000 PSI, with curb six inches in width, and extending six inches above the gutter. Gutter shall be of six and one-half inch thickness, extending twenty-four inches into the street and shall include two No. 4 Rebar centered on pan. The City Council may direct that curb and gutter be constructed and the cost assessed against any abutting property owner. (SDCL 9-45-5)

6.0210 Permits. When constructed separately from City construction project or an approved building permit for the construction of a new structure, a property owners or his agent shall submit an Approach Permit Application for approval by the City Maintenance Supervisor for the construction or installation of sidewalks, driveway approaches, curb cuts, or curb and gutter. When these improvements are constructed simultaneously or as one project, only one application is necessary to include all improvements. All improvements, installations, and engineering recommendations shall be in conformance with the City's adopted Design Standards.

6.0211 Barrier-Free Construction. Whenever any person, firm or corporation makes new installations of sidewalks, curbs or gutters, in both business and residential areas, it shall be required that they install ramps at crosswalks, so as to make the transition from street to sidewalk easily negotiable for handicapped persons in wheelchairs and for blind persons. All such ramps shall be constructed or installed in accordance with the City's adopted Design Standards. (SDCL 9-46-1.2)

6.0212 Permission to Deposit Materials. No person shall deposit, place, store, or maintain, upon any public place of the municipality, including street rights-of-way, any dumpster, container, stone, brick, sand, concrete or any other materials, unless first approved by the City's Maintenance Supervisor.

6.0213 Sidewalk Maintenance. Whenever any public right-of-way in the City shall have been improved by the construction of a sidewalk along either side thereof, it shall be the responsibility of the owner or occupant of abutting property to inspect, maintain, remove or correct any condition which renders a sidewalk unsafe or unfit to use.

6.0214 Removal of Sidewalks Prohibited. It shall be unlawful for any person to remove, alter, or excavate any sidewalk, or cause the same to be done at any location within the City where sidewalks exist. Any person removing, altering or excavating any sidewalk shall be responsible for replacing said sidewalk upon obtaining an approved Approach Permit. In the event a person violates this Section and fails to replace a sidewalk or any portion thereof which is unlawfully removed or altered, the City shall be entitled to cause the same to be replaced, after notice to the property owner, and to assess the cost of replacement as provided for in South Dakota law.

6.0215 Council Permission for Parades or Public Gatherings on Streets or Sidewalks. It shall be unlawful for any person to hold or conduct any parade, meeting or public gathering on the streets or sidewalks of the City, without first obtaining permission to do so from the City Council.

CHAPTER 6.03 - SNOW REMOVAL

6.0301 Duty to Remove. It shall be the duty of the owner, tenant, or person in possession of any property abutting on any sidewalk to keep such sidewalk and boulevard free from snow and to cause any accumulated snow to be removed within forty-eight (48) hours after the termination of any snowfall, or snow accumulation.

6.0302 Disposal of Snow. It shall be the duty of the property owner, tenant, or person in possession of any public or private driveway, parking lot or parking area or boulevard to dispose of accumulated snow upon such property in such manner that any snow when removed shall not be deposited upon any sidewalk or within or upon any public street or alley, after such public street or alley has been cleared of snow by grading of such snow away from the curb or picking up and carrying away of such snow by the City, or in a manner that will obstruct or interfere with the passage or vision of vehicle or pedestrian traffic.

6.0303 Removal Costs Assessed. In the event any owner, tenant, or person in possession of any property shall neglect or fail to or refuse to remove such snow or ice within the time provided, the City may issue a citation for such violation and may authorize such removal with the costs to be assessed against the abutting property owner. (SDCL 9-30-5)

CHAPTER 6.04 - MOVING BUILDINGS

6.0401 Permit Required. No person shall move any building or part of building into, along or across any public street, alley, or grounds in the City without having first obtained a moving permit. (SDCL 9-30-2)

6.0402 Applications. Written application for a moving permit shall be filed with the Building Official, and shall include the name of the applicant, the name of the owner of the building, a description of the lot on which such building is standing; a description of the lot to which it is to be moved, if such location shall be within the City. The application shall also specify the route along which it is proposed to move the building, and the length of time likely to be consumed in such moving. Any application so filed shall be considered by the City Council for approval, and any other conditions to be complied with by the applicant, shall be stated.

6.0403 Surety Bond. No moving permit shall be granted until the applicant shall file with the Finance Officer a bond in favor of the City in the penal sum to be established by the City Council, with sufficient surety, and conditioned on the applicant promptly repairing and making good, to the satisfaction of the City Council, any and all damage to any pavement, sidewalk, crosswalk, hydrant, street, alley, or other property, done or caused by the mover, in moving such building or part thereof, or in connection with the moving thereof. The applicant shall indemnify and save harmless the City against any and all liability for damages, costs and expenses, arising or which may arise or be incurred in favor of any person by reason of any conduct by the applicant or applicant's agents or employees, in connection with the moving of such building or part thereof, or the use of any public ground for such purpose.

6.0404 Standing Buildings. No building or part of a building being moved, shall be allowed to stand still in any public street or any public ground for more than twenty-four (24) consecutive hours.

6.0405 Permission of Property Owners. No moving permit granted by the City shall authorize the holder thereof to break, injure, or move any telephone, electric light, power or cable TV wire or pole, or to cut, trim or otherwise interfere with any property without the written permission of the owner or owners thereof. (SDCL 9-34-1)

6.0406 Removal, Demolition or Relocation of Structures. Upon the removal, demolition or relocation of structures from or on any lot within the City of Harrisburg, the foundation of such structure removed, demolished or relocated must be removed from the property and the basement or excavation remaining after removal of the foundation must be filled with good, clean, fill dirt.

If a house is removed from the property then all other outbuildings and other structures which are not being used must be removed together with all sidewalks (except along the street). Upon removal, demolition or relocation of the house or other structures, the lot shall be leveled and left in a good, clean, sanitary condition. Upon the property owner's failure to comply with the provisions of this Section, the property shall be deemed a public nuisance which may be abated and the cost thereof assessed against the property pursuant to laws of the State of South Dakota.

6.0407 Approval and Fee. No moving permit shall be issued unless the appropriate nonrefundable fee is paid to the Finance Office. The permit fee rate shall be $250.00 per $1,000.00 of assessed valuation of a residential building moved out of the City and $100.00 for all other

buildings moved into or out of the City. The permit fee may be amended by resolution of the City Council.

6.0408 Safeguards. It shall be the duty of the person, firm or corporation moving any building through the streets to do the same with proper care for the safety of persons and property. Warning barricades and lights shall be maintained wherever necessary for the protection of pedestrians or traffic.

6.0409 Protecting Pavement. Where a building or structure is being moved over a street, but is not carried on another vehicle or on a unit equipped with tires, the street surface shall be protected by planking or other device effective to prevent injury to the roadway.

CHAPTER 6.05 - MUNICIPAL TREES

6.0501 Authority and Jurisdiction. The City Council shall have the authority to regulate the planting, maintenance, and removal of trees along public streets and other publicly owned property to insure the public safety and to preserve the aesthetics of such public sites. The City Council shall also have the authority to determine the type and kind of trees to be planted upon municipal streets or in parks and may assist in the dissemination of news and information regarding the selection, planting, and maintenance of trees within the corporate limits or within the area over which the City has jurisdiction, whether the same be on private or public property, and to make recommendations from time to time as to desirable ordinances or resolutions concerning the tree program and activities for the City.

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

Any person or persons planting prohibited trees or shrubs in street right of way area shall be given notice to remove the trees or shrubs, within a reasonable time to be specified in the notice. Failure to remove within the specified time shall constitute a violation of this Chapter, and in such case, in addition to any other penalty provided by law, the City is authorized to remove such plants and assess the owner of the property for the removal costs.

6.0502 Duties of Property Owners. It shall be the duty of any person or persons owning or occupying real property bordering on any street upon which property there may be trees, to prune such trees in such manner that they will not obstruct or shade the street lights, obstruct the passage of pedestrians on sidewalks, obstruct vision of traffic signs, or obstruct view of any street or alley intersections, except where such services are provided for by utility firms. The minimum clearance of any overhanging portion thereof shall be ten (10) feet over all sidewalks, and fourteen (14) feet over all streets, unless otherwise determined by the City Council.

6.0503 Abuse of Trees. Unless otherwise specifically authorized by the City Council, no person shall intentionally damage, cut, carve, transplant, or remove any tree; attach any rope, wire, nails, advertising posters, or other contrivance to any tree, allow any gaseous liquid or solid substance which is harmful to such tree to come in contact with them, or set fire to or permit any fire to burn when such fire or the heat thereof will injure any portion of any tree.

6.0504 Removal of Hazards. Where any tree branches or hedges protrude or overhang on any thoroughfare within the City so as to be determined as in violation with this Chapter or

affecting motor vehicle traffic and good maintenance practices, notification shall be given by the Code Official to the property owner to remove such obstructions or undesirable branches or hedges within seventy-two (72) hours. The notification shall be sent by certified mail, return receipt requested, or by personal service to owner, occupant or person, or by posting on the property. Failure by any person to actually receive any document sent to him by certified mail or to sign and return any receipt card acknowledging receipt by certified mail shall not invalidate service made upon such person by certified mail. Such notice is deemed completed at the time it is mailed, hand delivered or posted, and any period to reply or abate begins to run from the date of mailing, personal service or posting. (SDCL 9-38-2)

6.0505 Removal Costs Assessed. In the event any owner, tenant, or person in possession of any property shall neglect or fail to or refuse to remove such obstructions or undesirable branches or hedges within the time provided, the City may issue a citation for such violation and may authorize such removal with the costs to be assessed against the abutting property owner. (SDCL 9-30-5)

CHAPTER 6.06 - MUNICIPAL PARKS

6.0601 City Park. The City Park of Harrisburg, South Dakota, shall consist of and include all lands, rights of way, pool and structures used and enjoyed by the citizens of Harrisburg and others for many years owned and maintained by said City.

6.0602 Park Hours. Parks shall be open to the public from sunrise to sunset. Multi-use trails and the sidewalks shall be open twenty-four hours a day. The City Administrator or his or her representative may temporarily authorize an extension of the hours during which a park shall be open to the public. Such authorization shall be in writing and shall specify the extended hours, the dates during which such extended hours shall be in effect, and the specific park or parks to which such temporarily extended hours shall apply. Any part of the park may be closed to the public by the City if found reasonably necessary and notice of such closing posted prominently. It shall be unlawful for anyone to go into any area of any park after closing hours and before opening hours the next day, or when any area has been declared to be closed by the City Council.

6.0603 Unauthorized Entry. It shall be unlawful for any person to trespass upon or enter any property designated as a park unless said entry is in accordance with City ordinances, resolutions or policies governing the times of operation for said park or unless said person has permission to enter from an authorized municipal official.

6.0604 Lawful Manner. Any person using or occupying such City Park or any of its facilities shall conduct him or herself in a carefully, prudent, peaceable and lawful manner, shall honor and respect the rights and privileges of other visitors in the park, and shall at all times maintain and take every precaution to prevent the injury of persons and property in the park.

6.0605 Unnecessary Acts. Any person using or occupying such City Park or any of its facilities shall not do or commit any unreasonable or unnecessary acts that may unreasonably annoy other visitors in the park or unreasonably prevent such visitors in the park from the full use and enjoyment of the park.

6.0606 Protection to Water Areas. It shall be unlawful for any person to enter into or upon any water retention ponds located on any property designated as a park unless said entry is authorized by the Maintenance Superintendent or other authorized municipal official. Entry shall be deemed to include swimming, ice skating, boating, fishing, ball retrieval or other entry onto the waters.

6.0607 Alcoholic Beverages. No person shall consume any alcoholic beverages in any City Park, except upon approval by the City Council.

6.0608 Glass Containers. No glass beverage containers are permitted in any City Park.

CHAPTER 6.07 - CITY AMERICAN LEGION HALL

6.0701 City American Legion Hall Rental. The City American Legion Hall shall be available for rent to private individuals and groups on a first come first serve basis provided the following terms and conditions are met:

A. That the leasee enters into a written lease with the City of Harrisburg on a form as prescribed and approved by the City Council. As part of the lease, the leasee indemnifies and holds harmless the City. The lease shall also be required to provide the City with their liability insurance listing the City as an additional insured, and for private rentals a copy of their homeowners insurance shall be required.

B. That the rental payable in advance will be as follows:

Residential/Non-Residential/Business - $100.00 per day
Non-Profit Organization - $50.00 per day
Rummage Sales - $50.00 per day
Setup Days - $10.00 per day
Meeting Room - $10.00 per day

C. That a $200.00 security deposit shall be deposited with the City Finance Officer of the City of Harrisburg. Said security deposit to be refunded if the City American Legion Hall is returned to as good a condition as at the beginning of the lease.

D. That the leasee will be responsible for policing and maintaining order during the lease period.

E. That the leasee will be responsible for any damage done to the City American Legion Hall and will be solely responsible and liable for any injury or property damage during the term of the lease.

TITLE 7 - TRAFFIC CODE

Chapter 7.01 - General Provisions
Chapter 7.02 - Operation of Vehicles
Chapter 7.03 - Vehicle Equipment
Chapter 7.04 - Speed Restrictions
Chapter 7.05 - Parking, Stopping
Chapter 7.06 - Trucks
Chapter 7.07 - Snowmobiles
Chapter 7.08 - Miscellaneous Provisions
Chapter 7.09 - Golf carts

CHAPTER 7.01 - GENERAL PROVISIONS

7.0101 Definitions. When in this Title the following terms are used they shall have the meanings respectively ascribed to them in this Chapter or Title.

A. Authorized Emergency Vehicle - Vehicles of any fire department, police vehicles and such ambulances and emergency vehicles of municipal department or public service corporations as are designed or authorized by the Chief of Police.

B. Crosswalk - That portion of a roadway ordinarily included within the prolongation of curb and property lines at intersection, whether marked or not, or any other portion of a roadway clearly indicated for pedestrian crossing by lines or other markings on the surface of the street.

C. Curb - The extreme edge of lateral boundary of a roadway, whether marked by curbing or not.

D. Department - The police department of the City of Harrisburg.

E. Double Parking - The standing of a vehicle upon a street at the rear of another vehicle which is parked diagonally at the curb, or the standing of a vehicle upon the street alongside and parallel at the curb.

F. Driver or Operator - Any person who is in actual physical control of a vehicle.

G. Left Hand Side of a Street - The side to the left of the vehicle as it moves forward.

H. Motor Vehicle - Every vehicle which is self-propelled.

I. Parking - The standing of a vehicle, whether attended or unattended upon a roadway, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading passengers.

J. Pedestrian - Any person afoot.

K. Private Road or Driveway - Every road or driveway not open to the use of the public for vehicular travel.

L. Right Hand Side of Street - The side on the right of the vehicle as it moves forward.

M. Right-of-Way - The privilege of the immediate use of the street.

N. Roadway - That portion of a street devoted to vehicular traffic.

O. Semitrailer - Every vehicle of the trailer type so designed and used in conjunction with a motor vehicle that some part of its own weight and that of its own load rests upon or is carried by another vehicle.

P. Sidewalk - That portion of the street between the curb line and the adjacent property lines.

Q. Street - The term street shall mean any street, avenue, boulevard, alley, highway, or public place set apart for the public vehicular traffic.

R. Street Intersection - That portion of a street where it joins another at an angle, whether or not it crosses the other street, and shall include the full width of the street between the curb lines, extended, of the intersection streets.

S. Through Streets - Streets, or parts thereof, that have been so designated and marked, by order of the City Council.

T. Trailer - Every vehicle without motive power designed for carrying property or passengers wholly on its own structure and for being drawn by a motor vehicle.

U. Vehicle - Every device in, upon, or by which any person or property is or may be transported or drawn upon a street, provided that for the purpose of this title a bicycle or an animal that is being ridden, driven, or led shall be deemed a vehicle.

7.0102 Duty to Enforce. It shall be the duty of law enforcement officers to enforce all the regulations and requirements of this Title. (SDCL 9-29-19)

7.0103 Directing Traffic. Law enforcement officers shall direct traffic in conformance with traffic laws and ordinances, provided that in the event of a fire or other emergency, or to expedite traffic or to safeguard pedestrians, members of the fire department may direct traffic as conditions may require. (SDCL 9-29-19)

7.0104 Obedience to Police. It shall be unlawful for any person to refuse or fail to comply with any lawful order, signal, or direction of the police department. (SDCL 9-29-19)

7.0105 Exemptions to Authorized Emergency Vehicles. The provisions of this Title regulating the movement, parking, and standing of vehicles shall not apply to authorized emergency vehicles while the operator of such vehicle is operating the same in an emergency in the necessary performance of public duties. This exemption shall not, however, exempt the driver of any such vehicle from the consequence of a reckless disregard of the safety of others.

7.0106 Application to Workers and Equipment. The provisions of this Title shall not apply to persons, motor vehicles and other equipment while actually engaged in work upon the surface of a street, but shall apply to such persons and vehicles when traveling to or from such work; provided however, such persons and vehicles shall not indiscriminately block traffic, but shall allow reasonable room on the traveled portion of the street for other vehicles to pass.

7.0107 Authority to Install Traffic Control Devices. The City Council shall place and maintain traffic control signs, signals and devices when and as required under this Title to make effective the provisions of said Title, and may place and maintain such additional traffic control devices as may be necessary to regulate traffic. When or where necessary the Street Superintendent and the City Engineer shall utilize the Manual on Uniform Traffic Control Devices (MUTCD) guidelines. (SDCL 32-14-5)

7.0108 Obedience to Traffic Control Devices. The operator of any vehicle shall obey the instructions of any official traffic control device applicable thereto placed or held in accordance with the provisions of this Title unless otherwise directed by a law enforcement officer subject to the exceptions granted the driver of an authorized emergency vehicle in this Chapter.

CHAPTER 7.02 - OPERATION OF VEHICLES

7.0201 Drive on Right Side of Street. Upon all streets, except upon one-way streets, the operator of a vehicle shall drive the same upon the right half of the street and shall drive a slow-moving vehicle as closely as possible to the right-hand edge or curb of a street unless it is impracticable to travel on such side of the street, and except when overtaking and passing another vehicle subject to the limitations applicable in overtaking and passing set forth in this Title.

7.0202 Overtaking and Passing. The driver of any vehicle overtaking another vehicle proceeding in the same direction shall first give audible warning of his intention to pass and shall then pass within the speed limit and at a safe distance to the left thereof, but only when such left side is clearly visible and is free from oncoming traffic for a sufficient distance ahead to permit such overtaking and passing to be made in safety and shall not cut in front of the overtaken vehicle until safely clear of same, and in no case shall a vehicle pass another vehicle in a street intersection. The driver of a vehicle shall move to the right of the roadway a sufficient distance to allow passing when so signaled from a vehicle behind desiring to pass, and shall not increase the speed of his vehicle until completely passed by the overtaking vehicle. Vehicles shall not travel two abreast on any street.

7.0203 Motor Vehicles Left Unattended, Brakes to be Set. No person driving or in charge of a motor vehicle shall allow such vehicle to stand on any street unattended without first setting the brakes or placing an automatic transmission in park. When standing upon any grade, the front wheel shall be turned to the curb or side of the roadway.

7.0204 Backing Around Corners or into Intersection Prohibited. It shall be unlawful for the operator of any vehicle to back such vehicle around a corner at an intersection or into an intersection of public streets. (SDCL 32-30-20)

7.0205 Right-of-Way at Intersection. Subject to the exception 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 an 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; and

C. The operator of any vehicle traveling at an unlawful speed shall forfeit any right-of-way which he may otherwise have hereunder.

7.0206 Exceptions to Right-of-Way. 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, nor shall it protect the operator of any such vehicle from the consequences of an arbitrary exercise of such right-of-way.

7.0207 Stop Required Before Operator Entering From Alley or Private Driveway. The operator of a vehicle emerging from an alley, driveway, or garage shall stop such vehicle immediately prior to driving onto a sidewalk or onto the sidewalk area extending across such alleyway. (SDCL 32-29-2.2)

7.0208 Turning Around at Intersections Prohibited. At any intersection where traffic is controlled by traffic control signals or by a law enforcement 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.

7.0209 Right-of Way, Left Turn. The operator 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. The operator having so yielded and having given a signal when and as required may make such left turn and the operators of all other vehicles approaching the intersection from said opposite direction shall yield the right-of-way to the vehicle making the left turn.

7.0210 Turning Around in Midblock Prohibited. The operator of a vehicle shall not turn such vehicle so as to park or move in the opposite direction except at an intersection. (SDCL 32-26-25)

7.0211 Action Required at Stop Sign. Except when directed to proceed by a law enforcement officer or traffic control signal, every operator of a vehicle approaching a stop intersection indicated by a stop sign shall come to a full stop at a clearly marked stop line, but if none, before entering the crosswalk on the near side of the intersection or if none, then at the point nearest the intersection roadway where the driver has a view of approaching traffic on the intersecting roadway before entering the intersection.

After having stopped, the operator shall yield the right-of-way to any vehicle which has entered or is approaching the intersection from another highway and shall not proceed into the intersection until certain that such intersecting roadway is free from oncoming traffic which may affect safe passage.

7.0212 Action Required at Yield Sign. The operator of a vehicle approaching an authorized sign bearing the word "Yield" or "Yield Right-of-Way" shall in obedience to such sign slow down to a speed reasonable for the existing conditions or shall stop if necessary and shall yield the right-of-way to any pedestrian legally crossing the roadway on which such operator is driving, and to any vehicle in the intersection or approaching on another highway so closely as to constitute an immediate hazard. Said operator having so yielded may proceed and the operators of all other vehicles approaching the intersection shall yield to the vehicle so proceeding. (SDCL 32-29-3)

7.0213 Pedestrian's Right-of-Way. The operator of any vehicle shall yield the right-of-way to a pedestrian crossing the roadway within any marked crosswalk or within any unmarked crosswalk at the end of the block, except at intersections where the movement of traffic is being regulated by law enforcement officers or traffic control signals. 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. (SDCL 32-27-1)

CHAPTER 7.03 - VEHICLE EQUIPMENT

7.0301 Lights Required. A motor vehicle upon a highway within the state during the period from a half hour after sunset to a half hour before sunrise and at any other time when there is not sufficient light to render clearly discernible any person on the highway at a distance of two hundred feet shall be equipped with at least two lighted lamps on the front and two on the rear of such motor vehicle, such lamps to conform to SDCL 32-17, provided that a motorcycle or motor bicycle shall be required to display but one lighted lamp in front and one in the rear.

7.0302 Head Lights Dimmed. No person shall use head lights or side lights upon any vehicle on any street unless the same are dimmed in such a way as to prevent the light being blinding to persons using the streets.

7.0303 Brakes. Every motor vehicle, trailer, semitrailer, and pole trailer, and any combination of such vehicles shall be equipped with brakes in compliance with the requirements of SDCL 32-18.

7.0304 Muffler, Excessive Smoke and Noise. No person shall operate or drive any motor vehicle unless such motor vehicle is provided with an adequate muffler, which shall at all times be kept closed so that the exhaust is effectively muffled. No person shall operate a motor vehicle in such manner as to emit unnecessary or excessive smoke or noise from the motor of such vehicle or to needlessly sound the horn or other noise-making device.

7.0305 Vehicles with Lugs Prohibited. No person shall operate or move any tractor or vehicle equipped with mud lugs, ice spurs, or spikes upon or across any street that is surfaced with Portland cement concrete or surfaced with bituminous material or any other hard surfacing material without first laying planks at least two inches in thickness over the surface of such street in a manner so as to protect such street surface from any damage.

7.0306 Pneumatic Tires with Metal Studs Prohibited. It shall be lawful to operate, upon the streets of the City of Harrisburg, motor vehicles equipped with pneumatic tires in which there are

embedded metal studs or wires of tungsten or other similar metal from October 1 to April 30 as provided by the state law.

7.0307 Projecting Loads. No person shall drive any vehicle upon any street with any load or part of a load projecting more than four feet beyond the rear end or front ends or more than two feet beyond the sides of the body, or carrying part of such vehicles unless there be attached to the extreme ends and sides of such projecting load some warning sign or signal plainly discernible to other drivers and clearly indicating the projecting parts of such load.

7.0308 Protection of Load. No motor vehicle shall be driven or moved on any street unless such vehicle is so constructed or loaded as to prevent any of its load from dripping, sifting, leaking or otherwise escaping there from except that sand may be dropped for the purpose of securing tractions or water or other substances may be sprinkled on a roadway in cleaning or maintaining such roadway. No person shall operate on any street any vehicle with any load unless said load and any covering is securely fastened so as to prevent said covering or load from becoming loose, detached or in any manner a hazard to other users of the highway.

7.0309 Dynamic braking devices. No motor vehicle shall operate with a dynamic braking device engaged except for the aversion of imminent danger. A dynamic braking device (commonly referred to as Jacobs Brake) means a device used primarily on trucks for the conversion of the engine from an internal combustion engine to an air compressor for the purpose of braking without the use of wheel brakes.

CHAPTER 7.04 - SPEED RESTRICTIONS

7.0401 General Restrictions. Any person driving a vehicle on a street or highway shall drive the same at a careful and prudent speed not greater than is reasonable and proper, having due regard to the traffic, surface, and width of the street or highway and to any other conditions existing.

7.0402 Speed Limitations. It shall be unlawful for any driver to drive any vehicle upon a highway or streets of the City or in any municipal park at a greater rate of speed than the following:

A. Fifteen miles an hour when approaching within fifty feet of a railroad grade crossing 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 crossing and of any traffic on such railway for a distance of four hundred feet in such direction from such crossing.

B. Fifteen miles an hour when passing a school during a school recess or while children are going to or leaving school during the opening or closing hours.

C. Fifteen miles an hour when approaching within fifty feet and in traversing an intersection of streets 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 for a distance of two hundred feet from such intersection.

D. Except as provided above, twenty miles per hour on all streets, or as otherwise designated.

E. Fifteen miles per hour in the City parks.

CHAPTER 7.05 - PARKING, STOPPING

7.0501 Parking Prohibited in Certain Places. At any time it shall be unlawful to permit any vehicle to stop, stand or park in any of the following places, except where necessary to avoid conflict with other traffic or in compliance with the directions of a law enforcement officer or traffic control sign or signal:

A. Within an intersection;

B. On a crosswalk;

C. Within fifteen feet of a fire hydrant;

D. In front of a private driveway;

E. Within fifteen feet of the driveway entrance to any fire station or EMS building, or directly across the street from such entrance, except personal vehicles of emergency personnel;

F. On or over a sidewalk;

G. Within fifteen feet of inside boundary line of the sidewalk, or if no sidewalk is in place, within twenty-five feet of the intersecting roadway, except that this provision shall not apply to alleys;

H. Parking against direction of traffic on through streets.

I. Parking of any vehicle on any City street for the purpose of camping or sleeping.

J. No person shall park any recreational vehicle on any street within the City for a period longer than seventy-two (72) hours. Recreational vehicle(s) shall be tagged by a law enforcement officer and a warning issued to remove within seventy-two (72) hours. Failure to do so will result in removal by the City at the owner's expense. For purposes of this Section, recreational vehicle is defined to include, but shall not be limited to, the following:

1. Cargo trailers;
2. Travel trailers;
3. Pickup campers or coaches;
4. Motorhomes;
5. Camping trailers;
6. Boats and boat trailers;
7. Snowmobiles and snowmobile trailers;
8. Jet skis and jet ski trailers;
9. Golf carts and golf cart trailers;
10. All-terrain vehicles and all-terrain vehicle trailers;
11. Dirt bikes and dirt bike trailers; and

12. Any other recreational equipment or cases, boxes or items used to store or transport such recreational equipment.

K. In front of a mailbox during daylight hours.

7.0502 Standing for Loading or Unloading Only in Certain Places. It shall be unlawful for the operator of a vehicle to stop, stand, or park said vehicle for a period of time longer than is necessary for the actual loading or unloading of passengers, or the unloading and delivery or pick up and loading of materials in any place marked as loading zone. The City Council shall have authority to determined the location of passenger zones and loading zones as described herein, and shall cause to be erected and maintained appropriate signs indicating the same.

7.0503 Parking Zones. The City Council may designate by resolution any street, avenue, or alley in the City of Harrisburg, as necessity requires, as parking zones for the parking of motor vehicle or vehicles of any nature and description or the storage of any material of any kind, nature, or description; provide the length of time for day and night parking; the hours that constitute day and night; and provide for marking with proper signs setting forth the manner, form, and hours of parking. Such parking zones shall be delineated on a map filed in the office of the finance officer.

The driver or person in charge of any vehicle parked in such a limited time zone shall comply with such time limit for parking as shown on the signs or marked on the curb where such vehicle is parked.

7.0504 Penalty. The offending automobile or other vehicle will be tagged with a tag, listing the date of the offense, license number of the vehicle, make, violation number, and location of offense with reference to street. Whenever a notice is left by any member of the police department in or on any vehicle which has violated the parking regulations, the person in charge of such vehicle shall pay the amount of the assessment described thereon by taking such notice and amount of the assessment to the City Finance Office and depositing the same with the City Finance Officer. The assessment for each violation shall be twenty-five dollars.

If the owner or operator fails to comply within seven days from the date of notice of violation, then in that case, a summons will be issued and the assessment shall be raised to thirty-five dollars for the violation. The increased assessment can be paid at the City Finance Office within the above time frame. If the summons is not complied with, a warrant may be issued to bring the owner or operator of the vehicle into court and a fine of fifty dollars will be assessed by the court for the violations.

Any vehicle parked in violation of this Chapter may be removed from the streets by the police department and placed in public or private storage and the owner thereof, in addition to the fines and penalties provided in this Chapter, shall pay the charges for towing and storage of said vehicle so removed by the police department. All money so collected by the police department shall be immediately deposited with the City Finance Officer to be paid into the general fund.

7.0505 Non-Parking Areas. The City Council may from time to time by resolution establish and cause to be designated and marked, non-parking areas along street curbs. No vehicle shall be parked at any time or for any period except to load or unload passengers or merchandise in such place so designated and marked.

7.0506 Obstruction of Traffic. No vehicle shall be operated or allowed to remain upon any street under the jurisdiction of the City in such a manner as to form an unreasonable obstruction to traffic. Whenever any police officer finds a vehicle which constitutes an obstruction to traffic, such officers shall be authorized to provide for the removal of such vehicle by towing, if necessary, at owner's expense, with no liability to the City. (SDCL 32-30-1, 2, 3, 4)

7.0507 Parking in Streets During Snow Removal. Whenever the United States Weather Bureau has forecast snowfall of two (2) or more inches of snow for southeastern South Dakota, or there is an accumulation of two inches or more of snow on the streets of Harrisburg, a snow removal emergency shall be declared, and all on street parking shall be prohibited. Parking on any public street shall be completely prohibited, on both sides and regardless of the directional run of that street, during the existence of a snow removal emergency. The snow removal emergency shall terminate, and parking may resume whenever such street has been cleared of snow completely, until the next snow removal alert is declared. Fines for ticketing vehicles shall be $25.00 for each day of violation.

7.0508 Ticketing and Towing Vehicles. Any authorized City official or law enforcement officer shall be authorized to ticket and tow away, or have removed and towed away by any commercial towing service, any car or vehicle illegally parked in any place where such parked vehicle creates or constitutes a traffic hazard, blocks the use of a fire hydrant, or obstructs or may obstruct the movement of any emergency or snow removal vehicle, or in any way is in violation with the provisions of this Title. Cars towed away for illegal parking shall be stored in a place designated by the City Council and shall be returned to the owner or operator of such vehicle upon payment of the penalty under Section 7.0504. (SDCL 32-30-13, 14)

7.0509 Abandoned Vehicles. The abandonment of a motor vehicle or other vehicle or any part thereof on any street in the City shall be subject to action and penalties as provided for in this Title and under Chapter 3.01. The abandonment of a motor vehicle or other vehicle or any part thereof on private or public property, other than a street, in view of the general public, anywhere in the City shall be prohibited except as specifically allowed under Chapter 3.01. (SDCL 32-30-12.1)

7.0510 Parking and Storage of Certain Vehicles. Automotive vehicles or trailers of any kind or type without current license plates shall not be parked or stored on any residentially zoned property other than in a completely enclosed building.

7.0511 Towing Costs. When a vehicle is removed from either public or private property as authorized by order of the City Council or Authorized Official, the owner of the vehicle shall be responsible for all towing costs in addition to the penalty for violation. In addition the City shall not be liable for any damages to property or persons incurred as a result of such towing or storage.

7.0512 Establishment of Parking Spaces for Disabled Persons. These parking spaces shall be accessible to and usable by physically disabled persons pursuant to SDCL 32-30-11.1 as it may, from time to time be amended.

7.0513 Parking Spaces for Disabled Marking. Such spaces shall meet the specifications with the Americans with Disabilities Act as amended on January 1, 2002 for marking buildings and facilities accessible to, and usable by, the physically handicapped.

7.0514 Parking Spaces for Disabled Eligibility for Use. Any physically disabled person who displays special license plates issued under SDCL 32-5-76 or 32-5-108 a serially numbered certificate issued under SDCL 32-5-76.1 or 32-5-76.2 or a similar license plate or certificate issued in another state on an automobile used in transporting him or her, shall be entitled to park in any space reserved for the physically disabled.

7.0515 Report of Improper Use of Special Plates or Certificates - Revocation of Privilege. If any police officer of the City of Harrisburg shall find that such license plates or certificates are being improperly used, they shall report such violation to the Department of Revenue which may revoke the privilege of displaying license plates or certificates so improperly used.

7.0516 Use of Privileges by Persons as a Person Without a Physical Disability as Violation of Chapter. Any person who is not physically disabled or who exercises the privileges granted to a physically disabled person pursuant to this Chapter commits a Class 2 misdemeanor and shall be punished according to the recognized fine schedule for a Class 2 misdemeanor under the laws of the State of South Dakota as said from time to time be established. In no event, however, shall the minimum fine be less than one hundred ($100.00) dollars per offense.

7.0517 Unauthorized Parking in Handicapped Space as Violation of Chapter. The owner of any vehicle not displaying a serially numbered certificate or special license plate parked or stopped in a parking space or blocking a parking space on public or private property designated as reserved for a person with a physical disability shall be ticketed and the owner of the vehicle is guilty of a violation of this Chapter and commits a Class 2 misdemeanor in which instance the maximum penalty shall be the same set forth under SDCL 32-30-11.3 and 11.4 as may from time to time be amended. In no event, however, shall the minimum fine be less than the sum of one hundred ($100.00) dollars per offense if the parking space is marked in accordance with the Americans with Disabilities Act Accessibility guidelines as of January 1, 2002.

CHAPTER 7.06 - TRUCKS

7.0601 Definitions. When in this Title the following terms are used they shall have the meanings respectively ascribed to them in this Section.

A. Person - Any individual, association, company, corporation, firm, partnership or organization.

B. Truck - Any motor vehicle designated or operated for the transportation of property which has a body weight or body and load weight which exceeds three (3) tons per axle.

C. Motor Vehicle - All machines propelled by any power other than muscular used upon the streets or highways for the transportation of property.

D. Trailer - A vehicle of the trailer type, without a power unit of its own, designed and used in conjunction with a motor vehicle for the transportation of property.

E. Truck Route - Streets and highways designated as truck routes by the City Council.

F. Streets - All other streets with the City which are not designated as truck routes.

7.0602 Truck Routes. The City Council, by resolution, may designate streets and highways within the City of Harrisburg as truck routes.

7.0603 Detours. Trucks may operate on any officially established detour of a truck route or street unless such detours are posted prohibiting such operation by trucks.

7.0604 Operation of Trucks. All trucks, as defined, may not operate on any City street or highway other than designated truck routes, unless otherwise permitted by this article.

7.0605 Owner's Responsibility. In addition to the driver or operator, the owner of any truck being operated with such owner's permission and/or consent is liable for any violation of this Ordinance.

7.0606 Load Limits. If load limits have to be imposed with weather changes, these load limits would coincide with state and/or county, whichever is lesser, load limits when they are necessary.

7.0607 Exceptions to Use of Truck Routes. There shall be the following exceptions to the use of truck routes:

A. A truck arriving at the end of any designated truck route may be driven over the most direct course to the nearest truck route which extends in the same general direction.

B. The provisions of this Ordinance relating to the operation of trucks shall not apply to emergency vehicles of the Police Department, Fire Department or to any public utility vehicles when actually engaged in the performance of emergency duties necessary to be performed by said public departments or public utilities, nor to any vehicle owned by or performing work for the City, the United States of America or the State or any of its political subdivisions.

C. Any contractor, or material supplier, while engaged in the repair, maintenance, and construction of improvements within the City.

D. Whenever any truck route has been established and identified, any person driving a truck having a gross weight of or more than ten thousand pounds shall drive such truck on such routes and none other, except when it is impracticable to do so or where it becomes necessary to traverse another street or streets to a destination for the purpose of loading or unloading commodities, or for the purpose of towing a disabled or damaged motor vehicle to or from public or private property, and then only by such deviation from the nearest truck route as is reasonably necessary.

7.0608 Truck Route Signs. The Street Superintendent shall cause all truck routes to be clearly marked to give notice that this Chapter is in effect.

7.0609 Enforcement of Truck Routes. The police department shall keep and maintain accurate maps setting out truck routes and streets upon which traffic is permitted. The maps shall be kept on file in the office of the Finance Officer and made available to the public.

Any police officer having reason to believe that the weight of a vehicle and load is unlawful shall require any person driving or in control of said vehicle to proceed to any public or private scale available for the purpose of weighing and determining whether this Chapter has been complied with provided that such vehicle is driven to the nearest scale but in no event

more than five miles. It shall be unlawful for any person driving or in control of any such vehicle to fail to comply with their requirement.

Nothing in this Chapter shall be construed to modify or change any of the regulations of the state highway department or the statutes of the state with reference to the gross weight permitted upon any highways within the City.

CHAPTER 7.07 - SNOWMOBILES

7.0701 Definitions. The following words and phrases, when used in this Chapter, shall have the meanings respectively ascribed to them:

A. Operate - to control the operation of a snowmobile.

B. Owner - any person, other than a lienholder, having the property in or title to a snowmobile and entitled to the use or possession thereof.

C. Private property - means and includes any and all real property, or land within the City, which has not been opened or dedicated for public use or as a public thoroughfare.

D. Snowmobile - any engine-driven vehicle of a type which utilizes sled type runners, wheels, or skis with an endless belt tread or similar means of contact with the surface upon which it is operated.

7.0702 Operators License Required. No driver shall operate a snowmobile on a public street in the City without having in his possession a valid driver's license.

7.0703 Traffic Laws Applicable. The operator of a snowmobile is required to obey the same traffic laws of the state and ordinances of the City, including street and road signs, as the operators of all other motorized vehicles are required to obey.

7.0704 Hours of Operation. No person shall operate a snowmobile on private property of their own or another or upon public highways, streets and alleys within the City between the hours of 11:00 p.m. and 7:00 a.m. the following day.

7.0705 Permission of Property Owner Required for Operation. No person shall operate a snowmobile on private property of another without the express permission to do so by the owner or occupant of such property.

7.0706 Operation on Public Ground and Streets Prohibited. No person shall operate a snowmobile on any public school grounds, public sidewalks, park property, park, roads, playgrounds and recreational areas within the City. Snowmobiles may be operated over snow-covered highways, streets and alleys within the City limits but only for emergency use as defined in 7.0711 or when the operator must travel upon such for purposes of leaving the City and/or when returning to his residence from outside the City. The operator when using any public street, highway or alley in accordance with the above restrictions, shall use the most expeditious and direct route.

7.0707 Crossing Streets at Right Angles. Persons operating snowmobiles are permitted to cross streets at right angles but only may do so after stopping and yielding the right-of-way to all approaching traffic and crossing as closely as possible to an intersection or approach.

7.0708 Speed. No person shall operate a snowmobile at a speed greater than is reasonable or proper, under all existing circumstances. But in no event shall the speed be greater than the maximum limits allowed in Section 7.0403.

7.0709 Careless, Reckless or Negligent Operation Prohibited. No person shall operate a snowmobile in a careless, reckless or negligent manner so as to be likely to endanger the person or property of another or cause injury or damage thereto.

7.0710 Loud Noises Prohibited. No person shall operate a snowmobile in such manner as to create any loud unnecessary or unusual noise likely to disturb or interfere with the peace and quiet of any other person.

7.0711 Emergency Use.

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

B. A snowmobile may also be used when such vehicle is necessary as an emergency vehicle to protect the health, safety and welfare of any individual.

C. The operator of a snowmobile under emergency conditions shall be subject to all existing traffic ordinances of the City and traffic laws of the State.

7.0712 Equipment Required. All snowmobiles operated in the City shall have the following equipment.

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

B. Adequate brakes in good working condition.

C. A safety or “deadman” throttle in operating condition such being a device which when pressure is removed from the accelerator the throttle causes the motor to disengage from the driving tract.

D. At least one headlight and one tail light in good working condition.

E. A brightly colored vehicle flag hung or suspended at least six feet high and is firmly attached to the snowmobile.

7.0713 Unattended Vehicles. No owner or operator of a snowmobile shall leave or allow the snowmobile to be or remain unattended on public property or streets while the motor is running, or where the keys for starting the vehicle are left in the ignition.

7.0714 Sidewalk Operation Prohibited. No person shall operate a snowmobile upon any public sidewalk in the City or bike/walking trail.

7.0715 Operation Under the Influence. The operator of a snowmobile shall be deemed the driver or operator of a motor vehicle and be subject to South Dakota law relating to driving while under the influence of intoxicating liquor, drugs or otherwise therein provided and such operator shall be punishable for any violation of such laws.

7.0716 Towing. No person operating a snowmobile shall tow any person or object behind such snowmobile except when such person or object is situated upon a conveyance, which is attached to such snowmobile by means of a rigid hitch or tow bar.

CHAPTER 7.08 - MISCELLANEOUS PROVISIONS

7.0801 Duty Upon Striking Animal. The operator of any vehicle which collides with any dog or domestic animal causing injury thereto shall stop and attempt to ascertain the owner of such animal and notify a law enforcement officer of such accident.

7.0802 Manner of Arrest. Except in cases of driving while intoxicated or under the influence of intoxicating liquor or any exhilarating drug and except in the more serious and aggravated cases of speeding or careless and reckless driving, and except when reasonably necessary to secure appearance, a person charged with a violation of this Title by a police officer need not be arrested in the regular manner but may first be given an opportunity, after notice, to appear voluntarily to answer for such traffic violation.

7.0803 Notice to Appear. A person charged with violation of a traffic ordinance shall be given a notice to appear before the circuit court magistrate or the county clerk of courts at the time stated in such notice, which shall be written within ten days from the time of the offense; and that in event of failure to do so, a warrant will be issued for his arrest. The notice shall state the name and address of the offender, if known; the license number and make of the vehicle involved in the violation; the nature, date, and location of the offense; and the time and place where the offender is to appear to answer to the charges. The notice shall be made in duplicate and the portion of the original stating the offense and the place and time to appear shall be given to the owner or driver charged with the offense or left in or upon the vehicle involved in the violation.

7.0804 Appearance and Deposit for Fine. A person who has received a notice of a traffic violation as provided in the preceding section shall appear at the time and place specified in such notice. In cases of parking violations and other minor traffic violations for which the person charged has been ordered to appear before the circuit court magistrate or county clerk of courts; he may make a deposit for the fine as authorized by the court and sign a statement authorizing a circuit court magistrate or county clerk of courts to enter his plea of guilty to the offense, then he shall not be required to appear in court. Any person who has been guilty of three or more violations of the provisions of the traffic ordinances of this City shall not be permitted to deposit the fine as herein above authorized, but must post a bond for his appearance in court at the time specified by the department, said bond to be in an amount set by the City Council and on file at the office of the finance officer.

7.0805 Failure to Appear. Upon failure of a person to appear in response to a notice of a traffic violation as herein provided, he shall be subject to arrest in the manner otherwise provided by law.

CHAPTER 7.09 - GOLF CARTS

7.0901 Definitions. For purposes of this Chapter, the following words shall have the following meanings:

A. "Golf Cart" - A four wheeled vehicle originally and specifically designed and intended to transport one or more individuals and golf clubs for the purpose of playing the game of golf on a golf course. (SDCL 32-14-13)

B. "Operator" - Every person who operates or is in actual physical control of a golf cart.

7.0902 Golf Cart Operation. Golf carts shall not be allowed to operate within the City except as authorized by state statute or by this Chapter. Golf carts properly permitted pursuant to this Chapter shall be allowed to travel on the roadway portion of public streets, alleys and other roadways within the City except those highways where golf carts are prohibited by state statute. An operator of a golf cart shall comply with all City and state traffic rules and regulations applying to vehicles generally, and except that a golf cart shall not be required to have a bell, horn or directional signals.

7.0903 Operation of Golf Cart on State or County Highway or Bike/Walking Trail Prohibited. No person may operate a golf cart on a state or county highway except for crossing from one side of the highway to the other or on the bike/walking trail. A golf cart may cross the state or county highway at a right angle, but only after stopping and yielding the right-of-way to all approaching traffic and crossing as closely as possible to an intersection or approach. (SDCL 32-14-15)

7.0904 Operator's License and Insurance. No person may operate a golf cart on the streets, alleys, roadways or other public places within the City limits unless the operator has a valid driver's license and proof that the golf cart is covered by a policy of liability insurance.

7.0905 Permit. It shall be unlawful to operate a golf cart within the City, unless the same is permitted in the City of Harrisburg. Upon submitting of proper application, the Finance Officer, shall issue a sticker that shall be displayed in a readily identifiable location on the golf cart and an annual fee of $10.00 shall be assessed. If ownership of the vehicle changes, the new owner shall be required to apply for a license. Permit fees and durations may be adjusted by resolution of the City Council.

7.0906 Slow-Moving Vehicle Emblem or White or Amber Warning Lights. Golf carts permitted by the City shall display a slow-moving emblem in accordance with SDCL 32-15-20 or a white or amber warning light in accordance with SDCL 32-17-46.

7.0907 Violation of Golf Cart Operation. Operating contrary to and in violation of this Chapter shall be deemed prohibited and any operator in violation shall be subject to a fine of $25.00. The operator of the golf cart found in violation of this Section may, within 72 hours of the time when the notice of violation was given, pay to the office of the City Finance Officer, as a fine for and in full satisfaction of the violation, the sum. If the operator fails to pay the sum within the 72-hour period, he or she may pay to the office of the City Finance Officer, within the next two weeks from the date of violation, as a fine for and in full satisfaction of the violation, the sum of $50.00. Upon failure of the owner or operator to pay either of the sums to the office of the City Finance Officer within the time periods indicated, and upon conviction of a violation of this Section, the owner or operator shall be fined not less than

$75.00 nor more than $100.00 plus court costs, which fine shall be collected by the Magistrate Court. Any person claimed to be in violation also has the right to contest the charges or plead "not guilty" within the time periods indicated above, and have the matter transferred to Magistrate Court. The penalties in this Section may be adjusted by resolution of the City Council.

TITLE 8 - MUNICIPAL UTILITIES

Chapter 8.01 - General Provisions
Chapter 8.02 - Water Provisions
Chapter 8.03 - Sewer Provisions
Chapter 8.04 - Stormwater Drainage

CHAPTER 8.01- GENERAL PROVISIONS

8.0101 Application. Any consumer desiring any utility service furnished by the City, including water or sewer, shall make application for the same to the utility office. Such application shall contain the applicant's name, address, and the uses for which such service is desired. A separate application shall be made for each premises to be served. The applicant shall abide by the rules and regulations established by the City relative to utility service in effect at the time of such application and as revised from time to time in addition to conditions and agreements as the City Council shall deem advisable.

8.0102 Deposit. Any applicant for City utility service shall make a deposit in an amount set by the City Council. The deposit is also an indemnity against theft, misplacement, or injury to City equipment. The deposit shall be returned when the applicant has given due notice of discontinuing utility service and is free from indebtedness to the City.

8.0103 Rates. Rates for the use of utilities furnished by the City shall be established by resolution by the Harrisburg City Council.

8.0104 Consumer's Bills. All utility bills rendered are net, due and payable on receipt and delinquent if not paid by the twentieth day of the month. If bills are not paid by the due date, a twenty (20) percent penalty shall be assessed. Provided, however, when a due date falls on a weekend or holiday, bills will not be delinquent until the close of business the next following work day. Bill payments mailed to the City must be received by the City on the day after the due date. Postmarks shall not be considered.

8.0105 Unpaid Bills. If a bill for utility services is not paid in full as provided in 8.0104, the customer shall be given notice by mail or by personal service to such owner, occupant or person, or by posting on the property that service shall be terminated within five working days of the date of mailing, personal service or posting unless the customer shall:

A. Pay the amount in full;

B. Pay the undisputed portion of the account and file a written appeal with the City Finance Officer of the disputed portion. Service will be continued until such appeal is heard by the City Council.

Failure by any person to actually receive any document sent to him by certified mail or to sign and return any receipt card acknowledging receipt by certified mail shall not invalidate service made upon such person by certified mail. Such notice is deemed completed at the time it is mailed, hand delivered or posted, and any period to reply or abate begins to run from the date of mailing, personal service or posting.

8.0106 Disconnect. The City may disconnect utility service for any of the following reasons:

A. Failure to pay all charges and penalties;

B. Default on an agreement to liquidate a continuing debt;

C. Failure to grant the City access to read and inspect meters;

D. Customer tampering.

E. Failure to obtain a Certificate of Occupancy from the City.

8.0107 Extension. A single thirty day extension shall be allowed before disconnection of service upon receipt of a physician's certificate or notice from a public health or social service official that a disconnection of utility services will aggravate an existing medical condition of the customer or other permanent resident of the premises.

8.0108 Restoration of Service. All utilities disconnected for nonpayment must pay a reconnect fee as set by resolution by the City Council plus payment in full of the account before any utilities will be reconnected. Reconnections will be made only during business hours, 8:00 a.m. to 5:00 p.m., Monday through Friday. Utilities voluntarily disconnected shall also require a reconnect fee as set by resolution by the City Council and on file in the office of the Finance Officer.

8.0109 Owner, Lessee Liable. The owner of property, which is serviced by municipal utilities from the City, shall, as well as the lessee or occupant of the property, be liable to the City for the utility bills, which may be recovered in an action against such owner, lessee or occupant or against any or all of them, jointly or severally. The provisions contained in 8.0104 shall equally apply to the owner of the property as they do to the consumer/lessee or occupant.

8.0110 Tampering With City Equipment. It shall be unlawful for any person to, in any manner, tamper with any equipment or facilities of the City of Harrisburg utilities including, but not limited to water lines or sewer lines, water meters other equipment utilized for the benefit of the municipal utilities of the City of Harrisburg. Should the City discover damage to its equipment or an attempt to tamper with such equipment or an attempt to falsify the amount of water or sewer used, or the amount due the City for utility service, the City may serve notice upon the consumer of a hearing that is to be held where the consumer may show cause why service should not be discontinued. This notice shall state the reason for the hearing and the time and place it is to be held.

Should the City Council find that a violation of this section has occurred and that there is no justification for said violation, the City Council may order immediate termination of service and service shall be reinstated only upon conditions established by the City Council. In addition to any criminal penalty, the City of Harrisburg, should be entitled to collect a civil penalty of $500.00 if the person has obstructed with or tampered with any of the municipal owned utilities whether or not such person received additional services without payment or whether or not the City of Harrisburg sustained any actual damages as a result of the obstruction or tampering.

8.0111 User Responsible for Operation and Maintenance of Water and Sewer Lines. Each occupied residence must have a usable City domestic water and sanitary sewer service. The City of

Harrisburg shall be responsible for the maintenance and proper operation of the domestic watermains, sanitary sewer mains and domestic water service line from the main to the curb stop. Any domestic water service line past the curb stop or sanitary sewer service line from the sanitary sewer main to the structure, shall be the exclusive responsibility of the property owner. Owners at their own expense must keep and maintain their sanitary sewer service lines, from the point of connection at the main line, and all other equipment in good working order and properly protected from frost and other damage. Owners at their own expense must keep their domestic water service line from the point of connection at the curb stop to the structure in good working order and properly protected from frost and other damage. Thirty days after written notice from the City, if the repair has not been replaced, the City shall cause such repairs to be made and the cost of these repairs shall be assessed against the property. In the event that a property owner must excavate to repair a line, it shall be his sole responsibility to fill in such excavation to the satisfaction of the City. It shall be the responsibility of the City to replace the gravel base course and asphalt pavement displaced by such excavation at the cost of the property owner.

8.0112 City Not Liable for Damage. No claim shall be made against the City by reason of the breaking of any service pipe or equipment, or for any other damage that may result from shutting off water for repairing or any other purpose, or for any variation in pressure, or ram of water from mains, and no reduction will be made from regular rates because of leaking pipes or fixtures. The City shall not be liable for damage or injury to person or property whether caused by fire, interruption of service, downed lines, blackouts, brownouts, discontinuance of service, or other utility-related problems which shall arise from mechanical breakdowns, electricity supply reductions, and act of God, or other cause beyond the control of the City.

8.0113 Construction of Sewer and Water Connections. Whenever a property owner or developer shall deem it necessary to construct sewer and water service connections from the mains to the curb line on any street, highway, alley or public place, in advance of the permanent improvement of such street, highway, alley or public place, it shall be the duty of the owners of property fronting thereon to make such service connections at the cost of the property owner. If no mainline sanitary sewer or domestic waterlines exist in front of said property, it is and shall be the sole responsibility of the property owner to pay for all costs of extending said utilities. All costs associated with the extension and connection of utilities including but not limited to surveying, engineering, road replacement, pipe materials, valves, and miscellaneous items will be the sole responsibility of the property owner.

8.0114 Written Notice for Owners. Whenever the City Council shall have ordered, by resolution, any such connections to be made, it shall serve written notice on the owners of said property, either by personal service or by certified mail, return receipt requested, or by posting on the property, to make said connections by a date fixed, which shall not be less than ten days after such notice is given, or to show cause in writing, filed with the City Finance Officer within said time, why such connections should not be made. At the expiration of the time fixed, the City Council shall consider all the objections so filed and if over-ruled, shall thereupon, by resolution, order the making of such connections as they shall deem necessary. Failure by any person to actually receive any document sent to him by certified mail or to sign and return any receipt card acknowledging receipt by certified mail shall not invalidate service made upon such person by certified mail. Such notice is deemed completed at the time it is mailed, hand delivered or posted, and any period to reply or abate begins to run from the date of mailing, personal service or posting.

8.0115 City Initiated Work and Assessment of Property Owners. When any such connections are ordered, as herein provided, the City Council shall cause the work to be done, and the cost thereof shall be collected from the owners of the property where such connections are made or assessed as a special tax against such property in the manner provided for assessing the cost of constructing sidewalks, so far as applicable.

8.0116 Providing Underground Utility Services When Frost Exists; Fee. When any utility customer of the City requests underground utility services for water or sewer and at the time of installation there is frost present, the City shall, in addition to the usual and customary charges established by the City Council for providing such services, charge the customer requesting such service the following:

A. The hourly equipment rental rate, as established by resolution from time to time by the City Council, for the equipment necessary to install the utility service, for the number of hours necessary to operate such equipment in the installation of the utility service; and

B. The hourly rate, per man, for the labor necessary to install the utility service, as established by resolution from time to time by the City Council.

CHAPTER 8.02 - WATER PROVISIONS

8.0201 Connection With City Watermain. No person shall make any connection with any City watermain or tap the same or conduct water therefrom upon his premises or use any water therefrom without first making application therefore to the City.

8.0202 City Prescribing Connections. All connections hereafter made with the City water mains shall be at the expense of the person desiring the same and shall be made under the supervision of the City. The City may prescribe the place where and the manner in which the connection shall be made, the size of the service pipe to be used, the place where the valve box and fire hydrant shall be placed and the manner and materials in which the plumbing shall be done.

8.0203 Meter Installation. All persons hereafter making application to be furnished with water shall be required to install a meter for the measurement of the amount of water used and shall pay for such water used at the rate hereinafter specified but two or more premises will not be supplied with water measured by the same meter unless one person is liable for the payment for the whole of such water furnished; such meter shall be so placed as to measure all water used. When a meter is placed on a pipe connected to a boiler or other hot water apparatus a check valve must be placed between such meter and boiler or other hot water apparatus to protect meter from back pressure of steam or hot water; in case of the breakage of any pipe or meter or if there be a leak in the same, the water shall be shut off until such breakage or leak is repaired.

8.0204 Meter Requirements. All meters shall be of the kind prescribed by the City and shall be placed as to be easily read and charged monthly.

8.0205 Meter Tests. Customers may have their meters tested upon payment of the actual cost for test. If the meter is found to be in error, the fee shall be refunded. If the test of the meter shows that it fails to register correctly within two percent, the City shall make a charge or

allow a credit in proportion to the error, for all water registered in excess of the minimum amounts allowed by the established rates, the same to be retroactive for three billing periods only.

8.0206 Unnecessary Waste of Water. It shall be the responsibility of all consumers of water paying the rates mentioned to prevent unnecessary waste of water and to keep all water outlets closed when not in actual use; unpermissable uses; not to permit other persons or families to use water from any of their faucets, hydrants or pipes.

8.0207 Connection to Water Mains. It shall be unlawful for any person, firm or corporation to connect any water pipe or pipe of any kind to any of the water mains of the municipal water works system of the City of Harrisburg or to in any manner tamper with or bore into said water mains for any purpose whatever, except as hereinafter provided.

8.0208 Exceptions. The City may but need not allow connections to the water mains of said system upon application of any person desiring the same. Connections shall only be made on streets where water mains are located and in order to bring the water to the curb along said street in which said water mains are located and shall be at the expense of the applicant desiring connection. The City will review and approve plans and specifications for the utility extension. The applicant shall be responsible for all construction and engineering costs associated with the project.

8.0209 Standard Workmanship. The connections made to the City of Harrisburg water system shall be of standard workmanship of pipe and made according to the provisions of the ordinances of said City heretofore enacted as to size and quality of pipe, material and workmanship, including curb box and other attachments as approved by the City.

8.0210 Rain Sensors Required. Rain sensors shall be installed on all automatic irrigation systems installed after April 4, 2006 that receive water supplied by the City.

8.0211 Rain Sensor Installation and Setting. All rain sensors shall automatically shut off the irrigation system after one-fourth inch of rainfall has occurred. All rain sensors shall be installed according to the manufacturer's instructions in a location providing full exposure to rainfall to assure accurate operation. The sensors shall be maintained in good working condition. No person shall, with the intent of circumventing the purpose of this section, adjust either the rain sensor or irrigation system so that the sensor cannot override and turn off the irrigation system after one-fourth inch of rain has fallen.

8.0212 Water Restrictions. The City may limit or prohibit temporarily the use of water from the distribution system for any purpose, except domestic purposes within the dwellings of consumers or in business establishments, during emergencies, in the event of plant breakdown, prolonged drought or shortage of water supply for any reason in order to maintain maximum fire protection efficiency. The Mayor shall authorize the imposition of these restrictions. The City will attempt to notify affected utility customers if time permits of any such limitation. Any person violating the terms of such prohibition or restriction after such notice shall upon conviction thereof be subject to the penalties provided in this ordinance (Section 12.0101). Water service to the premises involved may be discontinued entirely during emergency.

8.0213 Water Permits for Newly Sodded or Seeded Lawns. The City of Harrisburg may issue a thirty (30 day) lawn watering permit for newly seeded or sodded lawns for a permit fee of

$25.00 payable by the applicant. Only the sod or seeded area may be watered. No watering is allowed between the hours of 10:00 a.m. and 5:00 p.m. After the expiration date of the watering permit, the water level alert that is in effect for the City applies to all subsequent watering.

8.0214 Returned Check Policy. Returned check fees may be established by resolution by the Harrisburg City Council. In addition to any fees, after two returned checks, the customer shall pay all current and future payments by cash or money order for a period of no less than twelve (12) months.

8.0215 Water Conservation Measures Established. For the purposes of regulating and conserving the use of water the following measures are established and shall be enforced.

A. Water Alert Levels. The Mayor shall authorize the imposition of these restrictions. The Finance Officer shall notify municipal system users of the Mayor's determination by publishing notice in the official newspaper and on the City's Website. The day and time for sprinkling, watering or irrigating yards and grass by any method may be regulated or prohibited as follows:

1. **Level 1** – Consumers with an odd-numbered address shall water lawns when necessary only on odd-numbered days, and those with even- numbered addresses shall water lawns only on even-numbered days. Lawns shall not be watered between the hours of 10:00 a.m. and 5:00 p.m.

2. **Level 2** –Lawn watering restricted to two days per week watering schedule using the last digit of the address to determine status. Water use shall occur before 10:00 a.m. or after 5:00 p.m. No watering is permitted other than pursuant to the following chart:

Address ending in:	Day watering may occur:
0,3,6	Monday
1,4,7	Tuesday
2,5,8,9	Wednesday
0,3,6	Thursday
1,4,7	Friday
2,5,8,9	Saturday
No Watering Allowed	Sunday

3. **Level 3** – Water use restricted to one day per week watering schedule using the last digit of the address to determine status. Water use shall occur before 10:00 a.m. or after 5:00 p.m. No watering is permitted other than pursuant to the following chart:

Address ending in:	Day watering may occur:
0 or 1	Monday
2 or 3	Tuesday
4 or 5	Wednesday
6 or 7	Thursday
8 or 9	Friday

4. **Level 4** - No watering permitted.

B. Violation of Water Conservation Measure. Use of municipal water contrary to and in violation of this Section shall be deemed prohibited and any individual found in violation shall be subject to a fine of $125.00. The individual found in violation of this Section may, within three business days of the time when the notice of violation was given, pay to the office of the Finance Officer, as fine for and in full satisfaction of the violation, the sum of $125.00. If the individual fails to pay the sum within the three business day period, he or she may pay to the office of the City Finance Officer, within the next fourteen business days from the date of violation, as a fine for and in full satisfaction of the violation, the sum of $150.00. Upon failure of the individual to pay either of the sums to the office of the Finance Officer within the time periods indicated, and upon conviction of a violation of this Section, the owner or operator shall be fined not less than $200.00 plus court costs, which fine shall be collected by the Magistrate Court. The individual also has the right to contest the charges or plead "not guilty" within the time periods indicated above, and have the matter transferred to Magistrate Court. The penalties in this Section may be adjusted by resolution of the City Council.

CHAPTER 8.03 - SEWER PROVISIONS

8.0301 Administration. Except as herein provided, the City Council shall be charged with the administration of this Chapter and shall be in full charge and control of the publicly owned treatment works.

8.0302 Definitions. The following words, terms and phrases, when used in this Chapter, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

Act means the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 USC 1251 et seq.

Authorized representative of the user means:

(1) If the user is a corporation:

a. The president, secretary, treasurer, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or

b. The manager of one or more manufacturing, production, or operation facilities employing more than 250 persons or having gross annual sales or expenditures exceeding 25 million dollars (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

(2) If the user is a partnership or sole proprietorship: a general partner or proprietor, respectively.

(3) If the user is a federal, state, or local governmental facility: a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.

The individuals described in paragraphs (1) through (3) above, may designate another authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the City.

Biochemical oxygen demand (BOD) means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20 degrees Celsius, expressed in milligrams per liter.

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 walls of the building and conveys it to the building sewer, beginning 4 feet outside the inner face of the building wall.

Building sewer means the extension from the building drain to the public sewer or other place of disposal; also called house connection.

Categorical standards means any regulation containing pollutant discharge limits promulgated by the U.S. EPA in accordance with Section 307(b) and (c) of the Act which apply to a specific category of industrial users and which appear in 40 CFR 405-471.

City engineer means the City Engineer or his authorized deputy, agent or representative.

Composite sample means a sample composited from an appropriate number of discrete samples collected over the designated monitoring period greater than 15 minutes. The sample may be flow-proportional or time-proportional composite as long as the sample has a minimum of four grab samples and represents the average quality of wastewater discharged.

Daily maximum is a limit indicating the maximum allowable discharge of a pollutant, monitored by a composite sampling, during a 24-hour period that corresponds to the designated monitoring period.

DENR means the South Dakota Department of Environment and Natural Resources.

Domestic only commercial user means a business or commercial establishment whose only uses of water are for sanitary, culinary, drinking, washing, bathing, and other domestic purposes.

Easement means an acquired legal right for the specific use of land owned by others.

Existing source means any source of discharge, the construction or operation of which commenced prior to the publication by EPA of proposed categorical pretreatment standards, that will be applicable to such source if the standard is thereafter promulgated in accordance with Section 307 of the Act.

Floatable oil means oil, fat or grease in a physical state such that it will separate by gravity from wastewater by treatment in an approved pretreatment facility. A wastewater shall be considered free of floatable fat if it is properly pretreated and the wastewater does not interfere with the collection system.

Garbage means the animal and vegetable waste resulting from the handling, preparation, cooking and serving of foods.

Grab sample means a discrete sample collected or measured from a wastewater stream over a period of time not to exceed 15 minutes.

Hazardous waste means waste from generators containing materials or exhibiting specific properties identified in 40 CFR 261.

Incompatible waste means all waste other than those identified as hazardous wastes that interfere with, pass through, or are incompatible with the City wastewater treatment facility.

Indirect discharge means introduction of pollutants to a POTW from any nondomestic source.

Industrial user or *user* means a source of indirect discharge.

Industrial waste means the wastewater from industrial processes, trade, or business as distinct from domestic or sanitary wastes.

Instantaneous maximum is a limit indicating the maximum concentration of a pollutant, monitored by a grab sample, allowed to be discharged at any specific time.

Interference means a discharge that alone or in conjunction with a discharge or discharges from other sources:

(1) Inhibits or disrupts the POTW, its treatment process or operations or its sludge processes, use or disposal; and

(2) Therefore is a cause of a violation of the City's NPDES permit including an increase in the magnitude or duration of a violation or of the prevention of sewage sludge use or disposal in compliance with regulatory provisions or permits.

Liquid waste means all nonhazardous wastes that are mostly water containing no more than 25 percent treatable contaminants not directly discharged to the sanitary sewer system.

Liquid waste disposal coupon means a document identifying the source, contents, and conditions for disposal of a liquid waste.

Liquid waste generator (LWG) means any person, corporation, residence, commercial establishment, industry, or institution that produces a liquid waste which is not directly discharged and hauled to the sanitary sewer collection system.

LWG permit means an industrial wastewater discharge permit issued to a LWG for the discharge of hauled industrial liquid waste.

Liquid waste hauler means any person, corporation, commercial establishment, industry, or institution that engages in the activity of transporting liquid waste from a source or generator to a point of final disposal.

Medical waste means isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical waste, potentially contaminated laboratory waste, and dialysis waste.

Natural outlet means any outlet, including storm sewers and combined sewer overflows, into a watercourse, pond, ditch, lake, or other body of surface water or groundwater.

New source means:

(1) Any building, structure, facility or installation from which there is (or may be) a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under Section 307(c) of the Act which will be applicable to such source if such standards are thereafter promulgated in accordance with that Section, provided that:

a. The building, structure, facility, or installation is constructed at a site at which no other source is located;

b. The building, structures, facility or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or

c. The production or wastewater generating processes of the building, structure, facility, or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source, should be considered.

(2) Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility, or installation meeting the criteria of paragraph (1) b. or c. above, but otherwise alters, replaces or adds to existing process or production equipment.

(3) Construction of a new source as defined under this paragraph has commenced if the owner or operator has:

a. Begun, or caused to begin, as part of a continuous on-site construction program:

(i) Any placement, assembly, or installation of facilities or equipment; or

(ii) Significant site preparation work including clearing, excavation or removal of existing buildings, structures, or facilities that is necessary for the placement, assembly, or installation of new source facilities or equipment.

b. Entered into a binding contractual obligation for the purchase of facilities or equipment that are intended to be used in its operation within a reasonable time. Options to purchase or contracts that can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies, do not constitute a contractual obligation under this paragraph.

Noncontact cooling water means water used for cooling that does not come into direct contact with any raw material, intermediate product, waste product, or finished product.

Pass-through means a discharge that exits in the POTW into waters of the U.S. in quantities or concentrations which, alone or in conjunction with a discharge from other sources, is a cause of a violation of any requirement of the City's NPDES permit, including an increase in the magnitude or duration of a violation.

Permit means an industrial wastewater discharge permit issued to industrial users for the discharge of nondomestic wastes into the sanitary sewer collection system.

pH means the negative logarithm of the hydrogen ion concentration. The concentration is the weight of hydrogen ions in grams per liter of solution. Neutral water, for example, has a pH value of seven and a hydrogen ion concentration of ten to the minus seven power.

Pollutant means dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, municipal, agricultural and industrial wastes, and certain characteristics of wastewater (e.g., flow pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, or odor).

POTW (publicly owned treatment works) means any wastewater treatment plant owned and operated by the City including all devices and systems used in the collection, storage, treatment, recycling and reclamation of wastewater or industrial wastes and any conveyances that transport wastewater to the plant.

Pretreatment means the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to or in lieu of discharging or otherwise introducing such pollutants into a POTW.

Pretreatment standards or *standards* mean prohibited discharge standards, categorical pretreatment standards, and local limits.

Prohibited discharge standards means absolute prohibitions against the discharge of certain substances; these prohibitions appear in Section 8.0314.

Properly shredded garbage means the wastes from the preparation, cooking, and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than 1/2 inch (1.27 centimeters) in any dimension.

Public sewer means a common sewer controlled by a governmental agency or public utility.

Sanitary sewer means a sewer that carries liquid and water-carried wastes from residences, commercial buildings, industrial plants, and institutions together with minor quantities of groundwater, storm water, and surface water that are not admitted intentionally.

Sewage means the spent water of a community. The preferred term is wastewater.

Sewer means a pipe or conduit that carries wastewater or drainage water.

Significant industrial user means:

(1) Industrial users subject to categorical standards; or

(2) Industrial users that:

a. Discharge an average of 25,000 gallons per day or more of process wastewater;

b. Contribute a process wastewater that makes up 5 percent or more of the average dry weather hydraulic or organic capacity of the wastewater treatment plant; or

c. Are designated as significant by the City on the basis that the industrial user has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement.

(3) Upon a finding that a user meeting the criteria in subsection (2) has no reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement, the City may at any time, on its own initiative or in response to a petition received from a user, and in accordance with procedures in 40 CFR 403.8(f)(6), determine that such user should not be considered a significant industrial user.

Significant noncompliance means the same as the definition of "significant noncompliance" under Section 41-128.

Slug or *slug load* means any substance released in a discharge at a flow rate and/or concentration that will adversely affect the wastewater treatment plant or hydraulically overloads the sanitary sewer collection system. This includes, but is not limited to, accidental spills and batch discharges.

Standard Industrial Classification (SIC) means the classification pursuant to the latest revision of the Standard Industrial Classification Manual published by the office of management and budget.

Storm drain, sometimes termed *storm sewer,* means a drain or sewer for conveying water, groundwater, subsurface water, or unpolluted water from any source.

Total Kjeldahl Nitrogen (TKN) means nitrogen in the form of organic proteins or their decomposition product ammonia, as measured by the Kjeldahl method.

Total Suspended Solids (TSS) means total suspended matter that either floats on the surface of or is in suspension in water, wastewater, or other liquids, and that is removable by laboratory filtering as prescribed in Standard Methods for the Examination of Water and Wastewater.

Toxic pollutant means one of the 126 pollutants, or combinations of those pollutants, listed as toxic in regulations promulgated by the U.S. EPA under the provisions of Section 307 of the Act.

Unpolluted water means water of quality equal to or better than the effluent criteria in effect or water that would not cause violation of receiving water quality standards and would not be benefited by discharge into the sanitary sewers and wastewater treatment facilities provided.

U.S. EPA means United States Environmental Protection Agency (EPA).

User or *industrial user* means a source of indirect discharge.

Wastewater means the spent water of a community. Liquid and water-carried industrial wastes and sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, that are contributed to the POTW.

Wastewater treatment plant means an arrangement of devices and structures for treating wastewater, industrial wastes, and sludge.

Watercourse means a natural or artificial channel for the passage of water either continuously or intermittently.

8.0303 Use of Public Sewers Required.

A. It shall be unlawful for any person to place, deposit or permit to be deposited in any unsanitary manner on public or private property within the City, or in any area under the jurisdiction of the City, any human or animal excrement, garbage or other objectionable waste.

B. It shall be unlawful to discharge to any natural outlet within the City or in any area under the jurisdiction of the City any sewage or other polluted waters, except where suitable treatment has been provided in accordance with this Chapter, or permitted by DENR or EPA.

C. It shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool or other facility intended or used for the disposal of wastewater.

D. Whenever a municipal sanitary sewer is constructed within two hundred 200 feet of the property line of any premises, the City Council shall notify the owner of any building used for human occupancy, employment, recreation or similar uses on such premises of said fact and direct him or her to install toilet facilities thereon and to connect such facilities with the municipal sewer in accordance with this Chapter and the owner shall comply with said order within ninety (90) days after date of receipt of such notice.

8.0304 Reserved. (Intentionally Omitted Sec. 41-112 of the Revised Ordinances of the City of Sioux Falls)

8.0305 Administrative Procedures. Administrative procedures for enforcement of Sections 8.0303 for existing and annexed property shall be established by resolution by the City Council.

8.0306 Sanitary Sewers, Building Sewers and Connections.

A. No authorized person shall uncover, make any connections with or opening into, use, alter or disturb any public sewer or appurtenance thereof without first obtaining a building permit and, if necessary, a permit for work within the right- of-way per Chapter 3 of the Engineering Design Standards.

B. For service to establishments producing industrial wastes, a sewer permit must be requested.

The permit application shall be supplemented by any plans, specifications or other information considered pertinent by the City engineer. A permit and inspection fee established by ordinance and shall be paid to the City when the application is filed.

C. All costs in an expense incidental to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer. The owner shall be responsible for the maintenance of the building drain and the building sewer.

D. A separate and independent four-inch diameter sewer service shall be provided for every living unit where a separate ownership or billing is anticipated, and in units where separate water services are required, and for every building; except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer. In lieu of a separate four-inch diameter sewer service for every living unit, a single building sewer of a size to be determined by the City Engineer but in no event less than six-inch diameter, may be provided. The City does not and will not assume any obligation or responsibility for damage caused by or resulting from any such single connection.

E. Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the City Engineer, to meet all requirements of this Chapter.

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

G. Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain

shall be lifted by an approved means and discharged to the building sewer at the owner's expense.

H. No person shall make connection of roof downspouts, foundation drains, areaway drains, or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer unless such connection is specifically authorized by the City Engineer or Superintendent.

I. The connection of the building sewer into the public sewer shall conform to the requirements of the building and plumbing codes and other applicable specifications and requirements of the City, or the procedures set forth in appropriate specifications of the A.S.T.M. and the W.P.C.F. Manual of Practice No. 9. All such connections shall be made gastight and watertight and verified by proper testing. Any deviation from the prescribed procedures and materials must be approved by the City Engineer before installation.

J. The building permit applicant shall notify the Superintendent when the building sewer is ready for inspection and connection to the public sewer. The connection and testing shall be made under the supervision of the Superintendent or their representative.

K. All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the City.

8.0307 Reserved. (Intentionally Omitted Sec. 41-113.1 of the Revised Ordinances of the City of Sioux Falls)

8.0308 Reserved. (Intentionally Omitted Sec. 41-113.2 of the Revised Ordinances of the City of Sioux Falls)

8.0309 Resolution and Notice to Owners to Construct Sewer Connections.

A. Whenever the City shall deem it necessary to construct sewer service connections from the trunk or service sewers to the curbline in the streets or alleys, a resolution shall be passed by the City Council requiring the property owners whose property has not been connected with the trunk or service sewers to construct such connecting sewers from the trunk or service sewers to the curbline in the streets or alleys within the time specified not less than 30 days from the passage of the resolution.

B. The resolution shall contain a notice to the owners stating what work is to be done and the time within which they are required to do it. Such notice may be general as to the owners but must be specified as to the descriptions of the lots or parcels of ground in front of which such sewer connections are to be constructed.

8.0310 Special Assessment for Sewer Connections.

A. If such sewer connections are not built, laid and constructed in the manner and within the time prescribed in the resolution described in Section 8.0309, the City Council may order the construction to be done by such person as they may contract with and under the direction of the City Engineer at the expense of the lots and parcels of land

adjoining in front of and for the benefit of which the sewer connections have been laid, built and constructed. Such expense shall be assessed upon such lots and parcels of land so chargeable by the City Engineer and returned by him to the City Council.

B. The Finance Officer shall cause to be published the estimate of the City Engineer, together with a notice of the time and place when the City Council will meet to approve the construction, by one publication in the official newspaper at least one week prior to the meeting of the City Council to approve the construction.

C. Payments therefore shall be due and payable from and after the filing of the assessment roll with the Finance Officer and shall be collected in the same manner as other special assessments are now collected as provided by law.

D. All steps taken for the charge of the property affected and the collecting of such assessment and the selling of such property in default of payment of such assessment shall be done and performed in the same manner as other special assessments for local improvements are now collected by the City.

8.0311 Regulation of Use of Public Sewers.

A. No person shall discharge or cause to be discharged any unpolluted waters such as storm water, surface water, ground water, roof runoff, subsurface drainage or cooling water to any sanitary sewer, unless specifically authorized by the City Engineer.

B. Storm water other than that exempted under subsection (a) of this section and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as storm sewers, to the street or to a natural outlet approved by the City Engineer. Unpolluted industrial cooling water or process water may be discharged, on approval of the City Engineer, to a storm sewer or natural outlet. Groundwater collected by building subdrains must discharge to the ground surface outside of the building, a storm drain, a sump pump collection system, or a natural outlet. Except for residences constructed before 2005, no sump pump discharge to the ground surface shall create a hazard or a nuisance, including but not limited to: ice accumulation on City streets, alleys, and sidewalks; damaging a City street or sidewalk; creating ponds of standing water or algae; or flowing over adjoining property. If a storm drain or sump pump collection system exists or is constructed adjacent to the property, the property owner shall be charged a permit fee and connect the sump pump or building subdrains to the storm sewer system.

C. A sump pump collection system fee shall be paid whenever a connection is made to an existing collection system not constructed by the developer of the lot connecting to the system.

8.0312 Grease, Oil and Sand Traps. Grease, oil and sand interceptors shall be provided when, in the opinion of the Superintendent, they are necessary for the proper handling of liquid wastes containing floatable grease in excessive amounts, or oil, sand, or other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the Superintendent, and shall be located as to be readily and easily accessible for cleaning and inspection. In the maintaining of these interceptors the owner shall be responsible for the proper removal and disposal by appropriate means of the captured material and shall maintain records of the dates, and means

of disposal, which are subject to review by the Superintendent. Any removal and hauling of the collected materials not performed by the owner's personnel must be performed a by currently licensed liquid waste hauler.

8.0313 Protection of Property. No person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is a part of the POTW. Any person violating this section shall be subject to immediate arrest under charge of disorderly conduct.

8.0314 Prohibited Discharge Standards.

A. General prohibitions. No user shall introduce or cause to be introduced into the POTW any pollutant or wastewater which causes pass through or interference. These general prohibitions apply to all users of the POTW whether or not they are subject to categorical pretreatment standards or any other national, state or local pretreatment standards or requirements.

B. Specific prohibitions. No user shall introduce or cause to be introduced into the POTW the following pollutants, substances, or wastewater:

1. Pollutants which create a fire or explosive hazard in the POTW, including, but not limited to, wastestreams with a closed-cup flash point of less than 140°F (60°C) using the test methods specified in 40 CFR 261.21;

2. Wastewater having a pH less than 5.0 or more than 12, or otherwise causing corrosive structural damage to the POTW or equipment;

3. Solid or viscous substances in amounts which will cause obstruction of the flow in the POTW resulting in interference;

4. Pollutants, including oxygen-demanding pollutants (BOD, etc.), released in a discharge at a flow rate and/or pollutant concentration which, either singly or by interaction with other pollutants, will cause interference with the POTW;

5. Wastewater having a temperature which will inhibit biological activity in the treatment plant resulting in interference, but in no case wastewater which causes the temperature at the introduction into the treatment plant to exceed 104°F (40°C);

6. Petroleum oil, nonbiodegradable cutting oil or products of mineral oil origin, in amounts that will cause interference or pass through;

7. Pollutants which result in the presence of toxic gases, vapors or fumes within the POTW in a quantity that may cause acute worker health and safety problems;

8. Trucked or hauled pollutants, except at discharge points designated by the Superintendent;

9. Noxious or malodorous liquids, gases, solids or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public

nuisance or a hazard to life, or to prevent entry into the sewers for maintenance or repair;

10. Wastewater which imparts color which cannot be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts color to the treatment plant's effluent;

11. Wastewater containing any radioactive wastes or isotopes except in compliance with applicable state or federal regulations;

12. Sludges, screenings or other residues from the pretreatment of industrial wastes, except as specifically authorized by the Superintendent;

13. Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail a toxicity test; or

14. Fats, oils or greases of animal or vegetable origin in amounts which will cause obstruction of the flow in sanitary sewers.

15. Light water foaming agents in quantities which would cause foaming problems in the POTW.

C. Pollutants, substances or wastewater prohibited by this section shall not be processed or stored in such a manner that they could be discharged to the POTW.

8.0315 National Categorical Pretreatment Standards. The categorical pretreatment standards found at 40 CFR Chapter I, Subchapter N, Parts 405471 are hereby incorporated.

A. Where a categorical pretreatment standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the Superintendent may impose equivalent concentration or mass limits in accordance with 40 CFR 403.6(c).

B. When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same standard, the Superintendent shall impose an alternate limit using the combined wastestream formula in 40 CFR 403.6(e).

C. A user may obtain a variance from a categorical pretreatment standard if the user can prove, pursuant to the procedural and substantive provisions in 40 CFR 403.13, that factors relating to its discharge are fundamentally different from the factors considered by EPA when developing the categorical pretreatment standard.

D. A user may obtain a net gross adjustment to a categorical standard in accordance with 40 CFR 403.15.

8.0316 South Dakota pretreatment standards found at Section 74:52:11 of the Administrative Rules of South Dakota are hereby incorporated.

8.0317 Local Limits.

A. The following pollutant limits are established in order to protect publicly owned treatment works (POTW), receiving water quality, worker health and safety, and improve opportunities for beneficial use of biosolids from non-domestic discharges.

Pollutant	Daily Maximum (mg/L)	Instantaneous Maximum (mg/L)
(1) Arsenic	0.19	0.38
(2) Cadmium	0.024	0.048
(3) Copper	2.79	5.58
(4) Lead	1.06	2.12
(5) Nickel	1.52	3.04
(6) Selenium	0.19	0.38
(7) Silver	3.04	6.08
(8) Zinc	11.57	23.14

B. The following pollutant limits are established in order to protect publicly owned treatment works (POTW), receiving water quality, worker health and safety, and improve opportunities for beneficial use of biosolids from nondomestic discharges. The following pollutant shall be imposed on significant industries of concern by their wastewater discharge permits. The mass allocation shall be imposed on significant industries of concern by their wastewater permits.

Pollutant	Maximum Allowable Industrial Loading (MAIL)	Unit of Measure	Unit of Limit
(1) BOD	20,692	lbs/day	30-day average
(2) TSS	15,095	lbs/day	30-day average
(3) TKN	3,527	lbs/day	30-day average
(4) Molybdenum	6.17	lbs/day	Daily

C. The above limits apply at the point where the wastewater is discharged to the POTW. All concentrations and limits for metallic substances are for "total" metal unless indicated otherwise. The manager may impose industry specific mass limitations in addition to, or in place of the concentration-based limitations above. The manager may also develop site specific permit limits for pollutants that are specific to an industrial user or user group.

D. Liquid waste generators (LWG) in compliance with a valid LWG permit are exempt from the local limits listed in Section 8.0317(A).

E. Liquid waste haulers in compliance with the revised ordinances and the liquid waste control program rules are exempt from local limits in Section 8.0317(A) when servicing LWGs that are exempted in accordance with Section 8.0317(D).

8.0318 Right of Revision. The City reserves the right to establish, by ordinance or in wastewater discharge permits, more stringent standards or requirements on discharges to the POTW.

8.0319 Dilution. No user shall ever increase the use of process water, or in any way attempt to dilute a discharge, as a partial or complete substitute for adequate treatment to achieve compliance with a discharge limitation unless expressly authorized by an applicable pretreatment standard or requirement. The Superintendent may impose mass limitations on users who are using dilution to meet applicable pretreatment standards or requirements, or in other cases when the imposition of mass limitations is appropriate.

8.0320 Pretreatment Facilities. Users shall provide wastewater treatment as necessary to comply with this Chapter and shall achieve compliance with all categorical pretreatment standards, local limits, and the prohibitions set out in Section 8.0314 within the time limitations specified by EPA, the state, or the Superintendent, whichever is more stringent. Any facilities necessary for compliance shall be provided, operated and maintained at the user's expense. Detailed plans describing such facilities and operating procedures shall be submitted to the Superintendent for review, and shall be acceptable to the Superintendent and City Engineer before such facilities are constructed. The review of such plans and operating procedures shall in no way relieve the user from the responsibility of modifying such facilities as necessary to produce a discharge acceptable to the City under the provisions of this Chapter.

8.0321 Additional Pretreatment Measures.

A. Whenever deemed necessary, the Superintendent may require users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage wastestreams from industrial wastestreams and such other conditions as may be necessary to protect the POTW and determine the user's compliance with the requirements of this Chapter.

B. The Superintendent may require any person discharging into the POTW to install and maintain, on their property and at their expense, a suitable storage and flow control facility to ensure equalization of flow. A wastewater discharge permit may be issued solely for flow equalization.

C. Users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.

8.0322 Wastewater Analysis. When requested by the Superintendent, a user must submit information on the nature and characteristics of its wastewater within a time period specified by the Superintendent. The Superintendent is authorized to prepare a form for this purpose and may periodically require users to update this information.

8.0323 Accidental Discharge/Slug Control Plans. At least once every two years, the Superintendent shall evaluate whether each significant industrial user needs an accidental discharge/slug control plan. The Superintendent may require any user to develop, submit for approval, and implement such a plan. Alternatively, the Superintendent may develop such a plan for any user. An accidental discharge/slug control plan shall address, at a minimum, the following:

A. Description of discharge practices, including nonroutine batch discharges;

B. Description of stored chemicals;

C. Procedures for immediately notifying the Superintendent of any accidental or slug discharge, as required by Section 8.0345; and

D. Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants, including solvents, and/or measures and equipment for emergency response.

8.0324 Wastewater Discharge Permit Requirement.

A. No significant industrial user shall discharge wastewater into the POTW without first obtaining a wastewater discharge permit from the Superintendent, except that a significant industrial user that has filed a timely application pursuant to Section 8.0325 may continue to discharge for the time period specified therein.

B. The Superintendent may require other users to obtain wastewater discharge permits as necessary to carry out the purposes of this Chapter.

C. Any violation of the terms and conditions of a wastewater discharge permit shall be deemed a violation of this ordinance and subjects the wastewater discharge permittee to the sanctions set out in sections of this Chapter. Obtaining a wastewater discharge permit does not relieve a permittee of its obligation to comply with all federal and state pretreatment standards or requirements or with any other requirements of federal, state and local law.

8.0325 Wastewater Discharge Permitting: Existing Connections. Any nonpermitted user required to obtain a wastewater discharge permit who was discharging wastewater into the POTW prior to the effective date of this ordinance and who wishes to continue such discharges in the future, shall, within 60 days after notification by the Superintendent, apply to the Superintendent for a wastewater discharge permit in accordance with Section 8.0327, and shall not cause or allow discharges to the POTW to continue after 180 days of the notification date of the Superintendent except in accordance with a wastewater discharge permit issued by the Superintendent.

8.0326 Wastewater Discharge Permitting: New Connections. Any user required to obtain a wastewater discharge permit who proposes to begin or recommence discharging into the POTW must obtain such permit prior to the beginning or recommencing of such discharge. An application for this wastewater discharge permit, in accordance with Section 8.0327, must be filed at least 90 days prior to the date upon which any discharge will begin or recommence.

8.0327 Wastewater Discharge Permit Application Contents.

A. All users required to obtain a wastewater discharge permit must submit a complete and accurate permit application. The Superintendent may require all users to submit as part of an application the following information:

1. All information required by Section 8.0340(B);

2. Description of activities, facilities and plant processes on the premises, including a list of all raw materials and chemicals used or stored at the facility which are, or could accidentally or intentionally be, discharged to the POTW;

3. Number and type of employees, hours of operation and proposed or actual hours of operation;

4. Each product produced by type, amount, process or processes, and rate of production;

5. Type and amount of raw materials processed (average and maximum per day);

6. Site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, floor drains and appurtenances by size, location and elevation, and all points of discharge;

7. Time and duration of discharges; and

8. Any other information as may be deemed necessary by the Superintendent to evaluate the wastewater discharge permit application.

B. Incomplete or inaccurate applications will not be processed and will be returned to the user for revision.

8.0328 Application Signatories and Certification. All wastewater discharge permit applications and user reports must be signed by an authorized representative of the user and contain the following certification statement:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

8.0329 Wastewater Discharge Permit Decisions. The Superintendent will evaluate the data furnished by the user and may require additional information. After receipt of a complete wastewater discharge permit application, the Superintendent will determine whether or not to issue a wastewater discharge permit. The Superintendent may deny any application for a wastewater discharge permit.

8.0330 Wastewater Discharge Permit Duration. A wastewater discharge permit shall be issued for a specified time period, not to exceed five years from the effective date of the permit. A wastewater discharge permit may be issued for a period less than five years, at the discretion of the Superintendent. Each wastewater discharge permit will indicate a specific date upon which it will expire.

8.0331 Wastewater Discharge Permit Contents. A wastewater discharge permit shall include such conditions as are deemed reasonably necessary by the Superintendent to prevent pass through or interference, protect the quality of the water body receiving the treatment plant's effluent,

protect worker health and safety, facilitate sludge management and disposal, and protect against damage to the POTW.

A. Wastewater discharge permits must contain:

1. A statement that indicates wastewater discharge permit duration, which in no event shall exceed five years;

2. A statement that the wastewater discharge permit is nontransferable without prior notification to the Superintendent in accordance with Section 8.0337;

3. Effluent limits based on applicable pretreatment standards;

4. Self-monitoring, sampling, reporting, notification and record-keeping requirements. These requirements shall include an identification of pollutants to be monitored, sampling location, sampling frequency, and sample type based on federal, state and local law; and

5. A statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule. Such schedule may not extend the time for compliance beyond that required by applicable federal, state or local law.

B. Wastewater discharge permits may contain, but need not be limited to, the following conditions:

1. Limits on the average and/or maximum rate of discharge, time of discharge and/or requirements for flow regulation and equalization;

2. Requirements for the installation of pretreatment technology, pollution control, or construction of appropriate containment devices, designed to reduce, eliminate or prevent the introduction of pollutants into the treatment works;

3. Requirements for the development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated or nonroutine discharges;

4. Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the POTW;

5. The unit charge or schedule of user charges and fees for the management of the wastewater discharged to the POTW;

6. Requirements for installation and maintenance of inspection and sampling facilities and equipment;

7. A statement that compliance with the wastewater discharge permit does not relieve the permittee of responsibility for compliance with all applicable federal and state pretreatment standards, including those which become effective during the term of the wastewater discharge permit; and

8. Other conditions as deemed appropriate by the Superintendent to ensure compliance with this ordinance, and state and federal laws, rules and regulations.

8.0332 Wastewater Discharge Permit Appeals. The Superintendent shall provide public notice of the issuance of a wastewater discharge permit. Any person, including the user, may petition the Superintendent to reconsider the terms of a wastewater discharge permit within 30 days of notice of its issuance.

A. Failure to submit a timely petition for review shall be deemed to be a waiver of the administrative appeal.

B. In its petition, the appealing party must indicate the wastewater discharge permit provisions objected to, the reasons for this objection, and the alternative condition, if any, it seeks to place in the wastewater discharge permit.

C. The effectiveness of the wastewater discharge permit shall not be stayed pending the appeal.

D. If the Superintendent fails to act within 30 days, a request for reconsideration shall be deemed to be denied. Decisions not to reconsider a wastewater discharge permit, not to issue a wastewater discharge permit, or not to modify a wastewater discharge permit shall be considered final administrative actions for purposes of judicial review.

E. The final administrative wastewater discharge permit decision is subject to judicial review as provided by law.

8.0333 Wastewater Discharge Permit Modification. The Superintendent may modify a wastewater discharge permit for good cause, including, but not limited to, the following reasons:

A. To incorporate any new or revised federal, state or local pretreatment standards or requirements;

B. To address significant alterations or additions to the user's operation, processes or wastewater volume or character since the time of wastewater discharge permit issuance;

C. A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge;

D. Information indicating that the permitted discharge poses a threat to the City's POTW, City personnel or the receiving waters;

E. Violation of any terms or conditions of the wastewater discharge permit;

F. Misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting;

G. Revision of or a grant of variance from categorical pretreatment standards pursuant to 40 CFR 403.13;

H. To correct typographical or other errors in the wastewater discharge permit.

8.0334 Wastewater Discharge Permit Revocation or Termination.

A. The Superintendent may revoke a wastewater discharge permit for good cause, including, but not limited to, the following reasons:

1. Failure to notify the Superintendent of significant changes to the wastewater prior to the changed discharge;

2. Failure to provide prior notification to the Superintendent of changed conditions pursuant to Section 8.0344;

3. Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application;

4. Falsifying self-monitoring reports;

5. Tampering with monitoring equipment;

6. Refusing to allow the Superintendent timely access to the facility premises and records;

7. Failure to meet effluent limitations;

8. Failure to pay fines;

9. Failure to pay sewer charges;

10. Failure to meet compliance schedules;

11. Failure to complete a wastewater survey or the wastewater discharge permit application;

12. Failure to provide advance notice of the transfer of business ownership of a permitted facility; or

13. Violation of any pretreatment standard or requirement, or any terms of the wastewater discharge permit or this Chapter.

B. Wastewater discharge permits shall be terminated upon cessation of operations or transfer of business ownership. All wastewater discharge permits issued to a particular user terminate upon the issuance of a new wastewater discharge permit to that user.

8.0335 Wastewater Discharge Permit Reissuance. A user with an expiring wastewater discharge permit shall apply for wastewater discharge permit reissuance by submitting a complete and accurate permit application, in accordance with Section 8.0327, a minimum of 90 days prior to the expiration of the user's existing wastewater discharge permit.

8.0336 Continue Permits Beyond Expiration Date. The Superintendent may extend the permit beyond its expiration date where permittee has complied with Section 8.0335 but, through no fault on the part of the industrial user, is not reissued a permit at time of expiration.

8.0337 Wastewater Discharge Permit Transfer. Wastewater discharge permits may be transferred to a new owner or operator only if the permittee gives at least 30 days advance notice to the Superintendent and the Superintendent approves the wastewater discharge permit transfer. The notice to the Superintendent must include an authorized representative designation form and a written certification by the authorized representative which:

A. States that the new company has no immediate intent to change facility's operations and processes;

B. Identifies the specific date on which the transfer is to occur; and

C. Acknowledges full responsibility for complying with the existing wastewater discharge permit.

Failure to provide advanced notice of a transfer terminates the wastewater discharge permit as of the date of facility transfer.

8.0338 Regulation of Waste Received From Other Jurisdictions.

A. If another municipality, sanitary district or user located within another municipality, contributes wastewater to the POTW, the Superintendent shall enter into a multi-jurisdictional agreement with the contributing jurisdiction.

B. Prior to entering into an agreement required by Subsection (A), the Superintendent shall request the following information from the contributing jurisdiction:

1. A description of the quality and volume of wastewater discharged to the POTW by the contributing jurisdiction;

2. An inventory of all users located within the contributing jurisdiction that are discharging to the POTW; and

3. Such other information as the Superintendent may deem necessary.

C. A multi-jurisdictional agreement, as required by subsection (a), shall contain the following conditions:

1. A requirement for the contributing jurisdiction to adopt or adopt by reference a sewer use ordinance which is at least as stringent as this Chapter and local limits which are at least as stringent as those set out in Section 8.0317. The requirement shall specify that such ordinance and limits must be revised as necessary to reflect changes made to the City's ordinance or local limits;

2. A requirement for the contributing jurisdiction to submit a revised user inventory on at least an annual basis;

3. A provision specifying which pretreatment implementation activities, including wastewater discharge permit issuance, inspection and sampling, and enforcement, will be conducted by the contributing jurisdiction; which of these activities will be conducted by the Superintendent; and which of these activities will be conducted jointly by the contributing jurisdiction and the manager;

4. A requirement for the contributing jurisdiction to provide the Superintendent with access to all information that the contributing jurisdiction obtains as part of its pretreatment activities;

5. Limits on the nature, quality and volume of the contributing jurisdiction's wastewater at the designated monitoring point before it discharges to the POTW;

6. Requirements for monitoring the contributing jurisdiction's discharge;

7. A provision ensuring the Superintendent access to the facilities of users located within the contributing jurisdictional boundaries for the purpose of inspection, sampling and any other duties deemed necessary by the Superintendent; and

8. A provision specifying remedies available for breach of the terms of the multi-jurisdictional agreement.

8.0339 Hauled Wastewater.

A. No person, corporation, residence, commercial establishment, industry or institution shall engage in the practice of pumping, hauling or disposing of liquid waste in the City, unless a current license issued by the City is held to engage in such practice. An application for a liquid waste hauler's license shall be submitted to and approved by the Superintendent. Any license issued pursuant to the provision of this Chapter is subject to the following conditions:

1. The license shall expire on December 31 following its date of issuance.

2. The license shall be nontransferable.

3. The licensee shall furnish proof of:

a. Automobile liability insurance covering all owned, non-owned, and hired automobiles, trucks, and trailers. Such insurance shall provide coverage at least as broad as that found in the standard comprehensive automobile liability policy with limits of not less than $1,000,000.00 combined single limit each occurrence.

b. Commercial general liability insurance providing coverage not less than that of the standard commercial general liability insurance policy for operations of the licensee. The policy shall include contractual personal injury, bodily injury, and property damage liability coverages not less than $2,000,000.00 general aggregate.

c. Workers' compensation insurance with statutory limits of the workers' compensation laws of the State of South Dakota and Coverage B, employer's liability, covering operation of the licensee. This shall include "Other States Insurance" so as to include all states not named on the declarations page of the insurance policy, but excepting monopolistic state funds states. The available limits for Coverage B, employer's liability shall not be less than $1,000,000.00 each accident, $1,000,000.00 disease--policy limits.

4. All liquid waste haulers shall be bonded in an amount of at least $25,000.00, indemnifying the public against damages sustained by reason of any spill, dumping, or discharge of any liquid waste, hazardous waste, or incompatible waste within the jurisdictional limits of the City. Proof of bonding shall be filed with the Superintendent prior to issuance of a license.

5. The license is subject to denial or revocation for violation by the licensee of any applicable provision of this Code, state law or City rule or regulation.

6. The license required by this section for liquid waste haulers shall not apply to vehicles owned by the City engaged in work as authorized by the Superintendent or his authorized representative.

B. At the time of collection, all liquid waste generators shall supply the liquid waste hauler with a completed liquid waste disposal coupon accurately identifying the contents of the liquid waste. The Superintendent may require site specific liquid wastes to be hauled separately by liquid waste haulers. At the time of disposal, the liquid waste hauler must supply the City with a complete and accurate liquid waste disposal coupon. Unauthorized dumping or discharge is prohibited as follows:

1. The unauthorized dumping or discharge of liquid waste into the sanitary sewer system of the City, other than at a disposal station designated by the Superintendent, is prohibited.

2. The dumping or discharge of hazardous wastes or incompatible wastes into the sanitary sewer system of the City is prohibited.

3. Intentionally providing false or inaccurate information on the liquid waste disposal coupon required in this section is prohibited.

8.0340 Baseline Monitoring Reports.

A. Within either 180 days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under 40 CFR 403.6(a)(4), whichever is later, existing categorical users currently discharging to or scheduled to discharge to the POTW shall submit to the Superintendent a report which contains the information listed in subsection (b). At least 90 days prior to commencement of their discharge, new sources and sources that become categorical users subsequent to the promulgation of an applicable categorical standard, shall submit to the Superintendent a report which contains the information listed in subsection (b). A new source shall report the method of pretreatment it intends to use to meet applicable categorical standards. A new source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged.

B. Users described above shall submit the information set forth below.

1. Identifying information. The name and address of the facility, including the name of the operator and owner.

2. Environmental permits. A list of any environmental control permits held by or for the facility.

3. Description of operation(s). A brief description of the nature, average rate of production and standard industrial classifications of the operation(s) carried out by such user. This description should include a schematic process diagram which indicates points of discharge to the POTW from the regulated processes.

4. Flow measurement. Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined wastestream formula set out in 40 CFR 403.6(e).

5. Measurement of pollutants.

   a. The categorical pretreatment standards applicable to each regulated process.

   b. The results of sampling and analysis identifying the nature and concentration and/or mass, where required by the standard or by the Superintendent, of regulated pollutants in the discharge from each regulated process. Instantaneous, daily maximum, and long- term average concentrations, or mass, where required, shall be reported. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in Section 8.0349.

   c. Sampling must be performed in accordance with procedures set out in Section 8.0350.

6. Certification. A statement, reviewed by the user's authorized representative and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required to meet the pretreatment standards and requirements.
7. Compliance schedule. If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment and/or O&M. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this section must meet the requirements set out in Section 8.0341.

8. Signature and certification. All baseline monitoring reports must be signed and certified in accordance with Section 8.0328.

8.0341 Compliance Schedule Progress Reports. The following conditions shall apply to the compliance schedule required by Section 8.0340(B)(7):

A. The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (such events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation);

B. No increment referred to above shall exceed nine months;

C. The user shall submit a progress report to the Superintendent no later than 14 days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the user to return to the established schedule; and

D. In no event shall more than nine months elapse between such progress reports to the Superintendent.

8.0342 Reports On Compliance With Categorical Pretreatment Standard Deadline. Within 90 days following the date for final compliance with applicable categorical pretreatment standards, or in the case of a new source following commencement of the introduction of wastewater into the POTW, any user subject to such pretreatment standards and requirements shall submit to the Superintendent a report containing the information described in Section 8.0340(B)(4-6). For users subject to equivalent mass or concentration limits established in accordance with the procedures in 40 CFR 403.6(c), this report shall contain a reasonable measure of the user's long-term production rate. For all other users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with Section 8.0328.

8.0343 Periodic Compliance Reports.

A. All significant industrial users shall, at a frequency determined by the Superintendent but in no case less than twice per year (in July and January), submit a report indicating the nature and concentration of pollutants in the discharge which are limited by pretreatment standards and the measured or estimated average and maximum daily flows for the reporting period. All periodic compliance reports must be signed and certified in accordance with Section 8.0328.

B. All wastewater samples must be representative of the user's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean and maintained in good working order at all times. The failure of a user to keep its monitoring facility in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge.

C. If a user subject to the reporting requirement in this section monitors any pollutant more frequently than required by the Superintendent, using the procedures prescribed in Section 8.0350, the results of this monitoring shall be included in the report.

8.0344 Reports of Changed Conditions. Each user must notify the Superintendent of any planned significant changes to the user's operations or system which might alter the nature, quality or volume of its wastewater at least 30 days before the change.

A. The Superintendent may require the user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under Section 8.0327.

B. The Superintendent may issue a wastewater discharge permit under Section 8.0329 or modify an existing wastewater discharge permit under Section 8.0333 in response to changed conditions or anticipated changed conditions.

C. For the purposes of this requirement, significant changes include, but are not limited to, flow increases of 20 percent or greater, and the discharge of any previously unreported pollutants.

8.0345 Reports of Potential Problems.

A. In the case of any discharge, including, but not limited to, accidental discharges, discharges of a nonroutine, episodic nature, a noncustomary batch discharge, or a slug load, that may cause potential problems for the POTW, the user shall immediately telephone and notify the Superintendent of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the user.

B. Within five days following such discharge, the user shall, unless waived by the Superintendent submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage or other liability which may be incurred as a result of damage to the POTW, natural resources, or any other damage to person or property; nor shall such notification relieve the user of any fines, penalties or other liability which may be imposed pursuant to this Chapter.

C. A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees whom to call in the event of a discharge described in subsection (A). Employers shall ensure that all employees who may cause such a discharge to occur are advised of the emergency notification procedure.

8.0346 Reports from Unpermitted Users. All users not required to obtain a wastewater discharge permit shall provide appropriate reports to the Superintendent as the Superintendent may require.

8.0347 Notice of Violations; Repeat Sampling and Reporting. If sampling performed by a user indicates a violation, the user must notify the Superintendent within 24 hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the Superintendent within 30 days after becoming aware of the violation. The user is not required to resample if the Superintendent monitors at the user's facility at least once a month, or if the Superintendent samples between the user's initial sampling and when the user receives the results of this sampling.

8.0348 Notice of the Discharge of Hazardous Waste.

A. Any user who commences the discharge of hazardous waste shall notify the POTW, the EPA regional waste management division director, and state hazardous waste authorities, in writing, of any discharge into the POTW of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR Part 261, the EPA hazardous waste number, and the type of discharge (continuous, batch or other). If the user discharges more than 100 kilograms of such waste per calendar

month to the POTW, the notification also shall contain the following information to the extent such information is known and readily available to the user: an identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the wastestream discharged during that calendar month, and an estimation of the mass of constituents in the wastestream expected to be discharged during the following 12 months. All notifications must take place no later than 180 days after the discharge commences. Any notification under this paragraph need be submitted only once for each hazardous waste discharged. However, notifications of changed conditions must be submitted under Section 8.0344. The notification requirement in this section does not apply to pollutants already reported by users subject to categorical pretreatment standards under the self-monitoring requirements of Sections 8.0340, 8.0342 and 8.0343.

B. Dischargers are exempt from the requirements of subsection (a), during a calendar month in which they discharge no more than 15 kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e). Discharge of more than 15 kilograms of nonacute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e), requires a one-time notification. Subsequent months during which the user discharges more than such quantities of any hazardous waste do not require additional notification.

C. In the case of any new regulations under Section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the user must notify the Superintendent, the EPA regional waste management waste division director, and state hazardous waste authorities of the discharge of such substance within 90 days of the effective date of such regulations.

D. In the case of any notification made under this section, the user shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.

E. This provision does not create a right to discharge any substance not otherwise permitted to be discharged by this Chapter, a permit issued thereunder, or any applicable federal or state law.

8.0349 Analytical Requirements. All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed in accordance with the techniques prescribed in 40 CFR Part 136, unless otherwise specified in an applicable categorical pretreatment standard. If 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question, sampling and analyses must be performed in accordance with procedures approved by EPA.

8.0350 Sample Collection.

A. Except as indicated in subsection (b) below, the user must collect wastewater samples using flow proportional composite collection techniques. In the event flow proportional sampling is infeasible, the Superintendent may authorize the use of time proportional sampling or a minimum of four grab samples where the user demonstrates that this will provide a representative sample of the effluent being discharged. In addition, grab samples may be required to show compliance with instantaneous discharge limits.

B. Samples for oil and grease, temperature, pH, cyanide, phenols, sulfides and volatile organic compounds must be obtained using grab collection techniques.

8.0351 Timing. Written reports will be deemed to have been submitted on the date postmarked. For reports which are not mailed, postage prepaid, into a mail facility serviced by the United States Postal Service, the date of receipt of the report shall govern.

8.0352 Record Keeping. Users subject to the reporting requirements of this Chapter shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this Chapter and any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements. Records shall include the date, exact place, method, and time of sampling, and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least three years. This period shall be automatically extended for the duration of any litigation concerning the user or the City, or where the user has been specifically notified of a longer retention period by the Superintendent.

8.0353 Right of Entry; Inspection and Sampling. The Superintendent shall have the right to enter the premises of any user to determine whether the user is complying with all requirements of this ordinance and any wastewater discharge permit or order issued hereunder. Users shall allow the Superintendent ready access to all parts of the premises for the purposes of inspection, sampling records examination and copying, and the performance of any additional duties.

A. Where a user has security measures in force which require proper identification and clearance before entry into its premises, the user shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, the Superintendent will be permitted to enter without delay for the purposes of performing specific responsibilities.

B. The Superintendent shall have the right to set up on the user's property, or require installation of, such devices as are necessary to conduct sampling and/or metering of the user's operations.

C. The manager may require the user to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the user at its own expense. All devices used to measure wastewater flow and quality shall be calibrated at least annually or as needed to ensure and maintain their accuracy.

D. Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the user at the written or verbal request of the Superintendent and shall not be replaced. The costs of clearing such access shall be borne by the user.

E. Unreasonable delays in allowing the Superintendent access to the user's premises shall be a violation of this Chapter.

8.0354 Search Warrants. If the Superintendent has been refused access to a building, structure or property, or any part thereof, and is able to demonstrate probable cause to believe that there

may be a violation of this Chapter, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the City designed to verify compliance with this Chapter or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, then the Superintendent may seek issuance of a search warrant from the circuit court.

8.0355 Confidential Information. Information and data on a user obtained from reports, surveys, wastewater discharge permit applications, wastewater discharge permits and monitoring programs, and from the Superintendent's inspection and sampling activities, shall be available to the public without restriction, unless the user specifically requests, and is able to demonstrate to the satisfaction of the Superintendent, that the release of such information would divulge information, processes, or methods of production entitled to protection as trade secrets under applicable state law. Any such request must be asserted at the time of submission of the information or data. When requested and demonstrated by the user furnishing a report that such information should be held confidential, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available immediately upon request to governmental agencies for uses related to the NPDES program or pretreatment program, and in enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics and other "effluent data", as defined by 40 CFR 2.302 will not be recognized as confidential information and will be available to the public without restriction.

8.0356 Publication of Users in Significant Noncompliance. The Superintendent shall publish annually, in the largest daily newspaper published in the municipality where the POTW is located, a list of the users which, during the previous 12 months, were in significant noncompliance with applicable pretreatment standards and requirements. The term significant noncompliance shall mean:

A. Chronic violations of wastewater discharge limits, defined here as those in which 66 percent or more of wastewater measurements taken during a six- month period exceed the daily maximum limit or average limit for the same pollutant parameter by any amount;

B. Technical Review Criteria (TRC) violations, defined here as those in which 33 percent or more of wastewater measurements taken for each pollutant parameter during a six-month period equals or exceeds the product of the daily maximum limit or the average limit multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH);

C. Any other discharge violation that the Superintendent believes has caused, alone or in combination with other discharges, interference or pass through, including endangering the health of POTW personnel or the general public;

D. Any discharge of pollutants that has caused imminent endangerment to the public or to the environment, or has resulted in the Superintendent's exercise of its emergency authority to halt or prevent such a discharge;

E. Failure to meet, within 90 days of the scheduled date, a compliance schedule milestone contained in a wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance;

F. Failure to provide within 30 days after the due date, any required reports, including baseline monitoring reports, reports on compliance with categorical pretreatment standard deadlines, periodic self-monitoring reports and reports on compliance with compliance schedules;

G. Failure to accurately report noncompliance; or

H. Any other violation(s) which the Superintendent determines will adversely affect the operation or implementation of the local pretreatment program.

8.0357 Notification of Violation. When the Superintendent finds that a user has violated, or continues to violate, any provision of this Chapter, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the Superintendent may serve upon that user a written notice of violation. Within 14 days of the receipt of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted by the user to the Superintendent. The Superintendent may waive the written reporting requirement for isolated, minor violations where the user has complied with the notification requirements in Section 8.0347. Submission of this plan in no way relieves the user of liability for any violations occurring before or after receipt of the notice of violation. Nothing in this section shall limit the authority of the Superintendent to take any action, including emergency actions or any other enforcement action, without first issuing a notice of violation.

8.0358 Consent Orders. The Superintendent may enter into consent orders, assurances of voluntary compliance or other similar documents establishing an agreement with any user responsible for noncompliance. Such documents will include specific action to be taken by the user to correct the noncompliance within a time period specified by the document. Such documents shall have the same force and effect as the administrative orders issued pursuant to Sections 8.0360 and 8.0361.

8.0359 Show Cause Hearing. The Superintendent may order a user which has violated, or continues to violate, any provision of this Chapter, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, to appear before the Superintendent and show cause why the proposed enforcement action should not be taken. Notice shall be served on the user specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action, and a request that the user show cause why the proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least 30 days prior to the hearing. Such notice may be served on any authorized representative of the user. A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the user.

8.0360 Compliance Orders. When the Superintendent finds that a user has violated, or continues to violate, any provision of this Chapter, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the Superintendent may issue an order to the user responsible for the discharge directing that the user come into compliance within a specified time. If the user does not come into compliance within the time provided, sewer service may be discontinued unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated. Compliance orders also may contain other requirements to address the noncompliance, including additional self-monitoring and management practices designed to minimize the amount of pollutants

discharged to the sewer. A compliance order may not extend the deadline for compliance established for a pretreatment standard or requirement, nor does a compliance order relieve the user of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any other action against the user.

8.0361 Cease and Desist Orders.

A. When the Superintendent finds that a user has violated, or continues to violate, any provision of this Chapter, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, or that the user's past violations are likely to recur, the Superintendent may issue an order to the user directing it to cease and desist all such violations and directing the user to:

1. Immediately comply with all requirements; and

2. Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge.

B. Issuance of a cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the user.

8.0362 Violations; penalties.

A. Any person found to be violating any provision of this Chapter or requirement imposed pursuant to this Chapter except Section 8.0313 may be served by the City with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.

B. Any person found to be violating any provision of this Chapter, requirement imposed pursuant to this Chapter, and/or any time limit set forth in the notice provided in this section shall be guilty of a violation of City ordinances. Each day in which any such violation shall continue is a separate offense.

C. Any person violating any of the provisions of Sections 8.0314 through 8.0356 of this Chapter shall become liable to the City for any expense, loss or damage occasioned the City by reason of such violation.

D. In addition to any other fine and/or penalty authorized by this Chapter, any industrial user or any significant industrial user who is found to be violating any provision of Sections 8.0314 through 8.0356 of this Chapter, requirement imposed pursuant to Sections 8.0314 through 8.0356 of this Chapter, and/or any time limits set forth in the notice provided in this section, is subject to a civil penalty not to exceed $1,000.00 per violation per day of violation.

8.0363 Emergency Suspensions.

A. The Superintendent may immediately suspend a user's discharge, after informal notice to the user, whenever such suspension is necessary to stop an actual or threatened

discharge which reasonably appears to present or cause an imminent or substantial endangerment to the health or welfare of persons. The Superintendent may also immediately suspend a user's discharge, after notice and opportunity to respond, that threatens to interfere with the operation of the POTW, or which presents, or may present, an endangerment to the environment.

1. Any user notified of a suspension of its discharge shall immediately stop or eliminate its contribution. In the event of a user's failure to immediately comply voluntarily with the suspension order, the Superintendent may take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW, its receiving stream, or endangerment to any individuals. The Superintendent may allow the user to recommence its discharge when the user has demonstrated to the satisfaction of the Superintendent that the period of endangerment has passed, unless the termination proceedings in Section 8.0364 are initiated against the user.

2. A user that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful contribution and the measures taken to prevent any future occurrence, to the Superintendent prior to the date of any show cause or termination hearing under Sections 8.0359 or 8.0364.

B. Nothing in this section shall be interpreted as requiring a hearing prior to any emergency suspension under this section.

8.0364 Termination of Discharge.

A. In addition to the provisions in Section 8.0334, any user who violates the following conditions is subject to discharge termination:

1. Violation of wastewater discharge permit conditions;

2. Failure to accurately report the wastewater constituents and characteristics of its discharge;

3. Failure to report significant changes in operations or wastewater volume, constituents and characteristics prior to discharge;

4. Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring or sampling; or

5. Violation of the pretreatment standards in Section 8.0314.

B. Such user will be notified of the proposed termination of its discharge and be offered an opportunity to show cause under Section 8.0359 why the proposed action should not be taken. Exercise of this option by the Superintendent shall not be a bar to, or a prerequisite for, taking any other action against the user.

8.0365 Application for First Service Connections. Any party desiring sewer service from the sewer system of the City for premises not theretofore connected with the system shall apply for a connection by contacting the Finance Officer. A form of such application shall contain the

address of the premises to be served and state the uses, residential or commercial, to which the sewer is to be put. The applicant shall pay, as and for a connection charge, the sum of five hundred dollars ($750.00).

8.0366 Rates and Charges for Sewage Treatment and Disposal Services.

A. There are herby established just and equitable rates, charges and rentals for treatment and disposal services and benefits as authorized by SDCL 9-50-16. Said charges shall from time to time be at least sufficient to produce net revenues adequate to pay the principal of and interest on the bonds payable from revenues of the sewage disposal plant as such principal and interest becomes due, and to create and maintain required reserve therefor, and said rates, charges and rentals shall be revised whenever necessary for such purpose. Said rates, charges and rentals shall be based on minimum monthly charges.

B. There shall be imposed a rate, charge, and rental for sewage treatment and disposal as set by resolution of the City Council.

C. It is hereby found and determined that the sewage disposal plant prevents pollution of the water supply and, where the premises are connected to the municipal water system, the charge may be a surcharge on and collected with the regular monthly water bill. In case of nonpayment of such sewer surcharge within thirty (30) days, the City Council may discontinue water service to the premises in accordance with this Ordinance. In the event of the discontinuance of water service the same shall not be resumed until payment of all past due water and sewer charges, including penalties for the resumption of service.

D. Where the premises are not connected to the municipal water service, the City Council may require that separate meters be installed to measure all sewage to be discharged into the municipal sewer or may require a special charge and permit.

E. Any claim for unpaid rates, charges or rentals which have been properly billed may be collected in a civil action against such owner or occupant in any court of competent jurisdiction.

F. There shall be maintained within the sewer Improvement Fund, a sewer maintenance and construction account. All receipts from the connection charge as made and collected pursuant to Section 8.0365 shall be credited to said account and shall be used to pay cost of construction, maintenance and repair of main and service sewers. Any additional expense of such construction, maintenance or repairs shall be provided out of the general fund of the municipality or from special assessments against property benefitted by such sewers and shall not be paid from any other revenues. All proceeds from the rates, charges and rentals herein provided shall be credited to the operation and maintenance account of said fund and shall be used and applied in accordance with the provisions of this Chapter.

CHAPTER 8.04 - STORMWATER DRAINAGE

8.0401 Fee.

A. The purpose of this division is to establish a charge against real property within the city for the operation, maintenance, and capital expenses of the storm sewer and drainage system.

B. All real property, except property owned by cemetery corporations, within the city shall be charged an annual fee for the operation, maintenance, and capital improvements of the storm sewer and drainage system. The fee for such property shall be based on the lot area, a runoff weighting factor, and a unit financial charge, and which fee is determined as follows:

Storm Drainage Fee equals the *runoff weighting factor*, multiplied by *parcel area* (in square feet), multiplied by *unit financial charge* (in dollars per square feet).

1. *Runoff weighting factor*. The runoff weighting factor is determined by the type of land use, and indicates the relative volume of storm water runoff from a land parcel, as a function of the percentage of impervious surfaces covering each land parcel. The runoff weighting factor is to be assigned by land use type, as shown in Table I:

TABLE I*

Land Use Code	Land Use	Runoff Weighting Factor
1	Private road	5
2	Railroad right-of-way	5
3	Platted public right-of-way	5
11	Single family (lot area less than 30,000 square feet)	7.5
12	Single family (lot area of 30,000 -- 60,000 square feet)	7.5
13	Estate (lot area of 60,000 -- 100,000 square feet)	3.5
14	Estate (lot area greater than 100,000 square feet)	2.5
15	Two family	11.25
16	Manufactured housing	11.25
21	Multi-family 3 to 8 units	7.5
22	Multi-family 9 to 24 units	11.25
23	Multi-family 25 to 49 units	11.25
24	Multi-family 50 to 99 units	11.25
25	Multi-family 100 units or more	11.25
31	Banks and financial institutions	18.75
32	Government offices	18.75

33	Other offices	18.75
34	Public parking ramps and lots	18.75
35	Public service facility	1
36	Neighborhood and public utilities	17
37	Neighborhood-compatible storage	18.75
38	Leased private parking lots	18.75
40	Churches	11.25
41	Nursing homes	11.25
42	Assisted living and group homes	11.25
43	Health clubs and activity center	18.75
44	Colleges, Universities, and adult ed.	11.25
45	Hospitals/funeral homes	11.25
46	Primary, secondary & special education	11.25
47	Day care centers	11.25
48	Assembly areas, arenas, stadiums	18.75
49	Cultural activities, libraries, museums	18.75
51	Low intensity commercial	17
52	Moderate intensity commercial	18.75
53	High intensity commercial	18.75
61	Mining	1
62	Airport	5
63	Assembly, processing & manufacturing	17
64	Warehousing, distribution, wholesale	17
65	Process plants and feedlots	17
66	Salvage yards and junk yards	7.5
67	Mini-storage	17
68	Large public or private utilities	17
69	Military facilities	17
71	Athletic Fields	1
72	*Reserved*	0
73	*Reserved*	0
74	*Reserved*	0
75	*Reserved*	0
76	Sightseeing/Event Park	1
77	Playground/Picnic	1
78	Bike Trail	1
79	Planned Park	1
80	Community Gardens	1
81	Cemetery	1

82	Natural drainage facility or dike	0
83	Tree farm	1
84	Public nature/conservation areas	1
85	Bodies of water	0
86	Private common space or nature area	1
87	Public golf courses	1
88	Private golf courses	1
89	Private campgrounds	1
91	Crop land and farms	0
92	Grazing land	0
93	Limited development potential	1
94	Developing site - new serviceable lot	1
95	Developing site - redeveloping Lot	1
96	Building Permit	1

Upon written request from a property owner or automatically for any property where for the first time the annual drainage fee exceeds nine thousand five hundred dollars ($9,500.00), a detailed site study will be conducted by the city engineer to determine the runoff weighting factor. This written request must be submitted to the Authorized Official on or before April 30 of the year the fees are charged to the subject land parcel. The city engineer shall calculate the percentage of impervious area for the subject parcel which contributes storm water runoff to the drainage system of the city. This system includes the storm sewer system, drainageways, the diversion channel, and Nine Mile Creek within the city. The runoff weighting factor is then determined through utilization of Table II. This calculation shall be completed by July 1 of the year the written appeal is requested.

TABLE II

Percentage Impervious Area	Average Runoff to Rainfall Ratio (R_v*)	Runoff Weighting Factor ($R_v \times 25$)
0	0.04	1.0
10	0.19	4.75
15	0.26	6.5
20	0.30	7.5
30	0.38	9.5
40	0.45	11.25
50	0.53	13.25
60	0.60	15.0
70	0.68	17.0

80	0.75	18.75
90	0.83	20.75
100	0.90	22.5

*These values are derived from the "STORM" equation (figure 5-20, page 5-49), A Statistical Method for the Assessment of Urban Storm Drainage, EPA, Washington, D.C., January 1979. For low percentage impervious surfaces (zero percent to 20 percent), a linear relationship was assumed between the "STORM" equation and empirical data derived from drainage runoff in high depression storage, loose soils, and flat areas.

Interpolation of the runoff weighting factor for a given percentage of impervious area not listed in Table II may be obtained by assuming a linear relationship between the values listed.

The Authorized Official may direct that the runoff weighting factor for a given parcel be calculated by a detailed site investigation and Table II, where an obvious departure from the percentage of impervious surfaces of similar land uses exists.

A determination of the runoff weighting factor, resulting from a detailed site investigation and Table II, brought about either by written request from a property owner or direction from the Authorized Official, shall be used in the calculation of the subject parcels storm drainage fee and shall replace the factor previously derived from Table I, even if the resulting value is higher.

2. *Parcel area.* Parcel area is to be obtained from the records of the Lincoln County Assessor’s Office and Lincoln County Register of Deeds.

8.0402 Collection.

The storm drainage fee established in chapter 8.0401 shall be an annual charge. The first half of the fee is due on May 1, and the second half is due on November 1, of the same year, payable at the office of county treasurer within which the land parcel lies. These fees shall be remitted or turned over to the city finance director, at least once a month, by the county treasurer.

8.0403 Fund established.

The stormwater drainage fees paid to the city shall be kept in a separate fund to be known as the stormwater drainage fund. This fund shall be used to pay the cost of financing the operation, maintenance or construction of the drainage and storm sewer system.

8.0404 Unit Charge.

The unit charge shall be effective at a rate of ($0.0009) nine hundred thousandths. This rate can adjust by resolution of the City Council.

TITLE 9 - PLANNING AND ZONING AND BUILDING REGULATIONS

Chapter 9.01 - Planning Commission
Chapter 9.02 - Zoning and Subdivision Regulations
Chapter 9.03 - Building Code
Chapter 9.04 - Residential Building Code
Chapter 9.05 - Existing Building Code
Chapter 9.06 - Mechanical and Fuel Gas Code
Chapter 9.07 - Property Maintenance Code
Chapter 9.08 - Flood Damage Prevention

CHAPTER 9.01 - PLANNING COMMISSION

9.0101 Created. The Planning Commission for the City of Harrisburg has been created in accordance with SDCL 11-6-2.

9.0102 Composition. The Planning Commission shall consist of seven members.

9.0103 Qualifications of Members. Any resident of the City of Harrisburg may qualify to be a member of the Planning Commission except a person having been convicted within the last five years of a felony or of a misdemeanor involving moral turpitude. Nominated members should demonstrate a basic understanding of the duties of the Planning Commission.

9.0104 Mode of Appointment. The members of the Planning Commission shall be appointed by the Mayor subject to a vote of affirmation by a majority of the City Council.

9.0105 Tenure of Office. The appointment of each member of the Planning Commission shall be for a term of five years so that there will be an overlapping of terms. Any mid-term vacancy in the membership of the Planning Commission shall be filled for the unexpired term in the same manner as for appointment.

9.0106 Removal for Cause. The Mayor, with a vote of affirmation by a majority of the City Council, shall, after a public hearing, have authority to remove any member of the Planning Commission for cause, which cause shall be stated in writing and made a part of the record of such hearing.

9.0107 Compensation. All members of the Planning Commission shall be compensated by a stipend for each regular or special Planning Commission meeting attended and actual expenses, which shall be subject to approval by the City Council.

9.0108 Bylaws. The Planning Commission shall establish bylaws to govern the conduct and procedural rules of Planning Commission meetings and to provide for the election of Planning Commission officers. Said bylaws shall be approved by a majority vote of the City Council before becoming effective.

9.0109 Powers and Duties. The Planning Commission shall:

A. be responsible for the City's Comprehensive Plan and shall recommend to the City Council any addition, amendment, extension, or revision thereto;

B. provide recommendations to the City Council as needed to ensure that the City's growth is managed in compliance and conformance to the City's Comprehensive Plan;

C. shall provide recommendations to the City Council concerning proposed changes to the City's boundaries by annexation or de-annexation;

D. recommend to the City Council the boundaries of zoning districts and appropriate regulations to be enforced therein;

E. recommend to the City Council regulations governing the subdivision of land within the City's jurisdiction;

F. recommend to the City Council, upon review and consideration of the Comprehensive Plan's standards and policies for managed growth, whether approval of individual Layout Plats will maintain the vitality and sustainability of our community;

G. adopt and recommend to the City Council all TIF project plans pursuant to SDCL 11-9-13;

H. serve as the Board of Adjustment to consider variances in hardship cases;

I. serve as the Board of Appeals to consider appeals of actions by building officials, code enforcement officials, and planning officials; and

J. have all other powers granted by law under SDCL Chapter 11 and not otherwise restricted by ordinance.

CHAPTER 9.02 - ZONING AND SUBDIVISIONS REGULATIONS (SEE APPENDIX I)

CHAPTER 9.03 - BUILDING CODE

9.0301 Adopted.

The City Council hereby adopts the International Building Code, 2015 Edition, including Appendices C and I, as published by the International Code Council, Inc. as the building code of the City for regulating the erection, construction, enlargement, alteration, movement, repair, conversion, equipment, use, occupancy, location, removal, demolition, height, area, and maintenance of all buildings and structures, one- and two-family dwellings and town houses not more than three stories in height with a separate means of egress and their accessory structures, and provides for the issuance of permits and the collection of fees therefore. The minimum building standards in the 2015 edition of the International Building Code and amendments thereto shall be applied to any building permit issued after January 1, 2016. A copy of this Code shall be kept on file in the office of the Building Official.

9.0302 Local amendments, additions, and deletions to the 2015 International Building Code.

The following sections and subsections of the building code adopted in this Ordinance shall be amended, added, or deleted as follows. All other sections or subsections of the 2015 International Building Code shall remain as originally published.

101.1 Title. These regulations shall be known as the Building Code of the City of Harrisburg, and shall be referred to herein as "this code".

101.2 Scope. The provisions of this code shall apply to the construction, alteration, relocation, enlargement, replacement, repair, equipment, use and occupancy, location, maintenance, removal, and demolition of every building or structure or any appurtenances connected or attached to such buildings or structures.

Exceptions:

1. Detached one- and two-family dwellings and multiple single-family dwellings (town houses) not more than three stories above grade plane in height with a separate means of egress and their accessory structures shall comply with the International Residential Code.

2. Existing buildings undergoing repair, alterations, or additions and change of occupancy shall be permitted to comply with the International Existing Building Code.

101.4.3 Plumbing. The provisions of the current plumbing code adopted by the South Dakota State Plumbing Commission, with revisions, shall apply to the installation, alteration, repair, and replacement of plumbing systems, including equipment, appliances, fixtures, fittings, and appurtenances, and where connected to a water or sewage system and all aspects of a medical gas system.

101.4.6 Energy. Not adopted by the City.

101.4.8 Electrical. The provisions of the current electrical code adopted by the State of South Dakota shall apply to the installation of electrical systems, including alterations, repairs, replacement, equipment, appliances, fixtures, fittings, and appurtenances thereto.

103.1 Creation of enforcement agency. Building services is hereby created and the official in charge thereof shall be known as the Building Official.

103.2 Appointment. Not adopted by the City.

104.8 Liability. The Building Official, member of the board of appeals, or employee charged with the enforcement of this code, while acting for the City in good faith and without malice in the discharge of the duties required by this code or other pertinent law or ordinance, shall not thereby be rendered liable personally and is hereby relieved from personal liability for any damage accruing to persons or property as a result of any act or by reason of an act or omission in the discharge of official duties. Any suit instituted against an officer or employee because of an act performed by that officer or employee in the lawful discharge of duties and under the provisions of this code shall be afforded all the protection provided by the City's insurance pool and any immunities and defenses provided by other applicable state and federal law and defended by legal representative of the City until the final termination of the proceedings. The Building Official or any subordinate shall not be liable for cost in any action, suit or proceeding that is instituted in pursuance of the provisions of this code.

This code shall not be construed to relieve or lessen the responsibility of any person owning, operating, or controlling any building or structure for any damages to persons or property caused by defects, nor shall the City, or its officers and employees, be held as assuming any such liability by reason of the inspections authorized by this code or any permits or certificates issued under this code.

105.1 Required. Any owner or authorized agent who intends to construct, enlarge, alter, repair, move, demolish, or change the occupancy of a building or structure, or to erect, install, enlarge, alter, repair, remove, convert, or replace any gas or mechanical system, the installation of which is regulated by this code, or to cause any such work to be done, shall first make application to the Building Official and obtain the required permit. The Building Official may exempt permits for minor work.

105.2 Work exempt from permit. Exemptions from permit requirements of this code shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of this code or any other laws or ordinances of this jurisdiction. Permits shall not be required for the following:

Building:

1. Oil derricks.
2. Retaining walls that are not over 4 feet in height measured from the bottom grade elevation to the top of the wall, unless supporting a surcharge or impounding Class I, II or IIIA liquids.
3. Water tanks supported directly on grade if the capacity is not greater than 5,000 gallons and the ratio of height to diameter or width is not greater than 2:1.
4. Sidewalks and driveways not more than 30 inches above adjacent grade, and not over any basement or story below and not part of an accessible route.
5. Painting, papering, tiling, carpeting, cabinets, countertops, and similar finish work.
6. Temporary motion picture, television, and theater stage sets and scenery.
7. Prefabricated swimming pools accessory to a Group R-3 occupancy that are less than 18 inches deep.
8. Shade cloth structures constructed for nursery or agricultural purposes, not including service systems.
9. Swings and other playground equipment accessory to detached one- and two-family dwellings.
10. Window awnings in Group R-3 and U occupancies supported by an exterior wall that do not project more than 54 inches from the exterior wall and do not require additional support.
11. Nonfixed and movable fixtures, cases, racks, counters, and partitions not over 5 feet 9 inches in height.

Gas:

1. Portable heating appliance.
2. Replacement of any minor part that does not alter approval of equipment or make such equipment unsafe.

Mechanical:

1. Portable heating appliance.
2. Portable ventilation equipment.
3. Portable cooling unit.
4. Steam, hot or chilled water piping within any heating or cooling equipment regulated by this code.

5. Replacement of any part that does not alter its approval or make it unsafe.
6. Portable evaporative cooler.
7. Self-contained refrigeration system containing 10 pounds or less of refrigerant and actuated by motors of 1 horsepower or less.

107.1 General. Submittal documents, consisting of two complete sets of hard copy plans and an electronic submittal in PDF format along with other construction documents, such as a statement of special inspections, geotechnical report, and other data, shall be submitted with each permit application. The construction documents shall be prepared by a registered design professional where required by the statutes of the jurisdiction in which the project is to be constructed. Where special conditions exist, the Building Official is authorized to require additional construction documents to be prepared by a registered design professional.

Exception: The Building Official is authorized to waive the submission of construction documents and other data not required to be prepared by a registered design professional if it is found that the nature of the work applied for is such that review of construction documents is not necessary to obtain compliance with this code.

107.3.1 Approval of construction documents. When a Building Official issues a permit, the construction documents shall be reviewed and marked, in writing or by stamp, as "Reviewed for Code Compliance." One set of construction documents so reviewed shall be retained by the Building Official. The other set shall be returned to the applicant, shall be kept at the site of work, and shall be open to inspection by the Building Official or a duly authorized representative.

107.3.2 Previous reviews. This code shall not require changes in the construction documents, construction, or designated occupancy of a structure for which a lawful permit has been heretofore issued or otherwise lawfully authorized, and the construction of which has been pursued in good faith within one hundred and eighty days after the effective date of this code and has not been abandoned.

107.3.3 Phased review. The Building Official is authorized to issue a permit for the construction of foundations or any other part of a building or structure before the construction documents for the whole building or structure have been submitted, provided that adequate information and detailed statements have been filed complying with pertinent requirements of this code. The holder of such permit for the foundation or other parts of a building or structure shall proceed at the holder's own risk with the building operation and without assurance that a permit for the entire structure will be granted.

108.1 General. The Building Official is authorized to issue a permit for temporary structures and temporary uses. Such permits shall be limited as to time of service, but shall not be permitted for more than 365 days.

108.3 Temporary power. The Building Official is authorized to give permission to temporarily supply and use power in part of an electric installation before such installation has been fully completed and the final certificate of completion has been issued. The part covered by the temporary certificate shall comply with the requirements specified for temporary lighting, heat, or power in the current electrical code adopted by the State of South Dakota.

109.1 Payment of fees. A permit shall not be valid until all permit fees have been paid nor shall an amendment to a permit be released until the additional fee, if any, has been paid.

109.2 Schedule of permit fees. On buildings, structures, electrical, gas, mechanical, and plumbing systems, or alterations requiring a permit, a fee for each permit shall be paid as required, in accordance with the fee schedule adopted by resolution by the City Council.

109.7 Plan review fees. When submittal documents for plan review are required, a plan review fee shall be paid with the building permit application. Said plan review fee shall be twenty-five percent of the building permit fee. Said plan review fees are separate fees from the permit fees specified in Section 109.1 and are in addition to the permit fees.

109.8 Delinquent accounts. The City may refuse to issue permits or conduct inspections for any person or business who is financially delinquent to the City.

110.3.1 Footing and foundation inspection. Footing inspections shall be made after excavations for footings are complete and any required reinforcing steel is in place. If an inspection is required for concrete foundations, any required forms shall be in place prior to inspection. Materials for the foundation shall be on the job, except where concrete is ready mixed in accordance with ASTM C 94, the concrete need not be on the job.

111.2 Certificate issued. After the Building Official inspects the building or structure and finds no violations of the provisions of this code or other laws that are enforced by the department of building safety, the Building Official shall issue a certificate of occupancy that contains the following:

1. The building permit number.
2. The address of the structure.
3. The name and address of the owner or the owner's authorized agent.
4. A statement that the described portion of the structure has been inspected for compliance with the requirements of this code for the occupancy and division of occupancy and the use for which the proposed occupancy is classified.
5. The name of the Building Official.
6. The edition of the code under which the permit was issued.
7. The use and occupancy in accordance with the provisions of Chapter 3.
8. The type of construction as defined in Chapter 6.
9. The design occupant load in assembly occupancies only.
10. If an automatic sprinkler system is provided, whether the sprinkler system is required.
11. Any special stipulations and conditions of the building permit.

113.1 Designation of Board of Appeals. In order to hear and decide appeals of orders, decisions, or determinations made by the Building Official relative to the application and interpretation of this code, the City Council hereby assumes the responsibilities of the Board of Appeals for this code. All decisions and findings of the Board shall be final and shall be rendered in writing to the appellant with a duplicate copy to the Building Official.

113.2 Limitations on authority. An application for appeal shall be based on a claim that the true intent of this code or the rules legally adopted hereunder have been incorrectly interpreted, the provisions of this code do not fully apply, or an equally good or better form of construction is proposed. If the appeal is based on a claim that an equally good or better form of construction was improperly denied, the appellant must submit the alternate material, design, or method of construction they are proposing. The appellant also has the burden to demonstrate to the Board that the alternative method or material that they are proposing is an equally good or better form of construction. The Board shall have no authority to waive the requirements of the International Building Code as adopted by the City.

113.3 Qualifications. Not adopted by the City.

113.3 Submission of appeals. All appeals must be submitted in writing to the Building Official within ten days of the order, decision, or determination of the Building Official that is being appealed. Once the appeal is received by the Building Official, he shall place the appeal on the City Council's next regular meeting agenda that is more than seven days (inclusive) from the date of receipt of the appeal.

113.3.1 Appeal hearings. All hearings before the Board shall be open to the public. The appellant, the appellant's representative, the Building Official, any member of the City's staff, or any person whose interests are affected shall be given an opportunity to be heard.

SECTION 202 DEFINITIONS All definitions will remain the same except for those specifically changed as follows:

APPROVED AGENCY. An established and recognized agency or design professional regularly engaged in conducting tests or furnishing inspection services, when such agency has been approved.

CERTIFICATE OF COMPLIANCE. A certificate stating that materials and products meet specified standards or that work was done in compliance with reviewed construction documents.

FIRE AREA. The aggregate floor area enclosed and bounded by fire walls, fire barriers, exterior walls, or horizontal assemblies of a building.

SPECIAL INSPECTION. Inspection as herein required of the materials, installation, fabrication, erection, or placement of components and connections requiring special expertise to ensure compliance with reviewed construction documents and referenced standards (see Section 1704).

STRUCTURAL OBSERVATION. The visual observation of the structural system by a registered design professional for general conformance to the reviewed construction documents at significant construction stages and at completion of the structural system. Structural observation does not include or waive the responsibility for the inspection required by Section 110, 1704, or other sections of this code.

SWIMMING POOL. Any structure intended for swimming, recreational bathing, or wading that contains water over 18 inches deep. This includes in-ground, aboveground, and on-ground pools; hot tubs; spas; and fixed-in place wading pools.

TOWNHOUSE. A single-family dwelling unit constructed in a group of two or more attached units, with each unit located on a separate lot, in which each unit extends from foundation to roof and with open space on at least two sides. Also known as single-family attached dwellings or zero lot line homes.

305.2.3 Twelve or fewer children in a dwelling unit. A facility such as the above within a dwelling unit and having twelve or fewer children receiving such day care shall be classified as a Group R-3 occupancy or shall comply with the International Residential Code.

308.6.4 Twelve or fewer persons receiving care in a dwelling unit. A facility such as the above within a dwelling unit and having twelve or fewer persons receiving custodial care shall be classified as a Group R-3 occupancy or shall comply with the International Residential Code.

501.2 Address identification. New and existing buildings shall be provided with approved address identification. The address identification shall be legible and placed in a position that is visible from the street or road fronting the property. Address identification characters shall contrast with their background. Address identification characters shall be Arabic numbers or alphabetical letters which shall be a minimum of 4 inches high with a minimum stroke width of 1/2 inch. Where access is by means of a private road and the building address cannot be viewed from the public way, a monument, pole or other sign or means shall be used to identify the structure and be located at the edge of said public way. Multi-building campus/complex developments addressed on private or public streets shall be provided with signage at the entrance to the campus/complex indicative of the address ranges within. Address identification shall be maintained.

507.1.2 Property lines. Portions of an unlimited area building may be divided by platted property lines without requiring the construction of party walls if the whole building has:

1. Permanent open space on all sides as required by Sections 507.2, 507.3, 507.4, or 507.5; and
2. Proper legal agreements are submitted and approved by the Building Official and are recorded with the deed for each of the separate properties. These recorded agreements shall require that the buildings, as divided by property lines, be in conformance with the applicable provisions of the building and fire codes, as if the buildings were a single building on a single piece of property. In addition, the agreement must state that no individual building or property owner may modify any portion of the building in any way that would not be in compliance with the building and fire codes.

714.4.1.2 Through-penetration fire-stop system. Through penetrations of the fire-resistive membrane shall be protected by an approved through-penetration fire-stop system installed and tested in accordance with ASTM E 814 or UL 1479, with a minimum positive pressure differential of 0.01 inch of water. The system shall have an F rating/T rating of not less than 1 hour, but not less than the required rating of the floor penetrated.

Exceptions:

1. Floor penetrations contained and located within the cavity of a wall above the floor or below the floor do not require a T rating.

2. Floor penetrations by floor drains, tub drains or shower drains contained and located within the concealed space of a horizontal assembly do not require a T rating.

716.5.9 Door closing. Fire doors shall be self- or automatic-closing in accordance with this section. Self-closing chute intake doors shall not fail in a "door open" position in the event of a closer failure.

Exceptions:

1. Fire doors located in common walls separating sleeping units in Group R-1 shall be permitted without automatic or self-closing devices.

2. The elevator car doors and the associated hoistway enclosure doors at the floor level designated for recall in accordance with Section 3003.2 shall be permitted to remain open during Phase I emergency recall operation.

3. Interior doors located in exit enclosures, smokeproof enclosures, and exit passageways in Group R and I-1 occupancies shall be automatic closing fire door assemblies in accordance with NFPA 80 and controlled in accordance with NFPA 72.

903.2.6 Group I. An automatic sprinkler system shall be provided throughout buildings with a Group I fire area.

Exceptions:

1. An automatic sprinkler system installed in accordance with Section 903.3.1.1 shall be permitted in Group I-1 facilities.

2. An automatic sprinkler system is not required where day care facilities are at the level of exit discharge and where every room where care is provided has at least one exterior exit door.

3. In buildings where Group I-4 day care is provided on levels other than the level of exit discharge, an automatic sprinkler system in accordance with Section 903.3.1.1 shall be installed on the entire floor where care is provided and all floors between the level of care and the level of exit discharge, all floors below the level of exit discharge, other than areas classified as an open parking garage.

903.2.8 Group R. An automatic sprinkler system installed in accordance with Section 903.3 shall be provided throughout all buildings with Groups R-1 and R-4 fire areas. An automatic fire-extinguishing system shall be provided throughout all buildings with a Group R-2 fire area more than two stories in height, including basements, or having more than 5 dwelling units.

903.3.1.1.1 Exempt locations. Automatic sprinklers shall not be required in the following rooms or areas where such rooms or areas are protected with an approved automatic fire detection system in accordance with Section 907.2 that will respond to visible or invisible particles of combustion. Sprinklers shall not be omitted from any room merely because it is damp, of fire-resistance-rated construction, or contains electrical equipment.

1. Any room where the application of water, or flame and water, constitutes a serious life or fire hazard.
2. Any room or space where sprinklers are considered undesirable because of the nature of the contents when approved by the Building Official. Such rooms shall be separated from the remainder of the building by fire barrier walls and horizontal assemblies having a fire-resistance rating of not less than two hours.
3. Generator and transformer rooms separated from the remainder of the building by walls and floor/ceiling or roof/ceiling assemblies having a fire-resistance rating of not less than two hours.
4. Rooms or areas that are of noncombustible construction with wholly noncombustible contents.
5. Fire service access elevator machine rooms and machinery spaces.
6. Machine rooms and machinery spaces associated with occupant evacuation elevators designed in accordance with Section 3008.

904.12.2 System interconnection. The actuation of the fire suppression system shall automatically shut down the fuel and/or electrical power supply to the cooking equipment and all

electrical receptacles located beneath the hood. The fuel and electrical supply reset shall be manual.

907.2.1.1 System initiation in Group A occupancies with an occupant load of 1,000 or more. Activation of the fire alarm in Group A occupancies with an occupant load of 1,000 or more shall initiate a signal using an emergency voice/alarm communications system in accordance with Section 907.5.2.2.

Exceptions:

1. Group A-3 occupancies used for religious worship.
2. Where approved, the prerecorded announcement is allowed to be manually deactivated for a period of time, not to exceed 3 minutes, for the sole purpose of allowing a live voice announcement from an approved, constantly attended location.

907.2.2 Group B. A manual fire alarm system shall be installed in Group B occupancies where one of the following conditions exists:

1. The combined Group B occupant load of all floors is 500 or more.
2. The Group B occupant load is more than 100 persons above or below the lowest level of exit discharge.
3. The fire area contains an ambulatory care facility.
4. The Group B occupancy has more than two occupied levels.

Exception: Manual fire alarm boxes are not required where the building is equipped throughout with an automatic sprinkler system installed in accordance with Section 903.3.1.1 and the occupant notification appliances will activate throughout the notification zones upon sprinkler waterflow.

907.2.6.2 Group I-2. An automatic smoke detection system shall be installed in corridors in nursing homes, long-term care facilities, detoxification facilities, and spaces permitted to be open to the corridors by Section 407.2. The system shall be activated in accordance with Section 907.5. Hospitals shall be equipped with smoke detection as required in Section 407.

Exception: Corridor smoke detection is not required in smoke compartments that contain sleeping units where such units are provided with smoke detectors that comply with UL 268. Such detectors shall provide a visual display on the corridor side of each sleeping unit and shall provide an audible and visual alarm at the care provider station attending each unit. Smoke detectors installed as part of an intelligent or addressable fire alarm system capable of annunciation of room origin at a constantly attended location shall be acceptable.

907.2.8.2 Automatic smoke detection system. An automatic smoke detection system that activates the occupant notification system in accordance with Section 907.5 shall be installed throughout all interior corridors serving sleeping units and at the top of each stairwell.

Exception: An automatic smoke detection system is not required in buildings that do not have interior corridors serving sleeping units and where each sleeping unit has a means of egress door opening directly to an exit or to an exterior exit access that leads directly to an exit.

907.2.8.4 Heat detectors. Heat detectors shall be installed in each attic subdivision or similar areas not otherwise covered by an automatic fire-extinguishing system.

Exceptions:

1. Heat detection is not required in areas protected by an automatic fire-extinguishing system installed in accordance with Section 903.3.1.1 or in addition to the requirements of Section 903.3.1.2.
2. Heat detectors are not required where the fire partitions extend into and through the interstitial attic space.

907.2.9 Group R-2. Fire alarm systems and smoke alarms shall be installed in Group R-2 occupancies as required in Sections 907.2.9.1 through 907.2.9.5.

907.2.9.1 Manual fire alarm system. A manual fire alarm system that activates the occupant notification system in accordance with Section 907.5 shall be installed in Group R-2 occupancies where:

1. Any dwelling unit or sleeping unit is located three or more stories above the lowest level of exit discharge.
2. Any dwelling unit or sleeping unit is located more than one story below the highest level of exit discharge of exits serving the dwelling unit or sleeping unit; or
3. The building contains more than 16 dwelling units or sleeping units; or
4. The building contains four or more dwelling units or sleeping units above the level of exit discharge.

Exceptions:

1. A fire alarm system is not required in buildings not more than two stories in height where all dwelling units or sleeping units and contiguous attic and crawl spaces are separated from each other and public or common areas by at least 1-hour fire partitions and each dwelling unit or sleeping unit has an exit directly to a public way, egress court, or yard.
2. Manual fire alarm boxes are not required where the building is equipped throughout with an automatic sprinkler system installed in accordance with Section 903.3.1.1 or 903.3.1.2 and the occupant notification appliances will automatically activate throughout the notification zones upon a sprinkler waterflow.
3. A fire alarm system is not required in buildings that do not have interior corridors serving dwelling units and are protected by an approved automatic sprinkler system installed in accordance with Section 903.3.1.1 or 903.3.1.2, provided that dwelling units either have a means of egress door opening directly to an exterior exit access that leads directly to the exits or are served by open-ended corridors designed in accordance with Section 1026.6, Exception 4.

907.2.9.4 Smoke detectors. System smoke detection shall be provided in each stairway and all exit corridors.

907.2.9.5 Heat detectors. Heat detectors shall be installed in each attic subdivision, any attached garages and similar areas not otherwise covered by an automatic fire-extinguishing system.

Exceptions:

1. Heat detection is not required in areas protected by an automatic fire-extinguishing system installed in accordance with Section 903.3.1.1 or in addition to the requirements of Section 903.3.1.2.
2. Heat detectors are not required where the fire partitions extend into and through the interstitial attic space.

907.2.13.1.2 Duct smoke detection. Duct smoke detectors complying with Section 907.3.1 shall be located as follows:

1. In the main return air and exhaust air plenum of each air-conditioning system having a capacity greater than 2,000 cubic feet per minute. Such detectors shall be located in a serviceable area downstream of the last duct inlet.
2. At each connection to a vertical duct or riser serving two or more stories from a return air duct or plenum of an air-conditioning system. In Group R-1 and R-2 occupancies, a smoke detector is allowed to be used in each return air riser carrying not more than 5,000 cfm and serving not more than 10 air-inlet openings.
3. Duct smoke detectors installed more than 10 feet above a finished floor, above a ceiling, or on a rooftop shall be installed with remote test/indicators in an approved location below and in proximity to the unit served.

912.2.1 Visible location. Fire department connections shall be located on the street side of buildings, fully visible and recognizable from the street or nearest point of fire department vehicle access or as otherwise approved by the Building Official. A weather-rated horn/strobe connected to the fire detection or sprinkler system shall be located not lower than 8 feet above the fire department connection and within 10 feet horizontally of the connection. The weather-rated horn/strobe must be visible from the fire lane or street.

1005.3.1 Stairways. The capacity, in inches, of means of egress stairways shall be calculated by multiplying the occupant load served by such stairway by a means of egress capacity factor of 0.3 inch per occupant. Where stairways serve more than one story, only the occupant load of each story considered individually shall be used in calculating the required capacity of the stairways serving that story.

1005.3.2 Other egress components. The capacity, in inches, of means of egress components other than stairways shall be calculated by multiplying the occupant load served by such component by a means of egress capacity factor of 0.2 inch per occupant.

1010.1.7 Thresholds. Thresholds at doorways shall not exceed 3/4 inch in height above the finished floor or landing for sliding doors serving dwelling units or 1/2 inch above the finished floor or landing for other doors. Raised thresholds and floor level changes greater than 1/4 inch at doorways shall be beveled with a slope not greater than one unit vertical in two units horizontal (50 percent slope).

Exception: In occupancy Group R-2 or R-3, threshold height for sliding and side-hinged exterior doors shall be permitted to be up to 8 inches in height if all of the following apply:

1. The door is not part of the required means of egress.
2. The door is not part of an accessible route as required by Chapter 11.
3. The door is not part of an accessible unit, Type A unit, or Type B unit.

1010.1.9.3 Locks and latches. Locks and latches shall be permitted to prevent operation of doors where any of the following exists:

1. Places of detention or restraint.
2. In buildings in occupancy Group A having an occupant load of 300 or less, Groups B, F, M, and S, in places of religious worship, and exterior decks allowed to have one exit where the exit access from the deck extends back into the building, the main exterior door or doors are permitted to be equipped with key-operated locking devices from the egress side provided:
   2.1. The locking device is readily distinguishable as locked;
   2.2. A readily visible durable sign is posted on the egress side on or adjacent to the door stating: THIS DOOR TO REMAIN UNLOCKED WHEN BUILDING IS OCCUPIED. The sign shall be in letters 1 inch high on a contrasting background.
   2.3. The use of the key-operated locking device is revocable by the Building Official for due cause.
3. Where egress doors are used in pairs, approved automatic flush bolts shall be permitted to be used, provided that the door leaf having the automatic flush bolts has no doorknob or surface-mounted hardware.
4. Doors from individual dwelling or sleeping units of Group R occupancies having an occupant load of 10 or less are permitted to be equipped with a night latch, dead bolt, or security chain, provided such devices are openable from the inside without the use of a key or tool.
5. Fire doors after the minimum elevated temperature has disabled the unlatching mechanism in accordance with listed fire door test procedures.

1011.5.2 Riser height and tread depth. Stair riser heights shall be 7 inches maximum and 4 inches minimum. The riser height shall be measured vertically between the nosings of adjacent treads. Rectangular tread depths shall be 11 inches minimum measured horizontally between the vertical planes of the foremost projection of adjacent treads and at a right angle to the tread's nosing. Winder treads shall have a minimum tread depth of 11 inches between the vertical planes of the foremost projection of adjacent treads at the intersections with the walk line and a minimum tread depth of 10 inches within the clear width of the stair.

Exceptions:

1. Alternating tread devices in accordance with Section 1009.13.
2. Ship ladders in accordance with Section 1009.14.
3. Spiral stairways in accordance with Section 1009.12.
4. Aisle stairs in assembly seating areas where the stair pitch or slope is set, for sightline reasons, by the slope of the adjacent seating area in accordance with Section 1028.11.2.
5. In Group R-3 occupancies; within dwelling units in Group R-2 occupancies; and in Group U occupancies that are accessory to a Group R-3 occupancy or accessory to individual dwelling units in Group R-2 occupancies; the maximum riser height shall be 8 inches; the minimum tread depth shall be 10 inches; the minimum winder tread depth at the walk line shall be 10 inches; and the minimum winder tread depth shall be 6 inches. A nosing projection not less than 3/4 inch but not more than 1 1/4 inches, shall be provided on stairways with solid risers where the tread depth is less than 11 inches.
6. See Section 3404.1 or the International Existing Building Code for the replacement of existing stairways.
7. In Group I-3 facilities, stairways providing access to guard towers, observation stations, and control rooms not more than 250 square feet in area shall be permitted to have a maximum riser height of 8 inches and a minimum tread depth of 9 inches.

1011.5.5.3 Solid risers. Not adopted by the city.

1011.14 Alternating tread devices. Alternating tread devices are limited to an element of a means of egress in buildings of Groups F, H, and S from a mezzanine not more than 250 square feet in area and which serve not more than five occupants; in buildings of Group I-3 from a guard tower, observation station or control room not more than 250 square feet in area for access to unoccupied roofs, penthouses, equipment platforms, and mechanical rooms.

1011.15 Ship ladders. Ship ladders are permitted to be used as a component of a means of egress to and from control rooms or elevated facility observation stations not more than 250 square feet with not more than three occupants for access to unoccupied roofs and penthouses, mechanical rooms, and equipment platforms. Ship ladders shall have a minimum tread depth of 5 inches. The tread shall be projected such that the total of the tread depth plus the nosing projection is no less than 8 1/2 inches. The maximum riser height shall be 9 1/2 inches. The minimum clear width at and below the handrails shall be 20 inches.

Exception. Equipment and appliances on roofs and elevated structures are allowed to be accessed by ladders in accordance with the mechanical code.

1015.4 Opening limitations. Required guards shall not have openings which allow passage of a sphere 5 inches in diameter from the walking surface to the required guard height.

Exceptions:

1. The triangular openings at the open sides of a stair formed by the riser, tread, and bottom rail shall not allow passage of a sphere 6 inches in diameter.
2. At elevated walking surfaces for access to and use of electrical, mechanical, or plumbing systems or equipment, guards shall not have openings which allow passage of a sphere 21 inches in diameter.
3. In areas that are not open to the public within occupancies in Group B, I-3, F, H, M, or S, and for alternating tread devices and ship ladders, guards shall not have openings which allow passage of a sphere 21 inches in diameter.
4. In assembly seating areas, guards at the end of aisles where they terminate at a fascia of boxes, balconies and galleries shall not have openings which allow passage of a sphere 5 inches in diameter up to a height of 26 inches. From a height of 26 inches to 42 inches above the adjacent walking surfaces, guards shall not have openings which allow passage of a sphere 8 inches in diameter.
5. Within individual dwelling units and sleeping units in Group R-2 and R-3 occupancies, guards on the open sides of stairs shall not have openings which allow passage of a sphere 5 inches in diameter.

1020.4 Dead ends. Where more than one exit or exit access doorway is required, the exit access shall be arranged such that there are no dead ends in corridors more than 20 feet in length.

Exceptions:

1. In occupancies in Group I-3 of Occupancy Condition 2, 3 or 4 (see Section 308.5), the dead end in a corridor shall not exceed 50 feet.
2. In occupancies in Groups B, E, F, M, R-1, R-2, S and U, where the building is equipped throughout with an automatic sprinkler system in accordance with Section 903.3.1.1, the length of the dead-end corridors shall not exceed 50 feet.
3. A dead-end corridor shall not be limited in length where the length of the dead-end corridor is less than 2.5 times the least width of the dead-end corridor.

1023.8 Discharge identification. An interior exit stairway and ramp shall not continue below its level of exit discharge unless an approved barrier or a directional exit sign is provided at the level of exit discharge to prevent persons from unintentionally continuing into levels below. Directional exit signs shall be provided as specified in Section 1013.

1030.2 Minimum size. Emergency escape and rescue openings shall have a minimum net clear opening of 5.0 square feet.

1030.3 Maximum height from floor. Emergency escape and rescue openings shall have the bottom of the clear opening not greater than 48 inches measured from the floor.

1030.5.2 Ladders or steps. Window wells with a vertical depth of more than 48 inches shall be equipped with an approved permanently affixed ladder or steps. Ladders or rungs shall have an inside width of at least 12 inches, shall project at least 3 inches from the wall and shall be spaced not more than 18 inches on center vertically for the full height of the window well. The ladder or steps shall not encroach into the required dimensions of the window well by more than 6 inches. The ladder or steps shall not be obstructed by the emergency escape and rescue opening. Ladders or steps required by this section are exempt from the stairway requirements of Section 1011.

1101.2 Design. Buildings and facilities shall be designed and constructed to be accessible in accordance with this code and ICC A117.1. The scoping provision of ANSI shall be per section 1103.

1104.4 Multilevel buildings and facilities. At least one accessible route shall connect each accessible level, including mezzanines, in multilevel buildings and facilities.

Exceptions:

1. An accessible route from an accessible level is not required in facilities that are less than three stories in height or have less than 3,000 square feet per story. This exception shall not apply to:
   1.1 Multiple tenant facilities of Group M occupancies containing five or more tenant spaces;
   1.2 Levels containing offices of health care providers (Group B or I); or
   1.3 Passenger transportation facilities and airports (Group A-3 or B).
2. Levels that do not contain accessible elements or other spaces as determined by Section 1107 or 1108 are not required to be serviced by an accessible route from an accessible level.
3. In air traffic control towers, an accessible route is not required to serve the cab and the floor immediately below the cab.
4. Where a two-story building or facility has one story with an occupant load of five or fewer persons that does not contain public use space, that story shall not be required to be connected by an accessible route to the story above or below.
5. Vertical access to elevated employee work stations within a courtroom is not required at the time of initial construction, provided a ramp, lift, or elevator complying with ICC A117.1 can be installed without requiring reconfiguration or extension of the courtroom or extension of the electrical system.

1106.8 Signage. Accessible parking spaces and access aisles are required to be identified by signs. Signs shall be located at the head of accessible parking stalls and access aisles. The bottom of the lowest signs shall be located at least 60 inches above the pavement.
As referenced below, standard and van accessible parking space signs shall state, "RESERVED PARKING" and include the International Symbol of Accessibility; supplemental signage must additionally state, "STATE PERMIT OR LICENSE REQUIRED. $100 MINIMUM FINE AND

CLASS 2 MISDEMEANOR FOR VIOLATORS." A van accessible parking space must have additional signage stating, "VAN ACCESSIBLE." A van accessible access aisle must be provided with signage including the International Symbol of Accessibility which states, "WHEELCHAIR ACCESS AISLE. ABSOLUTELY NO PARKING."

1106.9 Access aisles and markings. Each access that is part of an accessible route shall extend the full length of the parking space it serves. The aisle must have diagonally striped markings spaced every 4 feet. Boundaries of the access aisle must be marked. The end may be a squared or curved shape. Two parking spaces may share an access aisle.

Access aisles shall be placed on a level surface with a slope not to exceed 1:48.

Where an access aisle is located immediately adjacent to a sidewalk that provides the closest accessible route, the sidewalk must be provided with a curb ramp access to serve the access aisle.

1107.6.2.2.1 Type A units. In Group R-2 occupancies containing more than 20 dwelling units or sleeping units, at least 2 percent but not less than one of the units shall be a Type A unit. All Group R-2 units on a site shall be considered to determine the total number of units and the required number of Type A units. Type A units shall be dispersed among the various classes of units.

Exceptions:

1. The number of Type A units is permitted to be reduced in accordance with Section 1107.7.
2. Existing structures on a site shall not contribute to the total number of units on a site.
3. The following provisions of the 2009 ICC/ANSI A117.1-2009 referenced in Section 1003 Type A dwelling are applicable.
   - 3.1 A work surface in the kitchen referenced in Section 1003.12.3 Clear Floor Space of ICC/ANSI A117.1-2009 is not required.
   - 3.2 The reduced work height of the kitchen sink at 34 inches referenced in Section 1003.12.4.2 ICC/ANSI A117.1-2009 is not required.
   - 3.3 Appliances referenced in Section 1003.12.5 Appliances ICC/ANSI A117.1-2009 and Laundry Equipment requires only the clear floor space referenced in Section 305 Clear Floor Space of ICC/ANSI A117.1-2009.

1203.1 General. Buildings shall be provided with natural ventilation in accordance with Section 1203.4 or mechanical ventilation in accordance with the International Mechanical Code.
Where the air infiltration rate in a dwelling unit is less than 5 air changes per hour when tested with a blower door at a pressure 0.2 inch w.c. in accordance with Section 402.4.1.2 of the International Energy Conservation Code, the dwelling unit shall be considered to be ventilated by mechanical means in accordance with Section 403 of the International Mechanical Code. Ambulatory care facilities and Group I-2 occupancies shall be ventilated by mechanical means in accordance with Section 407 of the International Mechanical Code.

1206.3.3 Court drainage. The bottom of every court shall be properly graded and drained to a public sewer or other approved disposal system complying with the State plumbing code.

1503.4 Roof drainage. Design and installation of roof drainage systems shall comply with Section 1503 of this code and shall be sized and discharge in accordance with the plumbing code. Unless roofs are sloped to drain over roof edges, roof drains or scuppers shall be installed at each low point of the roof.

Roofs shall be sloped a minimum of 1 unit vertical in 48 units horizontal (2 percent slope) for drainage unless designed for water accumulation in accordance with Section 1611.2 Ponding Instability.

Roof drainage water from a building shall not be allowed to flow over public property.

1503.4.1 Secondary (emergency overflow) drains or scuppers. Where roof drains are required, secondary (emergency overflow) roof drains or scuppers shall be provided where the roof perimeter construction extends above the roof in such a manner that water will be entrapped if the primary drains allow buildup for any reason. The installation and sizing of secondary emergency overflow drains, leaders, and conductors shall comply with the Plumbing Code.

1507.5.4 Ice barrier. In areas where there has been a history of ice forming along the eaves causing a backup of water, an ice barrier that consists of at least two layers of underlayment cemented together or of a self-adhering, polymer-modified, bitumen sheet shall be used in lieu of normal underlayment and extend from the lowest edges of all roof surfaces to a point at least twenty-four inches inside the exterior wall line of the building.

Exception: Detached accessory structures that contain no conditioned floor area.

If the ice dam is not inspected, the contractor shall provide an affidavit that the ice dam was installed properly.

1507.6.4 Ice barrier. In areas where there has been a history of ice forming along the eaves causing a backup of water, an ice barrier that consists of at least two layers of underlayment cemented together or of a self-adhering, polymer-modified, bitumen sheet shall be used in lieu of normal underlayment and extend from the lowest edges of all roof surfaces to a point at least twenty-four inches inside the exterior wall line of the building.

Exception: Detached accessory structures that contain no conditioned floor area.

If the ice dam is not inspected, the contractor shall provide an affidavit that the ice dam was installed properly.

1507.7.4 Ice barrier. In areas where there has been a history of ice forming along the eaves causing a backup of water, an ice barrier that consists of at least two layers of underlayment cemented together or of a self-adhering, polymer-modified, bitumen sheet shall be used in lieu of normal underlayment and extend from the lowest edges of all roof surfaces to a point at least twenty-four inches inside the exterior wall line of the building.

Exception: Detached accessory structures that contain no conditioned floor area.

If the ice dam is not inspected, the contractor shall provide an affidavit that the ice dam was installed properly.

Section 1507.8.4 Ice barrier. In areas where there has been a history of ice forming along the eaves causing a backup of water, an ice barrier that consists of at least two layers of underlayment cemented together or of a self-adhering, polymer-modified, bitumen sheet shall be used in lieu of normal underlayment and extend from the lowest edges of all roof surfaces to a point at least twenty-four inches inside the exterior wall line of the building.

Exception: Detached accessory structures that contain no conditioned floor area.

If the ice dam is not inspected, the contractor shall provide an affidavit that the ice dam was installed properly.

Section 1507.9.4 Ice barrier. In areas where there has been a history of ice forming along the eaves causing a backup of water, an ice barrier that consists of at least two layers of underlayment cemented together or of a self-adhering, polymer-modified, bitumen sheet shall be used in lieu of normal underlayment and extend from the lowest edges of all roof surfaces to a point at least twenty-four inches inside the exterior wall line of the building.

Exception: Detached accessory structures that contain no conditioned floor area.

If the ice dam is not inspected, the contractor shall provide an affidavit that the ice dam was installed properly.

1601.1 Scope. The provisions of this chapter shall govern the structural design of buildings, structures, and portions thereof regulated by this code.
It shall not be the responsibility of the Building Official to determine engineering requirements of this code. Exclusive of conventional light-frame wood construction provisions referenced in Section 2308, the method to resist loads as referenced in this chapter is the responsibility of a structural engineer or other qualified design professional.

1603.1 General. Construction documents shall show the size, section, and relative locations of structural members with floor levels, column centers, and offsets dimensioned. The design loads and other information pertinent to the structural design required by Sections 1603.1.1 through 1603.1.8 shall be indicated on the construction documents.

Exception: Construction documents for buildings constructed in accordance with the conventional light-frame construction provisions of Section 2308 shall indicate the following structural design information:

1. Floor and roof live loads.
2. Ground snow load, P_g.
3. Ultimate design wind speed, V_{ult}, (3-second gust), miles per hour (mph) and nominal design wind speed, V_{asd}, as determined in accordance with "Section 1609.3.1 and wind exposure.
4. Seismic design category and site class.
5. Flood design data, if located in flood hazard areas established in Section 1612.3.
6. Design load-bearing values of soils.

Engineer design data shall be provided for roof areas where drifting occurs. The design data shall be shown on the plans.

1612.3 Establishment of flood hazard areas. To establish flood hazard areas, the City Council has adopted a flood hazard map and supporting data. The flood hazard map shall include, at a minimum, areas of special flood hazard as identified by the Federal Emergency Management Agency in an engineering report entitled "The Flood Insurance Study for Lincoln County, South Dakota," effective April 2, 2008, as amended or revised with the accompanying Flood Insurance Rate Map (FIRM) and Flood Boundary and Floodway Map (FBFM) and related supporting data along with any revisions thereto. The adopted flood hazard map and supporting data are hereby adopted by reference and declared to be part of this section. If there is a conflict between the provisions of this code and the

city's floodplain management ordinance, the provisions of the floodplain management ordinance shall prevail.

1703.1 Approved agency. An approved agency or the design professional of record shall provide all information as necessary for the Building Official to determine that the agency meets the applicable requirements.

1704.2 Special inspections. Where application is made for construction as described in this section, the owner or the registered design professional in responsible charge acting as the owner's agent shall employ one or more approved agencies to perform inspections during construction on the types of work listed under Section 1705. These inspections are in addition to the inspections identified in Section 110.

Exceptions:

1. Special inspections are not required for construction of a minor nature or as warranted by conditions in the jurisdiction as approved by the Building Official.
2. Unless otherwise required by the Building Official, special inspections are not required for Group U occupancies that are accessory to a residential occupancy including, but not limited to, those listed in Section 312.1.
3. Special inspections are not required for portions of structures designed and constructed in accordance with the cold-formed steel light-frame construction provisions of Section 2211.7 or the conventional light-frame construction provisions of Section 2308.
4. The frequency and amount of special inspections shall be as determined by the design professional of record. The continuous and periodic inspections referenced in Tables 1705.2.2, 1705.3, 1705.6, 1705.7 and 1705.8 are considered as guidelines.

1705.3 Concrete construction. The special inspections and verifications for concrete construction shall be as required by this section and Table 1705.3.

Exception: Special inspections shall not be required for:

1. Isolated spread concrete footings of buildings three stories or less above grade plane that are fully supported on earth and rock.
2. Continuous concrete footings and foundation walls supporting walls of buildings three stories or less above grade plane that are fully supported on earth or rock where:
   2.1. The footings and foundations support walls of light-frame construction.
   2.2. The footings are designed in accordance with Table 1809.7.
   2.3. The structural design of the footing and foundations is based on a specified compressive strength, $f'c$, no greater than 3000 pounds per square inch, regardless of the compressive strength specified in the construction documents or used in the footing construction.
3. Nonstructural concrete slabs supported directly on the ground, including prestressed slabs on grade, where the effective prestress in the concrete is less than 150 psi.
4. Concrete foundation walls constructed in accordance with Table 1807.1.6.2.
5. Concrete patios, driveways, and sidewalks on grade.

SECTION 1710
PREFABRICATION

1710.1 General.

1710.1.1 Purpose. The purpose of this section is to regulate materials and establish methods of safe construction where any structure or portion thereof is wholly or partially prefabricated.

1710.1.2 Scope. Unless otherwise specifically stated in this section, all prefabricated construction and materials used therein shall conform to all the requirements of this code.

1710.1.3 Definitions.

PREFABRICATED ASSEMBLY. A structural unit, the integral parts of which have been built or assembled prior to incorporation in the building.

PREFABRICATED STRUCTURES. Structures, the parts of which are fabricated and assembled in a central assembly point where on-site building, electrical, plumbing, and mechanical rough-in inspections occur at the assembly location.

1710.2 Tests of materials. Every approval of a material not specifically mentioned in this code shall incorporate as a proviso the kind and number of nationally recognized testes to be made during prefabrication.

1710.3 Tests of assemblies. The Building Official may require special tests to be made on assemblies to determine their durability and weather resistance.

1710.4 Connections. Every device used to connect prefabricated assemblies shall be designed as required by this code and shall be capable of developing the strength of the members connected, except in the case of members forming part of a structural frame as specified in Chapter 16. Connections shall be capable of withstanding uplift forces as specified in this code and in Chapter 16.

1710.5 Pipes and conduits. In structural design, due allowances shall be made for any material to be removed for the installations of pipes, conduit, and other equipment.

1710.6 Permits, materials, plans, fees, certificate, and inspections.

1710.6.1 Materials. Materials and the assembly thereof shall be inspected to determine compliance with this code. Every material shall be graded, marked, or labeled as required elsewhere in this code.

1710.6.2 Plans. One complete set of plans and specifications shall be submitted to the Building Official for approval prior to issuing a building permit for a prefabricated structure. Plans shall be of sufficient detail and clarity to indicate compliance with all applicable codes (electrical, plumbing, building, mechanical, and zoning).

1710.6.3 Permits and fees. The fee for a building permit shall conform to the permit fee schedule adopted by resolution by the City Council.

1710.6.4 Certificate. A certificate of approval shall be furnished with every prefabricated assembly and prefabricated structure, except where the assembly is readily accessible to

inspection at the site. The certificate of approval shall certify that the assembly in question has been inspected and meets all the requirements of this code. When mechanical equipment is installed so that it cannot be inspected at the site, the certificate of approval shall certify that such equipment complies with the laws applying thereto.

1710.6.5 Certifying agency. To be acceptable under this code, every certificate of approval shall be made by the approved agency.

1710.6.6 Field erection. The Building Official shall inspect placement of prefabricated assemblies at the building site to determine compliance with this code. Installation and finishing work at the building site must be performed by locally licensed contractors where required. Final inspections are to be made after the installation and finishing work have been completed and the building is ready for occupancy.

1710.6.7 Continuous inspection. If continuous inspection is required for certain materials where construction takes place on the site, it shall also be required where the same materials are used in prefabricated construction.

Exception: Continuous inspection will not be required during prefabrication if the approved agency certifies to the construction and furnishes evidence of compliance.

1710.6.8 Moving permits. A moving permit, if necessary, shall be obtained for each prefabricated structure being moved within the City.

1804.8 Grading permits required. No person shall excavate or grade without first obtaining a permit. If a building permit is not obtained, a separate grading permit must be obtained for each site and may cover both excavations and fills.

Exceptions:

1. A separate Grading Permit is not required where a site plan for a new building, structure, or addition is submitted for plan review where an excavation below finished grade for basements, footings, and foundations of a building, retaining wall, or other structure is authorized by a valid Building Permit.
2. Cemetery graves.
3. Excavations for wells, tunnels, or utilities.
4. Exploratory excavations under the direction of soils engineers or engineering geologists.
5. Land disturbance for gardening purposes or for agricultural purposes within the agricultural zoning district.
6. Mining, quarrying, excavating, processing, or stockpiling of rock, sand, gravel, aggregate, or clay where established and provided for by law, provided such operations do not affect the lateral support or increase the stresses in or pressure upon any adjacent or contiguous property.
7. Excavation, removal, or stockpiling of rock, sand, dirt, clay, or other like material as may be required by the state, county, or city authorities in connection with the construction or maintenance of roads and highways. This shall not exempt work for street construction when such work is performed by private developers. When the private developer has obtained a permit to perform site grading, a second permit will not be required for street grading.
8. Land disturbance (grading, excavation, or fill) of an area of less than twenty thousand square feet within a twelve-month period which does not modify or obstruct the existing drainage pattern or is outside of a FEMA-designated Flood Hazard Area.

Exemptions from the permit requirements of this chapter shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of this chapter or any other laws or ordinances of the City.

1804.8.1 Grading Permit requirements. Grading shall be performed in accordance with an approved grading plan. Submitted plans shall indicate existing elevation contours, proposed elevation contours, the volume of material to be excavated or filled, and methods of erosion control. The work authorized by a Grading Permit must begin within six months of permit issuance and be completed within twelve months of permit issuance unless otherwise first authorized by the Planning & Zoning Official.

1806.2 Presumptive load-bearing values. The load-bearing values used in design for supporting soils near the surface shall not exceed the values specified in Table 1806.2 unless data to substantiate the use of higher values are submitted and approved. Where the Building Official has reason to doubt the classification, strength, or compressibility of the soil, the requirements of Section 1803.5.2 shall be satisfied.

Presumptive load-bearing values shall apply to materials with similar physical characteristics and dispositions. Where a presumed soil-bearing capacity is in excess of 3,000 psf, data to substantiate the use of the presumed higher value must be submitted from a soils engineer for approval from the Building Official. Mud, organic silt, organic clays, peat, or unprepared fill shall not be assumed to have a presumptive load-bearing capacity unless data to substantiate the use of such a value are submitted.

Exception: A presumptive load-bearing capacity shall be permitted to be used where the Building Official deems the load-bearing capacity of mud, organic silt, or unprepared fill is adequate for the support of lightweight or temporary structures.

1809.5 Frost protection. Except where otherwise protected from frost, foundation walls, piers, and other permanent supports of buildings and structures shall be protected from frost by one or more of the following methods:

1. Extending below the frost line of the locality;
2. Constructing in accordance with ASCE 32; or
3. Erecting on solid rock.

Exception: Freestanding buildings meeting all of the following conditions shall not be required to be protected:

1. Assigned to Risk Category I, in accordance with Section 1604.5.
2. Area of 1,000 square feet (138 m^2) or less, with a maximum truss span of twenty-four feet (24'), for light-frame construction or 400 square feet (37 m^2) or less for other than light-frame construction.
3. Eave height of 10 feet (3048 mm) or less.

Shallow foundations shall not bear on frozen soil unless such frozen condition is of a permanent character.

2701.1 Scope. This chapter governs the electrical components, equipment, and systems used in buildings and structures covered by this code. Electrical components, equipment, and systems shall

be designed and constructed in accordance with the provisions of the current electrical code adopted by the State of South Dakota.

2901.1 Scope. This chapter governs the plumbing components, equipment, and systems used in buildings and structures covered by this code. Plumbing components, equipment, and systems shall be designed and constructed in accordance with the provisions of the current plumbing code adopted by the State of South Dakota. Private sewage disposal systems shall comply with ARSD 74:53:01.

3002.7 Common enclosure with stairway. Elevators shall not be in a common shaft enclosure with a stairway unless allowed as per Section 1022.

Exception: Elevators within open parking garages need not be separated from stairway enclosures.

3109.1 General. Swimming pools shall comply with the requirements of Sections 3109.2 through 3109.5 and other applicable sections of this code. These requirements shall be applicable to all new swimming pools hereafter constructed and shall apply to all existing pools that have a depth of 18 inches or more of water. No person in possession of land within the City, either as an owner, purchaser, lessee, tenant, or a licensee, upon which is situated a swimming pool having a depth of 18 inches or more, shall fail to provide and maintain such a fence or wall as herein provided.

3109.4.1 Barrier height and clearances. The top of the barrier shall be not less than 42 inches (1,066 mm) above grade measured on the side of the barrier that faces away from the swimming pool. The vertical clearance between grade and the bottom of the barrier shall be not greater than 2 inches (51 mm) measured on the side of the barrier that faces away from the swimming pool. Where the top of the pool structure is above grade, the barrier is authorized to be at ground level or mounted on top of the pool structure, and the vertical clearance between the top of the pool structure and the bottom of the barrier shall be not greater than 4 inches (102 mm).

3109.4.1.3 Closely spaced horizontal members. Not adopted by the city.

3109.4.1.4 Widely spaced horizontal members. Not adopted by the city.

3109.4.1.5 Chain-link dimensions. Not adopted by the city.

3109.4.1.6 Diagonal members. Not adopted by the city.

3109.4.1.7 Gates. Access doors or gates shall comply with the requirements of Sections 3109.4.1.1 through 3109.4.1.6 and shall be equipped to accommodate a locking device. Pedestrian access doors or gates shall be self-closing and have a self-latching device. Doors or gates other than pedestrian access doors or gates shall have a self-latching device.

3109.4.1.8 Dwelling wall as a barrier. Not adopted by the city.

3109.4.4 Modifications. Modification in individual cases, upon a showing of good cause with respect to height, nature, or location of a fence, wall, gates, or latches, or the necessity thereof, may be made by the Building Official, provided the protection as sought hereunder is not reduced thereby. The Building Official may grant permission for other protective devices or structures to be used as long as the degree of protection afforded by this substitute device or structure is not less than the protection afforded by the wall, fence, gate, or latch described herein. A reasonable period within which to comply with the requirements of this section for existing swimming pools

shall be allowed, which period shall not exceed 90 days after notification by the Building Official.

3303.1 Construction documents. No person shall demolish or wreck a building or structure without first obtaining a demolition permit. Construction documents and a schedule for demolition shall be submitted where required by the Building Official. Where such information is required, no work shall be done until such construction documents or schedule, or both, are approved. The applicant shall secure insurance covering any possible liability that could incur during demolition.

3303.6 Utility connections. Service utility connections shall be discontinued and capped in accordance with the approved rules and the requirements of the applicable governing authority. Before a demolition permit can be issued, the applicant must furnish evidence to the Building Official that applicable permits have been secured to ensure that all utilities will be properly disconnected and inspected. The applicant shall be responsible for notifying affected utilities of such anticipated demolition.

I105.2 Footings. A patio cover shall be permitted to be supported on a concrete slab on grade without footings, provided the slab conforms to the provisions of Chapter 19 of this code, is not less than three and one-half inches (3½") thick, and further provided that the columns do not support loads in excess of seven hundred and fifty (750) pounds per column.

CHAPTER 9.04 - RESIDENTIAL BUILDING CODE

9.0401 Adopted.

The City Council hereby adopts Chapters 1 through 24 and 44 plus Appendices E, H, M, and S of the International Residential Code, 2015 Edition as published by the International Code Council, Inc. as the residential building code of the City for regulating the design, construction, quality of materials, erection, installation, alteration, movement, repair, equipment, use and occupancy, location, removal, and demolition of detached one- and two-family dwellings and town houses not more than three stories in height with a separate means of egress and their accessory structures, and provides for the issuance of permits and the collection of fees therefore. The minimum building standards in the 2015 edition of the International Residential Code and amendments thereto shall be applied to any building permit issued after January 1, 2016. A copy of this code shall be kept on file in the office of the Building Official.

9.0402 Local amendments, additions, and deletions to the 2015 International Residential Code.

The following sections and subsections of the residential building code adopted in this Ordinance shall be amended, added, or deleted as follows. All other sections or subsections of the 2015 International Residential Code shall remain as originally published.

R101.1 Title. These provisions shall be known as the Residential Code for One- and Two-family Dwellings of the City of Harrisburg, and shall be cited as such and will be referred to herein as "this code".

R101.2 Scope. The provisions of the International Residential Code for One- and Two-family Dwellings shall apply to the construction, alteration, movement, enlargement, replacement, repair, equipment, use and occupancy, location, removal and demolition of detached one- and two-family dwellings and townhouses not more than three stories above grade plane in height with a separate means of egress and their accessory structures.

Exceptions:

1. Live/work units complying with the requirements of Section 419 of the International Building Code shall be permitted to be built as one- and two-family dwellings or townhouses. Fire suppression required by Section 419.5 of the International Building Code when constructed under the International Residential Code for One- and Two-family Dwellings shall conform to Section P2904.
2. Owner-occupied lodging houses with five or fewer guestrooms shall be permitted to be constructed in accordance with the International Residential Code for One- and Two-family Dwellings when equipped with a fire sprinkler system in accordance with Section P2904.
3. Existing buildings undergoing repair, alteration, or additions, and change of occupancy may be permitted to comply with the International Existing Building Code.

R102.7 Existing Structures. The legal occupancy of any structure existing on the date of adoption of this code shall be permitted to continue without change, except as is specifically covered in this code, the International Property Maintenance Code, or as is deemed necessary by the Building Official for the general safety and welfare of the occupants and the public.

R103.1 Enforcement agency. Building services is hereby created and the official in charge thereof shall be known as the Building Official.

R103.2 Appointment. Not adopted by the City.

R104.8 Liability. The Building Official, member of the board of appeals, or employee charged with the enforcement of this code, while acting for the City in good faith and without malice in the discharge of the duties required by this code or other pertinent law or ordinance, shall not thereby be rendered civilly or criminally liable personally and is hereby relieved from personal liability for any damage accruing to persons or property as a result of any act or by reason of an act or omission in the discharge of official duties.

R104.8.1 Legal defense. Any suit or criminal complaint instituted against an officer or employee because of an act performed by that officer or employee in the lawful discharge of duties and under the provisions of this code shall be afforded all the protection provided by the City's insurance pool and any immunities and defenses provided by other applicable state and federal law and defended by legal representative of the City until the final termination of the proceedings. The Building Official or any subordinate shall not be liable for cost in any action, suit or proceeding that is instituted in pursuance of the provisions of this code.

This code shall not be construed to relieve from or lessen the responsibility of any person owning, operating, or controlling any building or structure for any damages to persons or property caused by defects, nor shall the code enforcement agency or the City be held as assuming any such liability by reason of the inspection authorized by this code or any permits or certificates issued under this code.

R105.2 Work exempt from permit. Exemption from the permit requirements of this code shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of this code or any other laws or ordinances of this City. Building permits shall not be required for the following:

1. Retaining walls that are not over four feet in height measured from the bottom of the footing to the top of the wall, unless supporting a surcharge.
2. Water tanks supported directly upon grade if the capacity does not exceed five thousand gallons and the ratio of height to diameter or width does not exceed two to one.

3. Walks and driveways not more than thirty inches above grade and not over any basement or story below.
4. Painting, papering, tiling, carpeting, cabinets, counter tops, and similar finish work.
5. Replacement of exterior siding or trim.
6. Replacement of doors or windows when the door or window opening remains unchanged.
7. Prefabricated swimming pools which are less than twenty-four inches deep that are installed entirely above ground.
8. Swings and other playground equipment.
9. Window awnings supported by an exterior wall which do not project more than fifty-four inches from the exterior wall and do not require additional support.
10. Dumpsters.
11. Gutters, downspouts, and storm windows.

Gas:

1. Portable heating, cooking or clothes drying appliances.
2. Replacement of any minor part that does not alter approval of equipment or make such equipment unsafe.
3. Portable-fuel-cell appliances that are not connected to a fixed piping system and are not interconnected to a power grid.

Mechanical:

1. Portable heating appliances.
2. Portable ventilation appliances.
3. Portable cooling units.
4. Steam, hot- or chilled-water piping within any heating or cooling equipment regulated by this code.
5. Replacement of any minor part that does not alter approval of equipment or make such equipment unsafe.
6. Portable evaporative coolers.
7. Self-contained refrigeration systems containing 10 pounds or less of refrigerant or that are actuated by motors of 1 horsepower (746 W) or less.
8. Portable-fuel-cell appliances that are not connected to a fixed piping system and are not interconnected to a power grid.

R106.1.5 Information for construction in areas other than flood hazard areas. For one- and two-family dwellings and town houses located in whole or in part outside of flood hazard areas as established by Table R301.2(1) and located on lots that have been platted after January 1, 2016, a site plan shall include:

1. A scaled and dimensioned plan view of the home's foundation on the lot.

2. A lot plan showing how the lot is to be drained of stormwater.

3. The elevation of the highest inundation level expected on the lot as shown on the subdivision's stormwater management plan.

4. The elevation of the proposed lowest floor other than (and above) the basement floor.

5. The elevation of the bottom of the lowest window, door, or vent opening in the home's foundation.

R106.1.6 Foundation reinforcement. Construction for detached one- and two-family dwellings and town houses shall be provided with the intended reinforcement of foundation walls referenced in Tables R404.1.1(2), R404.1.1(3), and R404.1.1(4) for reinforced masonry foundation walls; Tables R404.1.2(2), R404.1.2(3), R404.1.2(4), and R404.1.1(8) for flat concrete foundation walls; Tables 404.1.2(5) and R404.1.2(6) for waffle-grid basement walls; and Table R404.1.2(7) for screed-grid basement walls where the foundation wall exceeds the provisions for plain masonry and concrete foundation walls.

R106.3.1 Approval of construction documents. When the Building Official issues a permit, the construction documents shall be submitted and reviewed. One set of construction documents so reviewed shall be retained by the Building Official. The other set shall be returned to the Applicant, shall be kept at the site of work, and shall be open to inspection by the Building Official or his designee.

R108.2 Schedule of permit fees. On buildings, structures, gas, mechanical, or alterations requiring a permit, a fee for each permit shall be paid as required, in accordance with the fee schedule adopted by resolution by the City Council.

R108.6 Work commencing before permit issuance. Any person who commences work requiring a permit on a building, structure, gas, or mechanical system before obtaining the necessary permit(s) shall be subject to a Late Application Fee established by resolution by the City Council that shall be in addition to the required permit fees. Legal and/or civil proceedings may also be commenced by the City.

R108.7 Plan review fees. When submittal documents for plan review are required, a plan review fee shall be paid with the building permit application. Said plan review fee shall be twenty-five percent of the building permit fee. Said plan review fees are separate fees from the permit fees specified in Section R108.1 and are in addition to the permit fees.

R109.0 General. All construction or work for which a permit is required shall be subject to inspection by the Building Official or his designee and all such construction or work shall remain accessible and exposed for inspection purposes until approved by the Building Official. In addition, certain types of construction shall have continuous inspection as specified in Section 1701 of the 2015 Edition of the International Building Code.

R109.0.1 Approval not an approval of a violation. Approval as a result of an inspection shall not be construed to be an approval of a violation of the provisions of the Harrisburg Municipal Code. Inspections do not give authority to violate or fail to follow other provisions of the Harrisburg Municipal Code.

R109.0.2 Work to remain accessible. It shall be the duty of the permit applicant to cause the work to remain accessible and exposed for inspection purposes. Neither the Building Official nor the jurisdiction shall be liable for expenses entailed in the removal or replacement of any material required to allow inspection.

R109.0.3 Survey may be required. A survey of the lot may be required by the Building Official to verify that the structure is located in accordance with the approved plans.

R109.0.4 Buildings built without inspections. Buildings or structures built without one or more required inspections, as specified by Section R109 of this Code and Chapter 17 of the International Building Code, may be classed as an unsafe building or structure and action taken as

specified by Section 115 for unsafe buildings or structures of the currently adopted edition of the International Building Code. Buildings or structures wired or plumbed without required inspections, as specified by the currently adopted Electrical Code, as amended, or the currently adopted Plumbing Code, as amended, may be classed as an unsafe building or structure and action taken as specified by Section 115 for unsafe buildings or structures of the currently adopted edition of the International Building Code.

R109.1.1 Footing inspection. Inspection of the footings shall be made after poles or piers are set or trenches or basement areas are excavated and any required forms erected and any required reinforcing steel is in place and supported prior to the placing of concrete. The footing inspection shall include excavations for thickened slabs intended for the support of bearing walls, partitions, structural supports, or equipment and special requirements for wood foundations.

R109.1.3 Floodplain inspections. For construction in flood hazard areas as established by the Flood Damage Prevention Ordinance, upon placement of the lowest floor, including basement, and prior to further vertical construction, the floodplain administrator shall require submission of documentation, prepared and sealed by a registered design professional, of the elevation of the lowest floor, including basement, required in the Flood Damage Prevention Ordinance.

R109.1.6.1 Elevation documentation. If located in a flood hazard area, the documentation of elevations required in Section R322.1.10 shall be submitted to the floodplain administrator prior to the final inspection.

R110.1 Use and occupancy. No building or structure shall be used or occupied, and no change in the existing occupancy classification of a building or structure or portion thereof shall be made until the Building Official has issued a certificate of occupancy therefor as provided herein and final inspections have been obtained from the mechanical and building inspectors of the City. Issuance of a certificate of occupancy shall not be construed as an approval of a violation of the provisions of this code or of other ordinances of the City. Certificates presuming to give authority to violate or cancel the provisions of this code or other ordinances of the City shall not be valid.

Exceptions:

1. Certificates of occupancy are not required for work exempt from permits under Section R105.2.
2. Accessory buildings or structures.

R110.6 Placards. Placards or inspection record tags placed on the job by the inspectors to indicate approval of the work inspected shall not be removed, except when authorized by the Building Official.

R112.1 Designation of Board of Appeals. In order to hear and decide appeals of orders, decisions, or determinations made by the Building Official relative to the application and interpretation of this code, the City Council hereby assumes the responsibilities of the Board of Appeals for this code. All decisions and findings of the Board shall be final and shall be rendered in writing to the appellant with a duplicate copy to the Building Official.

R112.2 Limitations on authority. An application for appeal shall be based on a claim that the true intent of this code or the rules legally adopted hereunder have been incorrectly interpreted, the provisions of this code do not fully apply, or an equally good or better form of construction is proposed. If the appeal is based on a claim that an equally good or better form of construction was improperly denied, the appellant must submit the alternate material, design, or method of construction

they are proposing. The appellant also has the burden to demonstrate to the Board that the alternative method or material that they are proposing is an equally good or better form of construction. The Board shall have no authority relative to the interpretation of the administrative provisions of this code nor shall the Board be empowered to waive the requirements of this code.

R112.3 Submission of appeals. All appeals must be submitted in writing to the Building Official within ten days of the order, decision, or determination of the Building Official that is being appealed. Once the appeal is received by the Building Official, he shall place the appeal on the City Council's next regular meeting agenda that is more than seven days (inclusive) from the date of receipt of the appeal.

R112.3.1 Appeal hearings. All hearings before the Board shall be open to the public. The appellant, the appellant's representative, the Building Official, any member of the City's staff, or any person whose interests are affected shall be given an opportunity to be heard.

SECTION R202 DEFINITIONS The definitions of accessory structure and townhouse are changed as follows:

ACCESSORY STRUCTURE. A structure not over one story in height, detached from a principal building, located on the same lot as the principal building, and customarily incidental and subordinate to the principal building, such as a detached garage or storage shed. An accessory building does not include any dwelling unit(s) or living quarters.

TOWNHOUSE. A single-family dwelling unit constructed in a group of two or more attached units, with each unit located on a separate lot, in which each unit extends from foundation to roof and with a yard or public way on at least two sides, no unit is located over another unit, and each unit is separated from any other unit by one or more vertical, unpierced, common, fire-resistant walls. Also known as single-family attached dwellings or zero lot line homes.

Table R301.2(1) Climatic and Geographic Design Criteria, is hereby amended by inserting the following information into the table:

Ground Snow Load: 40 psf and as per ASCE 705;
Wind speed: 90 mph;
Topographic Effects: no;
Special Wind Region: no;
Wind-borne Debris Zone: no;
Seismic Design Category: A;
Weathering: Severe;
Frost line depth: 42";
Termite: Slight to moderate;
Winter Design Temp: -11°F;
Ice Barrier Underlayment Required: Yes;
Flood Hazards: The City of Harrisburg entered the NFIP on 4/2/2008; the FIS and FIRM panels 0154C and 0162C became effective on 4/2/2008;
Air Freezing Index: 3000;
Mean Annual Temp: 46°F.

R302.13 Fire Protection of Floors. Not adopted by the City.

R302.2 Townhouses. Each townhouse shall be considered a separate building and shall be separated by fire-resistance-rated wall assemblies meeting the requirements of Section R302.1 for exterior walls.

Exception: A common 1-hour fire-resistance-rated wall assembly tested in accordance with ASTM E 119 or UL 263 is permitted for town houses provided with an automatic fire-extinguishing system designed and installed in accordance with NFPA 13-D, or equivalent, if such walls do not contain plumbing or mechanical equipment, ducts or vents in the cavity of the common wall. The wall shall be rated for fire exposure from both sides and shall extend to and be tight against exterior walls and the underside of the roof sheathing. Electrical installations shall be installed in accordance with the electrical code. Penetrations of electrical outlet boxes shall be in accordance with Section R302.4

R302.2.1 Continuity. The fire-resistance-rated wall or assembly separating townhouses shall be continuous from the foundation to the underside of the roof sheathing, deck or slab. The fire-resistance rating shall extend the full length of the wall or assembly, including wall extensions through and separating attached enclosed accessory structures.
Exterior walls that extend beyond an adjacent structure that has a fire separation distance less than 5 feet to a common property line shall have not less than a one-hour fire rating with exposure from both sides with no openings allowed therein.
Projections such as a deck that have a fire separation distance of less than 3 feet to a common property line shall have a 1-hour fire rating with exposure from both sides with no openings allowed therein that extends at least 30 inches above the projection.

R303.4 Mechanical ventilation. The dwelling unit may be provided with whole-house mechanical ventilation in accordance with Section M1507.3.

Exception. Where the air infiltration rate of a dwelling unit is greater than 5 air changes per hour when tested with a blower door at a pressure of 0.2 inch w.c. in accordance with Section N1102.4.1.2, whole-house mechanical ventilation in accordance with Section M1507.3 is not required.

R303.5.1 Intake openings. Mechanical and gravity outdoor air intake openings shall be located a minimum of 10 feet from any hazardous or noxious contaminant, such as vents, chimneys, plumbing vents, streets, alleys, parking lots, and loading docks, except as otherwise specified in this code. Where a source of contaminant is located within 10 feet of an intake opening, such opening shall be located a minimum of 3 feet below the contaminant source. For the purpose of this section, the exhaust from dwelling unit toilet rooms, bathrooms and kitchens shall not be considered as hazardous or noxious.

Exception: For equipment replacements on existing structures, gravity outdoor intake openings for combustion air shall be located a minimum of 3 feet from any hazardous or noxious contaminant.

R309.3 Flood Hazard Areas. For buildings located in flood hazard areas as established by Table R301.2(1), garage floors shall be elevated to or above the design flood elevation as determined in Section R322.

R309.5 Fire sprinklers. Not adopted by the City.

R310.2.1 Minimum opening area. All emergency escape and rescue openings shall have a minimum net clear opening of 5.0 square feet. The net clear opening dimensions required by this section shall be obtained by the normal operation of the emergency escape and rescue opening from the inside. The net clear height opening shall be not less than 24 inches and the net clear width shall be not less than 20 inches.

R310.2.3.1 Ladder and steps. Window wells with a vertical depth greater than forty-eight inches shall be equipped with a permanently affixed ladder or steps usable with the window in the fully open position. Ladders or steps required by this section shall not be required to comply with Sections R311.7 and R311.8. Ladders or rungs shall have an inside width of at least twelve inches, shall project at least three inches from the wall, and shall be spaced not more than eighteen inches on center vertically for the full height of the window well.

R311.3.1 Floor elevations at the required egress doors. Landings or floors at the required egress door shall not be more than 1½ inches lower than the top of the threshold.

Exception: The exterior landing or floor shall not be more than 8 inches below the top of the threshold provided the door does not swing over the landing or floor.

When exterior landings or floors serving the required egress door are not at grade, they shall be provided with access to grade by means of a ramp in accordance with Section R311.8 or a stairway in accordance with Section R311.7.

R311.3.2 Floor elevations for other exterior doors. Doors other than the required egress door shall be provided with landings or floors not more than 8 inches below the top of the threshold.

Exception: A landing is not required where a stairway of two or fewer risers is located on the exterior side of the door, provided the door does not swing over the stairway.

R311.7.5.1 Risers. The maximum riser height shall be eight inches. The minimum riser height shall be four inches. The riser shall be measured vertically between leading edges of the adjacent treads. The greatest riser height within any flight of stairs shall not exceed the smallest by more than three-eighths inch. Risers shall be vertical or sloped from the underside of the nosing of the tread above at an angle not more than 30º from the vertical. Open risers are permitted.

R311.7.8.2 Continuity. Handrails for stairways shall extend for the full length of the flight from a point directly above the top riser of the flight to a point directly above the lowest riser of the flight. Handrail ends shall be returned or shall terminate in newel posts or safety terminals. Handrails adjacent to a wall shall have a space of not less than 1 1/2 inch between the wall and the handrails.

Exceptions:
1. Handrails shall be permitted to be interrupted by a newel post at the turn.
2. The use of a volute, turnout, starting easing or starting newel shall be allowed over the lowest tread.

R311.7.8.3 Grip-size. All required handrails shall be of one of the following types or provide equivalent graspability.

Type I. Handrails with a circular cross section shall have an outside diameter of at least 1 1/4 inches and not greater than 2 inches. If the handrail is not circular, it shall have a perimeter

dimension of at least 4 inches and not greater than 6 1/4 inches with a maximum cross section of dimension of 2 1/4 inches. Edges shall have a minimum radius of 0.01 inch.

Type II. Handrails with a perimeter greater than 6 1/4 inches shall have a graspable finger recess area on both sides of the profile. The finger recess shall begin within a distance of 3/4 inch measured vertically from the tallest portion of the profile and achieve a depth of at least 5/16 inch within 7/8 inch below the widest portion of the profile. This required depth shall continue for at least 3/8 inch to a level that is not less than 1 3/4 inches below the tallest portion of the profile. The minimum width of the handrail above the recess shall be 1 1/4 inches to a maximum of 2 3/4 inches. Edges shall have a minimum radius of 0.01 inch.

Exception: Exterior stairs are allowed to have a horizontal 2X member to form a 1 1/2-inch graspable dimension in lieu of the above-referenced perimeter dimensions.

R311.7.10.3 Circular stairways. Curved stairways with winder treads shall have treads and risers in accordance with Section 1009.3 of the 2006 International Building Code and the smallest radius shall not be less than twice the required width of the stairway.

Exception: The radius restriction shall not apply to curved stairways for occupancies in Group R-3 and within individual dwelling units in occupancies in Group R-2.

R312.1.3 Opening limitations. Required guards shall not have openings from the walking surface to the required guard height which allow passage of a sphere 5 inches in diameter.

Exception: The triangular openings at the open side of stair, formed by the riser, tread and bottom rail of a guard, shall not allow passage of a sphere 6 inches in diameter.

R312.2.1 Window sills. In dwelling units, where the opening of an operable window is located more than 72 inches above the finished grade or surface below, the lowest part of the clear opening of the window shall be a minimum of 18 inches above the finished floor of the room in which the window is located. Operable sections of windows shall not permit openings that allow passage of a 4-inch-diameter sphere where such openings are located within 18 inches of the finished floor.

Exceptions:

1. Windows whose openings will not allow a 4-inch-diameter sphere to pass through the opening when the opening is in its largest opened position.
2. Openings that are provided with window fall prevention devices that comply with ASTM F 2090.
3. Windows that are provided with window opening control devices that comply with Section R312.2.2.

R313.1 Townhouse automatic fire sprinkler systems. Not adopted by the City.

R313.1.1 Design and installation. Automatic residential fire sprinkler systems for townhouses, when installed, shall be designed and installed in accordance with Section P2904.

R313.2 One- and two-family dwellings automatic fire systems. Not adopted by the City.

R313.2.1 Design and installation. Automatic residential fire sprinkler systems, when installed, shall be designed and installed in accordance with Section P2904 or NFPA 13D.

R314.3 Location. Smoke alarms shall be installed in the following locations:

1. In each sleeping room.
2. Outside each separate sleeping area in the immediate vicinity of the bedrooms.
3. On each additional story of the dwelling, including basements and habitable attics but not including crawl spaces and uninhabitable attics. In dwellings or dwelling units with split levels and without an intervening door between the adjacent levels, a smoke alarm installed on the upper level shall suffice for the adjacent lower level provided that the lower level is less than one full story below the upper level.

4. Where the ceiling height of a room is open to the hallway serving a bedroom exceeds that of the hallway by 24 inches or more, smoke detectors shall be installed in the hallway and in the adjacent room.

   Exception. Hallways less than 4 feet in length are allowed to omit the smoke detector within the hallway adjacent to the bedrooms.

R314.3.0 Alterations, repairs and additions. When alterations, repairs or additions requiring a permit occur with a valuation of more than $1000, or when one or more sleeping rooms are added or created in existing dwellings, the individual dwelling unit shall be equipped with smoke alarms located as required for new dwellings.

Exceptions:
1. Work involving the exterior surfaces of dwellings, such as the replacement of roofing or siding, or the addition or replacement of windows or doors, or the addition of a porch or deck, are exempt from the requirements of this section.
2. Installation, alteration or repairs of plumbing or mechanical systems are exempt from the requirements of this section.

R314.6 Power source. Smoke alarms shall receive their primary power from the building wiring when such wiring is served from a commercial source, and when primary power is interrupted shall receive power from a battery. Wiring shall be permanent and without a disconnecting switch other than those required for overcurrent protection.

Exceptions:
1. Smoke alarms shall be permitted to be battery-operated when installed in buildings without commercial power.
2. Hard wiring of smoke alarms in existing areas shall not be required where the alterations or repairs do not result in the removal of interior wall or ceiling finishes exposing the structure.

R315.2.2 Alterations, repairs and additions. Not adopted by the City.

R319.1 Address identification. New and existing buildings shall be provided with approved address identification. The address identification shall be legible and placed in a position that is visible from the street or road fronting the property. Address identification characters shall contrast with their background. Address identification characters shall be Arabic numbers or alphabetical letters which shall be a minimum of 4 inches high with a minimum stroke width of 1/2 inch. Where access is by means of a private road and the building address cannot be viewed from the public way, a monument,

pole or other sign or means shall be used to identify the structure and be located at the edge of said public way. Multi-building campus/complex developments addressed on private or public streets shall be provided with signage at the entrance to the campus/complex indicative of the address ranges within. Address identification shall be maintained.

R403.1.4.1 Frost protection. Except where otherwise protected from frost, foundation walls, piers and other permanent supports of buildings and structures shall be protected from frost by one or more of the following methods:

1. Extended below the frost line specified in Table R301.2.(1);
2. Constructing in accordance with Section R403.3;
3. Constructing in accordance with ASCE 32; or
4. Erected on solid rock.

Exceptions:

1. Protection of freestanding accessory structures with an area of 1500 square feet or less of light-frame construction, with an eave height of 10 feet or less shall not be required.
2. Protection of freestanding accessory structures with an area of 400 square feet or less, of other than light-frame construction, with an eave height of 10 feet or less shall not be required.
3. Decks not supported by a dwelling need not be provided with footings that extend below the frost line. Footings shall not bear on frozen soil unless the frozen condition is permanent.

R404.4 Retaining walls. Retaining walls that are not laterally supported at the top and that retain in excess of 48 inches of unbalanced fill shall be designed to ensure stability against overturning, sliding, excessive foundation pressure, and water uplift. Retaining walls shall be designed for a safety factor of 1.5 against lateral sliding and overturning.

R502.3.1 Sleeping areas and attic joists. Table R502.3.1(1) shall be used to determine the maximum allowable span of floor joists that support sleeping areas and attics that are accessed by means of a fixed stairway in accordance with Section R311.7, provided that the design live load does not exceed 40 pounds per square foot and the design dead load does not exceed 20 pounds per square foot. The allowable span of ceiling joists that support attics used for limited storage or no storage shall be determined in accordance with Section R802.4.

R602.10.1.2 Offsets along a braced wall line. All exterior walls parallel to a braced wall line shall be offset not more than 4 feet from the designated braced wall line location as is shown on Figure R602.10.1.1. Interior walls used as bracing shall be offset not more than 4 feet from a braced wall line through the interior of the building as shown in Figure R602.10.1.1.

Exception: The offset out-of-plane may exceed 4 feet and the out-to-out offset dimension may exceed 8 feet if the area of the offset is less than 200 square feet.

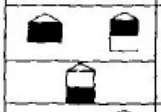
R602.12 Simplified wall bracing. Buildings meeting all of the conditions listed in Items 1-8 shall be permitted to be braced in accordance with this section as an alternative to the requirements of Section R602.10. The entire building shall be braced in accordance with this section; the use of other bracing provisions of R602.10, except as specified herein, shall not be permitted.

1. There shall be no more than two stories above the top of a concrete or masonry foundation or basement wall. Permanent wood foundations shall not be permitted.

2. Floors shall not cantilever more than 24 inches beyond the foundation or bearing wall below.
3. Wall height shall not be greater than 12 feet.
4. The building shall have a roof eave-to-ridge height of 20 feet or less.
5. All exterior walls shall have gypsum board with a minimum thickness of 1/2 inch installed on the interior side fastened in accordance with Table R702.3.5.
6. The structure shall be located where the basic wind speed is less than or equal to 90 mph, and the Exposure Category is A, B, or C.
7. The structure shall be located in Seismic Design Category A, B or C for detached one- and two-family dwellings or Seismic Design Category A or B for town houses.
8. Cripple walls shall be permitted below two-story buildings.

R602.12.1 Circumscribed rectangle. The bracing required for each building shall be determined by circumscribing a rectangle around the entire building on each floor as shown in Figure R602.12.1. The rectangle shall surround all enclosed offsets and projections such as sunrooms and attached garages. Open structures, such as carports and decks, shall be permitted to be excluded. The rectangle shall have no side greater than 80 feet, and the ratio between the long side and short side shall be a maximum of 3:1.

TABLE R602.12.4
MINIMUM NUMBER OF BRACING UNITS ON EACH SIDE OF THE CIRCUMSCRIBED RECTANGLE

STORY LEVEL	EAVE-TO-RIDGE HEIGHT (feet)	MINIMUM NUMBER OF BRACING UNITS ON EACH LONG SIDE								MINIMUM NUMBER OF BRACING UNITS ON EACH SHORT SIDE							
		Length of short side (feet)								Length of long side (feet)							
		10	20	30	40	50	60	70	80	10	20	30	40	50	60	70	80
	10	1	2	2	2	3	3	4	4	1	2	2	2	3	3	4	5
		2	3	3	4	5	6	6	7	2	3	3	4	5	6	6	7
	20	1	2	3	3	4	4	5	5	1	2	3	3	4	4	5	5
		2	3	4	5	6	7	7	8	2	3	4	5	6	7	7	8

a. Interpolation shall not be permitted.
b. Cripple walls or wood-framed basement walls in a walk-out condition of a one-story structure shall be designed as the first floor of a two-story house.
c. Actual lengths of the sides of the circumscribed rectangle shall be rounded to the next highest unit of 10 when using this table.

R602.12.3 Bracing unit. A bracing unit shall be a full height sheathed segment of the exterior wall with no openings or vertical or horizontal offsets and a minimum length as specified herein for intermittent sheathing. Bracing units shall be considered per story for continuously sheathed structural wood panels. Interior walls shall not contribute toward the amount of required bracing. Mixing of Items 1 and 2 is prohibited on the same story.

1. Where all framed portions of all exterior walls are sheathed in accordance with Section R602.12.2, including wall areas between bracing units, above and below openings, and on gable end walls, the minimum length of a bracing unit shall be 3 feet.
2. Where the exterior walls are braced with sheathing panels in accordance with Section R602.12.2 and areas between bracing units are covered with other materials, the minimum length of a bracing unit shall be 4 feet.

R802.11.1 Uplift resistance. Roof assemblies shall be connected to the wall plate by the use of approved connectors, consisting of truss/rafter to wall connector, having a resistance to uplift of not less than 175 pounds, installed in accordance with the manufacturer's specifications or have uplift resistance in accordance with Sections R802.11.1.2 and R802.11.1.3.

Where the uplift force does not exceed 200 pounds, rafters and trusses spaced not more than 24 inches on center shall be permitted to be attached to their supporting wall assemblies in accordance with Table R602.3(1).

Where the basic wind speed does not exceed 90 mph, the wind exposure category is B, the roof pitch is 5:12 or greater, and the roof span is 32 feet or less, rafters and trusses spaced not more than 24 inches on center shall be permitted to be attached to their supporting wall assemblies in accordance with Table R602.3(1).

R903.4.1 Secondary (emergency overflow) drains or scuppers. Where roof drains are required, overflow drains having the same size as the roof drains shall be installed with the inlet flow line located 2 inches above the low point of the roof, or overflow scuppers having three times the size of the roof drains and having a minimum opening height of 4 inches shall be installed in the adjacent parapet walls with the inlet flow located 2 inches above the low point of the roof served. The installation and sizing of overflow drains, leaders and conductors shall comply with the State Plumbing Code.

R905.1.2 Ice barriers. In areas where there has been a history of ice forming along the eaves causing a backup of water as designated in Table R301.2(1), an ice barrier shall be installed for asphalt shingles, metal roof shingles, mineral-surfaced roll roofing, slate and slate-type shingles, wood shingles, and wood shakes. The ice barrier shall consist of not fewer than two layers of underlayment cemented together, or a self-adhering, polymer-modified, bitumen sheet shall be used in place of normal underlayment and extend from the lowest edges of all roof surfaces to a point not less than twenty-four inches inside the exterior wall line of the building. On roofs with slope equal to or greater than 8 units vertical in 12 units horizontal, the ice barrier shall also be applied not less than thirty-six inches measured along the roof slope from the eave edge of the building.

Exception: Detached accessory structures not containing conditioned floor area.

If the ice dam is not inspected, the contractor shall provide an affidavit that the ice dam was installed properly.

N1102.2.9 (R402.2.9) Basement walls. Walls associated with conditioned basements may be insulated from the top of the basement wall down to 10 feet below grade or to the basement floor, whichever is less. Walls associated with unconditioned basements shall meet this requirement unless the floor overhead is insulated in accordance with Sections N1102.1.1 and N1102.2.7.

Exception: Exterior basement walls of enclosed mechanical rooms.

N1102.4.1.2 (R402.4.1.2) Testing. Not adopted by the City.

N1103.3.2 (R403.3.2) Sealing (Mandatory). Ducts, air handlers, and filter boxes shall be sealed. Joints and seams shall comply with Section M1601.4.1 of this code.

Exceptions:

1. Air-impermeable spray foam products shall be permitted to be applied without additional joint seals.
2. Where a duct connection is made that is partially inaccessible, three screws or rivets shall be equally spaced on the exposed portion of the joint so as to prevent a hinge effect.
3. Continuously welded and locking-type longitudinal joints and seams in ducts operating at static pressures less than 2 inches of water column pressure classification shall not require additional closure systems.

N1103.3.2.1 (R403.3.2.1) Sealed air handler. Not adopted by the City.

N1103.3.5 (R403.3.5) Building cavities (Mandatory). Building framing cavities shall not be used as ducts or plenums.

Exception: Stud spaces and floor joist cavities may be used for return air plenums.

N1103.5 (R403.5) Service hot water systems. Energy conservation measures for service hot water systems shall be in accordance with the State Plumbing Code.

N1104.1 (R404.1) Lighting equipment (Mandatory). Not adopted by the City.

M1301.4 Plastic pipe, fittings and components. Not adopted by the City.

M1305.1.4.1 Ground clearance. Equipment and appliances supported from the ground shall be level and firmly supported on a concrete slab or other approved material extending not less than 1 1/2 inches above the adjoining ground. Such support shall be in accordance with the manufacturer's installation instructions. Appliances suspended from the floor shall have a clearance of not less than 6 inches from the ground.
Equipment and appliances including the service areas shall be provided with a minimum 80-inch headroom clearance.

M1411.6 Insulation of refrigerant piping. Piping and fittings for refrigerant vapor (suction) lines shall be insulated with insulation having a thermal resistivity of at least R-2 and having external surface permeance not exceeding 0.05 perm when tested in accordance with ASTM E 96.

M1502.4.2 Duct installation. Exhaust ducts shall be supported at 4-foot intervals and shall be secured in place. The insert end of the duct shall extend into the adjoining duct or fitting in the direction of airflow. Exhaust duct joints shall be sealed in accordance with Section M1601.4.1. Ducts shall not be joined with screws or similar fasteners that protrude into the inside of the duct.

M1506.3 Exhaust openings. Air exhaust openings shall terminate not less than 3 feet from property lines, 3 feet from operable openings into the building, and 10 feet from mechanical air intakes except where the opening is located 3 feet above the air intake. Openings shall comply with Sections R303.5.2 and R303.6.

Section M1508. Subslab Soil Exhaust Systems.

M1508.1 General. When a subslab soil exhaust system is provided, the duct shall conform to the requirements of this section.

M1508.2 Materials. Subslab soil exhaust system duct material shall be air duct material listed and labeled to the requirements of UL 181 for Class 0 air ducts, or any of the following piping materials that comply with the plumbing code as building sanitary drainage and vent pipe: cast iron; galvanized steel; brass or copper pipe; copper tube of a weight not less than that of copper drainage tube, Type DWV; and plastic piping.

M1508.3 Grade. Exhaust system ducts shall not be trapped and shall have a minimum slope of 1/8 unit vertical in 12 units horizontal (1 percent slope).

M1508.4 Termination. Subslab soil exhaust system ducts shall extend through the roof and terminate at least 6 inches above the roof and at least 10 feet from any operable openings or air intake.

Table M1601.1.1(2) Gages of Metal Ducts and Plenums Used for Heating or Cooling

Duct Size	Galvanized Minimum Thickness Inches	Equivalent Galvanized Gage No.	Aluminum Minimum Thickness (In.)
Round ducts and enclosed rectangular ducts			
14 inches or less	0.0157	30	0.0175
> 14 to 18 inches	0.0187	26	0.018
> 18 inches and over	0.0236	24	0.023
Exposed rectangular ducts			
14 inches or	0.0157	28	0.0175
Over 14[a] inches	0.0187	26	0.018

a. For duct gages and reinforcement requirements at static pressures of 1/2 inch, 1 inch, and 2 inches w.c., SMACNA Duct Construction Standard Tables 2-1 ; 2-2 and 2-3 shall apply.

M1601.1.1 Above-ground duct systems. Above-ground duct systems shall conform to the following:

1. Equipment connected to duct systems shall be designed to limit discharge air temperature to a maximum of 250°F.
2. Factory-made air ducts shall be constructed of Class 0 or Class 1 materials as designated in Table M1601.1.1(1).
3. Fibrous duct construction shall conform to the SMACNA Fibrous Glass Duct Construction Standards or NAIMA Fibrous Glass Duct Construction Standards.

4. Minimum thickness of metal duct material shall be as listed in Table M1601.1.1(2). Galvanized steel shall conform to ASTM A 653. Metallic ducts shall be fabricated in accordance with SMACNA Duct Construction Standards Metal and Flexible, except that sheet steel and strip used for duct, connectors, and round duct shall be G40 galvanized steel of lock-forming quality.
5. Use of gypsum products to construct return air ducts or plenums is permitted, provided that the air temperature does not exceed 125°F and exposed surfaces are not subject to condensation.
6. Duct systems shall be constructed of materials having a flame spread index not greater than 200.
7. Stud wall cavities and the spaces between solid floor joists to be used as air plenums shall comply with the following conditions:
   7.1. These cavities or spaces shall not be used as a plenum for supply air.
   7.2. These cavities or spaces shall not be part of a required fire-resistance-rated assembly.
   7.3 .Stud wall cavities shall not convey air from more than one floor level.
   7.4 .Stud wall cavities and joist space plenums shall be isolated from adjacent concealed spaces by tight-fitting fire-blocking in accordance with Section R602.8.
   7.5 .Stud wall cavities in the outside walls of building envelope assemblies shall not be utilized as air plenums.

M1601.4.1 Joints, seams and connections. All longitudinal and transverse joints, seams, and connections in metallic and nonmetallic ducts shall be constructed as specified in SMACNA HVAC Duct Construction Standards—Metal and Flexible and NAIMA Fibrous Glass Duct Construction Standards. All joints, longitudinal and transverse seams, and connections in ductwork outside the building thermal envelope; all return ducts located within 10 feet of any appliance or all return ducts within a mechanical room; and all supply main trunk ducts and branch duct connections to the main trunk ducts shall be securely fastened and sealed with welds, gaskets, mastics (adhesives), mastic-plus-embedded-fabric systems or tapes.

Closure systems used to seal flexible air ducts and flexible air connectors shall comply with UL 181B and shall be marked "181 B-FX" for pressure-sensitive tape or "181 BM" for mastic. Duct connections to flanges of air distribution system equipment shall be sealed and mechanically fastened. Mechanical fasteners for use with flexible nonmetallic air ducts shall comply with UL 181B and shall be marked 181B-C. Crimp joints for round metallic ducts shall have a contact lap of not less than 1 inch and shall be mechanically fastened by means of not less than three sheet-metal screws or rivets equally spaced around the joint.

Closure systems used to seal metal ductwork shall be installed in accordance with the manufacturer's instructions. Round metallic ducts shall be mechanically fastened by means of at least three sheet metal screws or rivets spaced equally around the joint. Unlisted duct tape shall not be permitted as a sealant on any duct.

Exceptions:

1. Spray polyurethane foam shall be permitted to be applied without additional joint seals.
2. Where a duct connection is made that is partially inaccessible, three screws or rivets shall be equally spaced on the exposed portion of the joint so as to prevent a hinge effect.
3. Continuously welded and locking-type longitudinal joints and seams in ducts operating at static pressures less than 2 inches of water column pressure classification shall not require additional closure systems.

M1601.4.4 Support. Metal ducts shall be supported by 1/2-inch-wide 18-gage, 1-inch-wide 24-gage, or 1 1/2-inch-wide 26-gage metal straps or 12-gage galvanized wire at intervals not exceeding 10 feet or other approved means. Nonmetallic ducts shall be supported in accordance with the manufacturer's installation instructions.

M2101.1 General. Hydronic piping shall conform to Table M2101.1. Approved piping, valves, fittings and connections shall be installed in accordance with the manufacturer's installation instructions. Pipe and fittings shall be rated for use at the operating temperature and pressure of the hydronic system. Used pipe, fittings, valves, or other materials shall be free of foreign materials.

Exception: Polyvinyl Chloride (PVC) plastic pipe conforming to ASTM D1785 or ASTM D2241 is an allowable material for hydronic piping.

G2407.6 (304.6) Outdoor combustion air. Outdoor combustion air shall be provided through opening(s) to the outdoors in accordance with Section G2407.6.1, G2407.6.2, or G2407.6.3. The minimum dimension of air openings shall be not less than 3 inches (76 mm).

G2407.6.3 Alternate combustion air sizing. As an alternate the net free area of openings, ducts, or plenums supplying air to an area containing gas- and oil-burning appliances shall be in accordance with B149.1-10, Natural Gas and Propane Installation Code, published by the Canadian Standards Association (CSA).

When all air is taken from the outdoors for appliances one outside air duct may be used and shall terminate below the draft hood. An exterior opening may be used in place of a duct provided that it terminates within 1 foot above, and within 2 feet horizontally from, the burner level of the appliance having the largest input.
The combustion air duct is required to be upsized one diameter size when a dryer is installed in the same room as the combustion air.

G2408.1 (305.1) General. Equipment and appliances shall be installed as required by the terms of their approval, in accordance with the conditions of listing, the manufacturer's instructions, and this code. Manufacturer's installation instructions shall be available on the job site at the time of inspection. Where a code provision is less restrictive than the conditions of the listing of the equipment or appliance or the manufacturer's installation instructions, the conditions of the listing and the manufacturer's installation instructions shall apply.

After completion of the installation, all safety and operating controls and venting shall be tested before placing the burner in service in accordance with the manufacturer's installation instructions.

The following requirements need to be recorded and affixed to the inside of the gas train access panel:

1. The rate of flow of the gas or fuel shall be adjusted to within plus or minus 5 percent of the required Btu/hr rating at the manifold pressure specified by the manufacturer. When the prevailing pressure is less than the manifold pressure specified, the rates shall be adjusted at the prevailing pressure.
2. The gas inlet pressure per the manufacturer's installation settings.
3. The temperature rise across the heat exchanger per the manufacturer's installation settings.
4. The static pressure of the supply and return ducts per the manufacturer's installation settings.

Unlisted appliances approved in accordance with Section G2404.3 shall be limited to uses recommended by the manufacturer and shall be installed in accordance with the manufacturer's instructions, the provisions of this code and the requirements determined by the Building Official.

G2411.1.1 (310.1.1) CSST. Corrugated stainless steel tubing (CSST) gas piping systems shall be bonded to the electrical service grounding electrode system at the point where the gas service enters the building. The bonding jumper shall be not smaller than 6 AWG copper wire or equivalent. Gas piping systems that contain one or more segments of CSST shall be bonded in accordance with this section.

G2415.2 (404.2) CSST. CSST piping systems shall be installed in accordance with the terms of their approval, the conditions of listing, the manufacturer's instructions, and this code.
The piping located on the exterior extending from the gas meter to the inside of the structure shall be a metallic pipe in compliance with Section G2414.4. The entrance into the structure shall be provided with the appropriate transition flange where an alternate gas piping material is utilized on the inside of the structure.

G2415.3 (404.3) Prohibited locations. Piping shall not be installed in or through a ducted supply, return or exhaust, or a clothes chute, chimney or gas vent, dumbwaiter or elevator shaft.

G2427.4.1.1 (503.4.1.1) (IFGS) Plastic vent joints. Plastic pipe and fittings used to vent appliances shall be installed in accordance with the appliance manufacturer's installation instructions. The primer shall be of a contrasting color.

Exception: Where compliance with this section would conflict with the appliance manufacturer's installation instructions.

Part VII—Plumbing. The following chapters are not adopted by the City: Chapter 25—Plumbing Administration; Chapter 26—General Plumbing Requirements; Chapter 27—Plumbing Fixtures; Chapter 28—Water Heaters; Chapter 29—Water Supply and Distribution; Chapter 30—Sanitary Drainage; Chapter 31—Vents; Chapter 32—Traps; and Chapter 33—Storm Drainage.
The provisions of the State Plumbing Code shall apply to the installation, alterations, repairs, and replacement of plumbing systems, including equipment, appliances, fixtures, and appurtenances, and where connected to a water or sewage system for detached one- and two- family dwellings and multiple single-family dwellings (town houses) not more than three stories high with separate means of egress and their accessory structures.

Part VIII—Electrical. The following chapters are not adopted by the City: Chapter 34—General Requirements; Chapter 35—Electrical Definitions; Chapter 36—Services; Chapter 37—Branch Circuit and Feeder Requirements; Chapter 38—Wiring Methods; Chapter 39—Power and Lighting Distribution; Chapter 40—Devices and Luminaires; Chapter 41—Appliance Installation; Chapter 42—Swimming Pools; Chapter 43—Class 2 Remote-Control, Signaling and Power-Limited Circuits.
The provisions of the State Electrical Code shall apply to the installation, alteration, repair, relocation, replacement, addition to, use, or maintenance of any electrical system, apparatus, wiring, or equipment for electrical, light, heat, power, fire alarms, and associate controls for detached one- and two-family dwellings and multiple single-family dwellings (town houses) not more than three stories high with separate means of egress and their accessory structures.

AH105.2 Footings. A patio cover shall be permitted to be supported on a slab on grade without footings, provided the slab conforms to the provisions of Section R506 of this code, is not less than

three and one-half inches thick and the columns do not support live and dead loads in excess of seven hundred and fifty pounds per column.

AH106 Special Provisions for aluminum screen enclosures in hurricane-prone regions. Not adopted by the City.

AM Home Day Care (Title). Amend the title to change "R-3 Occupancy" to "Residential Occupancy".

CHAPTER 9.05 - EXISTING BUILDING CODE

9.0501 Adopted.

The City Council hereby adopts Chapters 1 through 16 the International Existing Building Code, 2015 Edition, including Resource A (Guidelines on Fire Ratings of Archaic Materials and Assemblies), as published by the International Code Council, Inc., and amendments and additions thereto as provided in this Section, as the Existing Building Code of the City as an alternative for regulating and governing the repair, alteration, change of occupancy, addition, and relocation of existing buildings, including historic buildings, as herein provided and provides for the issuance of permits and the collection of fees therefore. The alternate minimum building standards of the 2015 International Existing Building Code and amendments thereto shall be applied to any building permit issued on or after January 1, 2016. A copy of this Code shall be kept on file in the office of the Building Official.

9.0502 Local amendments, additions, and deletions to the 2015 Existing Building Code.

The following sections and subsections of the existing building code adopted in this Ordinance shall be amended, added, or deleted as follows. All other sections or subsections of the 2015 International Existing Building Code shall remain as originally published.

101.1 Title. These regulations shall be known as the Existing Building Code of the City of Harrisburg, South Dakota, hereinafter referred to as "this code."

103.1 Enforcement agency. Building Services is hereby created, and the official in charge thereof shall be known as the Building Official.

103.2 Appointment. Not adopted by the City.

104.8 Liability. The Building Official, member of the Board of Appeals, or employee charged with the enforcement of this code, while acting for the jurisdiction in good faith and without malice in the discharge of the duties required by this code or other pertinent law or ordinance, shall not thereby be rendered liable personally and is hereby relieved from personal liability for any damage accruing to persons or property as a result of any act or by reason of an act or omission in the discharge of official duties. Any suit instituted against an officer or employee because of an act performed by that officer or employee in the lawful discharge of duties and under the provisions of this code shall be afforded all the protection provided by the City's insurance pool and immunities and defenses provided by other applicable state and federal laws. The Building Official or any subordinate shall not be liable for cost in any action, suit, or proceeding that is instituted in pursuance of the provisions of this code.
This code shall not be construed to relieve from or lessen the responsibility of any person owning, operating, or controlling any building or structure for any damages to persons or property caused by

defects, nor shall the Building Official or the City be held as assuming any such liability by reason of the inspection authorized by this code or any permits or certificates issued under this code.

105.1 Required. Any owner or authorized agent who intends to repair, add to, alter, relocate, demolish, or change the occupancy of a building or to repair, install, add, alter, remove, convert, or replace any electrical, gas, mechanical, or plumbing system, the installation of which is regulated by this code, or to cause any such work to be done, shall first make application to the Building Official and obtain the required permit. The Building Official may exempt permits for minor work.

107.1 General. The Building Official is authorized to issue a permit for temporary uses. Such permits shall be limited as to time of service but shall not be permitted for more than 365 days. Extensions beyond 365 days are not allowed. Structures used as a temporary business office shall be provided with an accessible route that meets accessibility requirements of this code.

109.3.1 Footing or foundation inspection. Footing and foundation inspections shall be made after excavations for footings are complete and any required reinforcing steel is in place. If an inspection is required for concrete foundations, any required forms shall be in place prior to inspection. Materials for the foundation shall be on the job, except where concrete is ready mixed in accordance with ASTM C 94, the concrete need not be on the job.

110.1 Altered area use and occupancy classification change. No building undergoing a change in occupancy shall be used or occupied, and no change in the existing occupancy classification of a building or portion thereof shall be made until the Building Official has issued a certificate of occupancy therefor as provided herein. Issuance of a certificate of occupancy shall not be construed as an approval of a violation of the provisions of this code or of other ordinances of the City.
110.2 Certificate issued. After the Building Official or his designee inspects the building and finds no violations of the provisions of this code or other laws that are enforced by Building Services, the Building Official shall issue a certificate of occupancy that shall contain the following:

1. The building permit number.
2. The address of the structure.
3. The name and address of the owner or the owner's authorized agent.
4. A statement that the described portion of the structure has been inspected for compliance with the requirements of this code for the occupancy and division of occupancy and the use for which the proposed occupancy is classified.
5. The name of the Building Official.
6. The edition of the code under which the permit was issued.
7. The use and occupancy in accordance with the provisions of the International Building Code.
8. The type of construction as defined in the International Building Code.
9. The design occupant load in assembly occupancies only.
10. If fire protection systems are provided, whether the fire protection systems are required.
11. Any special stipulations and conditions of the building permit.

112.1 Designation of Board of Appeals. In order to hear and decide appeals of orders, decisions, or determinations made by the Building Official relative to the application and interpretation of this code, the City Council hereby assumes the responsibilities of the Board of Appeals for this code. All decisions and findings of the Board shall be final and shall be rendered in writing to the appellant with a duplicate copy to the Building Official.

112.2 Limitations on authority. An application for appeal shall be based on a claim that the true intent of this code or the rules legally adopted hereunder have been incorrectly interpreted, the

provisions of this code do not fully apply, or an equally good or better form of construction is proposed. If the appeal is based on a claim that an equally good or better form of construction was improperly denied, the appellant must submit the alternate material, design, or method of construction they are proposing. The appellant also has the burden to demonstrate to the Board that the alternative method or material that they are proposing is an equally good or better form of construction. The Board shall have no authority relative to the administrative provisions of this code nor shall the Board have authority to waive the requirements of the International Existing Building Code as adopted by the City.

112.3 Submission of appeals. All appeals must be submitted in writing to the Building Official within ten days of the order, decision, or determination of the Building Official that is being appealed. Once the appeal is received by the Building Official, he shall place the appeal on the City Council's next regular meeting agenda that is more than seven days (inclusive) from the date of receipt of the appeal.

112.3.1 Appeal hearings. All hearings before the Board shall be open to the public. The appellant, the appellant's representative, the Building Official, any member of the City's staff, or any person whose interests are affected shall be given an opportunity to be heard.

302.2 Additional codes. Alterations, repairs, additions and changes of occupancy to, or relocation of, existing buildings and structures shall comply with the provisions for alterations, repairs, additions and changes of occupancy or relocation, respectively, in this code and the International Fuel Gas Code, International Mechanical Code, International Property Maintenance Code, International Residential Code and electrical and plumbing codes of the State of South Dakota. Where provisions of the other codes conflict with provisions of this code, the provisions of this code shall take precedence.

607.1 Material. Existing electrical wiring and equipment undergoing repair shall be allowed to be repaired or replaced with like material. Minor additions, alterations, and repairs to existing electrical systems or equipment may be installed in accordance with the law in effect at the time the original installation was made, when approved by the electrical inspector.

607.1.4 Group B and I-2 receptacles. Non-"hospital grade" receptacles in patient care locations of Group B, medical offices and ambulatory health care facilities, and Group I-2 shall be replaced with "hospital grade" receptacles, as required by NFPA 99 and Article 517 of NFPA 70.

607.1.6 New electrical service entrances in existing single-family and multiple-family dwellings. When adding a new service entrance with increased amperage, the existing electrical system shall, at a minimum, comply with the following:

1. *Kitchens.* Each kitchen shall have a minimum of one 20-ampere circuit serving a countertop receptacle and a grounded receptacle serving a refrigerator.
2. *Overcurrent device location.* Each occupant shall have access to his branch circuit overcurrent devices without going outdoors or through another occupancy.
3. *Habitable areas.* All habitable areas, other than closets, kitchens, basements, garages, hallways, laundry areas, utility areas, storage areas, and bathrooms, shall have a minimum of two duplex receptacle outlets, or one duplex receptacle outlet and one ceiling or wall-type lighting outlet.
4. *Minimum lighting outlets.* At least one lighting fixture shall be provided in every habitable room, bathroom, hallway, stairway, attached garage, and detached garage with

electrical power, in utility rooms and basements where such spaces are used for storage or contain equipment requiring service, and to illuminate outdoor entrances and exits.

5. *Ground fault circuit interrupters.* Ground fault circuit interrupter protection shall be provided for all receptacles in bathrooms, above kitchen counters, attached and detached garages provided with power, at readily accessible receptacles within 6 feet of sinks, unfinished basements, and at outdoor locations.
6. *Laundries.* Each laundry shall be provided with at least one separate 20-ampere circuit.
7. *Heat sources.* Any heat source shall be provided with a separate circuit.
8. *Exposed wiring methods.* All exposed wiring methods shall be installed in accordance with the electrical code of the State of South Dakota.

609.1 Materials. Plumbing materials and supplies shall not be used for repairs that are prohibited in the plumbing code of the State of South Dakota.

702.6 Materials and methods. All new work shall comply with the materials and methods requirements in the International Building Code, International Residential Code, International Mechanical Code, International Fuel Gas Code, and the electrical and plumbing codes of the State of South Dakota, as applicable, that specify material standards, detail of installation and connection, joints, penetrations, and continuity of any element, component, or system in the building.

702.6.2 International Mechanical Code. The following sections of the International Mechanical Code shall constitute the mechanical materials and methods requirements for Level 1 alterations.

1. All of Chapter 3, entitled "General Regulations," except Sections 303.7 and 306.
2. All of Chapter 8, entitled "Chimneys and Vents."
3. All of Chapter 9, entitled "Specific Appliances."

702.6.3 International Residential Code. The following sections of Part V—Mechanical of the International Residential Code shall constitute the residential mechanical and fuel gas materials and methods requirements for Level 1 alterations.

1. All of Chapter 13, entitled "General Mechanical System Requirements," except Section M1305.
2. All of Chapter 18, entitled "Chimneys and Vents."
3. All of Sections G2431 through G2453 governing the appliances and equipment specifically identified therein.

805.3.1.2.1 Fire escape access and details. Fire escapes shall comply with all of the following requirements:

1. Occupants shall have unobstructed access to the fire escape without having to pass through a room subject to locking.
2. Access to a new fire escape shall be through a door, except that windows shall be permitted to provide access from single dwelling units or sleeping units in Group R-1, R-2 and I-1 occupancies or to provide access from spaces having a maximum occupant load of 10 in other occupancy classifications.
   2.1. The window shall have a minimum net clear opening of 5 square feet where located at grade.
   2.2. The minimum net clear opening height shall be 24 inches and net clear opening width shall be 20 inches.
   2.3. The bottom of the clear opening shall not be greater than 48 inches above the floor.

2.4. The operation of the window shall comply with the operational constraints of the International Building Code.

3. Newly constructed fire escapes shall be permitted only where exterior stairs cannot be utilized because of lot lines limiting the stair size or because of the sidewalks, alleys, or roads at grade level.
4. Openings within 10 feet of fire escape stairs shall be protected by fire assemblies having minimum 3/4-hour fire-resistance ratings.
   Exception: Opening protection shall not be required in buildings equipped throughout with an approved automatic sprinkler system.
5. In all buildings of Group E occupancy, up to and including the 12th grade, buildings of Group I occupancy, rooming houses and childcare centers, ladders of any type are prohibited on fire escapes used as a required means of egress.

808.1 New Installations. All newly installed electrical equipment and wiring relating to work done in any work area shall comply with the materials and methods requirements of Chapter 7.

Exception: Electrical equipment and wiring in newly installed partitions and ceilings shall comply with all applicable requirements of the electrical code of the State of South Dakota.

810.1 Minimum fixtures. Where the occupant load of the story is increased by more than 20 percent, plumbing fixtures for the story shall be provided in quantities specified in Chapter 29 Plumbing Systems of the International Building Code based on the increased occupant load.

1010.1 Increased demand. Where the occupancy of an existing building or part of an existing building is changed such that the new occupancy is subject to increased or different plumbing fixture requirements or to increased water supply requirements in accordance with the plumbing code of the State of South Dakota, the new occupancy shall comply with the intent of the respective plumbing code provisions.

1010.2 Food-handling occupancies. If the new occupancy is a food-handling establishment, all existing sanitary waste lines above the food or drink preparation or storage areas shall be panned or otherwise protected to prevent leaking pipes or condensation on pipes from contaminating food or drink. New drainage lines shall not be installed above such areas and shall be protected in accordance with the plumbing code of the State of South Dakota.

1010.3 Interceptor required. If the new occupancy will produce grease or oil-laden wastes, interceptors shall be provided as required in the plumbing code of the State of South Dakota.

1010.5 Group I-2. If the occupancy group is changed to Group I-2, the plumbing system shall comply with the applicable requirements of the plumbing code of the State of South Dakota.

Table 1012.4 Means of Egress Hazard Categories

Relative Hazard	Occupancy Classification
1 (Highest Hazard)	H, I
2	R-1, R-2, R-4

3	A, E, M
4	B, F-1, S-1, R-3
5 (Lowest Hazard)	F-2, S-2, U

Table 1012.5 Heights and Areas Hazard Categories	
Relative Hazard	**Occupancy Classification**
1 (Highest Hazard)	H, I
2	R-1, R-2, R-4
3	A-1, A-2, A-3, A-4
4	E, F-1, S-1, M
5 (Lowest Hazard)	B, F-2, S-2, A-5, R-3, U

1012.4.1 Means of egress for change to higher hazard category. When a change of occupancy classification is made to a higher hazard category (lower number) as shown in Table 1012.4, the means of egress shall comply with the requirements of Chapter 10 of the International Building Code.

Exceptions:

1. Stairways shall be enclosed in compliance with the applicable provisions of Section 903.1.
2. Existing stairways including handrails and guards complying with the requirements of Chapter 9 shall be permitted for continued use subject to approval of the Building Official.
3. Any stairway replacing an existing stairway within a space where the pitch or slope cannot be reduced because of existing construction shall not be required to comply with the maximum riser height and minimum tread depth requirements.
4. Existing corridor walls constructed on both sides of wood lath and plaster in good condition or 1/2-inch-thick gypsum wallboard shall be permitted. Such walls shall either terminate at the underside of a ceiling of equivalent construction or extend to the underside of the floor or roof next above.
5. Existing corridor doorways, transoms and other corridor openings shall comply with the requirements in Sections 805.5.1, 805.5.2 and 805.5.3.
6. Existing dead-end corridors shall comply with the requirements in Section 805.6.
7. An existing operable window with clear opening area no less than 4 square feet and minimum opening height and width of 22 inches and 20 inches, respectively, provided the operable window has a sill height of not more than 48 inches above the floor, shall be accepted as an emergency escape and rescue opening.

1012.6.2 Exterior wall rating for change of occupancy classification to an equal or lesser hazard category. When a change of occupancy classification is made to an equal or lesser hazard category as shown in Table 1012.6, existing exterior walls, including openings, shall be accepted.

Exception. Where a property line is platted creating a Group R-3, multifamily dwelling (town house), the walls separating the dwelling units shall be constructed to provide a continuous fire separation using construction materials consistent with the existing wall or complying with the requirements for a new structure. The fire-resistive elements are not required to be continuous between concealed floor spaces, although there shall be provided a draft stop, located above and in line with the dwelling unit separation walls.

1401.2 Applicability. Structures existing prior to March 11, 1968, in which there is work involving additions, alterations or changes of occupancy shall be made to conform to the requirements of this chapter or the provisions of Chapters 5 through 13. The provisions of Sections 1401.2.1 through 1401.2.5 shall apply to existing occupancies that will continue to be, or are proposed to be, in Groups A, B, E, F, M, R and S. These provisions shall not apply to buildings with occupancies in Group H or I.

CHAPTER 9.06 - MECHANICAL AND FUEL GAS CODE

9.0601 Adopted.

The City Council hereby adopts the International Mechanical Code, 2015 Edition, including Appendix A, and the International Fuel Gas Code, 2015 Edition, including Appendices B and C, as published by the International Code Council, Inc. for regulating the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use, or maintenance of heating, ventilation, cooling, refrigeration, incinerators, or other miscellaneous heat producing appliances in the City, and for providing for performance of inspections and collection of fees therefore. The minimum mechanical standards referenced in the International Mechanical Code and the International Fuel Gas Code shall be applied to any permit issued after January 1, 2016. A copy of this Code shall be kept on file in the office of the Building Official.

9.0602 Local amendments, additions, and deletions to the 2015 International Mechanical and Fuel Gas Codes.

The following sections and subsections of the mechanical code adopted in this Ordinance shall be amended, added, or deleted as follows. All other sections or subsections of the 2015 International Mechanical Code shall remain as originally published.

101.1 Title. These regulations shall be known as the Mechanical Code of the City of Harrisburg, and shall be referred to herein as “this code”.

101.2 Scope. This code shall regulate the design, installation, maintenance, alteration and inspection of mechanical systems that are permanently installed and utilized to provide control of environmental conditions and related processes within buildings. This code shall also regulate those mechanical systems, system components, equipment and appliances specifically addressed herein. The installation of fuel gas distribution piping and equipment, fuel gas-fired appliances and fuel gas-fired appliance venting systems shall be regulated by the International Fuel Gas Code.

Exceptions:

1. Detached one- and two-family dwellings and multiple single-family dwellings (town houses) not more than three stories high with separate means of egress and their accessory structures shall comply with the International Residential Code.
2. Mechanical systems in existing buildings undergoing repair, alterations or additions, and change in occupancy shall be permitted to comply with the International Existing Building Code.

103.2 Appointment. Not adopted by the city.

103.4 Liability. The Building Official, member of the board of appeals, or employee charged with the enforcement of this code, while acting for the City in good faith and without malice in the discharge of the duties required by this code or other pertinent law or ordinance, shall not thereby be rendered liable personally, and is hereby relieved from personal liability for any damage accruing to persons or property as a result of an act or by reason of an act or omission in the discharge of official duties.
Any suit instituted against any officer or employee, because of an act performed by that officer or employee in the lawful discharge of duties and under the provisions of this code, shall be afforded all the protection provided by the City's insurance pool and immunities and defenses provided by other applicable state and federal laws and be defended by the legal representative of the City until the final termination of the proceedings. The Building Official or any subordinate shall not be liable for costs in an action, suit, or proceeding that is instituted in pursuance of the provisions of this code.

106.5.1 Work commencing before permit issuance. Any person who commences work on a mechanical system before obtaining the necessary permits shall be subject to a Late Application Fee established by resolution by the City Council that shall be in addition to the required permit fees.

106.5.2 Fee schedule. The fees for mechanical work shall be adopted by resolution by the City Council.

106.5.3 Fee refunds. The Building Official shall authorize the refunding of fees as follows:

1. The full amount of any fee paid hereunder which was erroneously paid or collected.
2. Not more than 80 percent of the permit fee paid when no work has been done under a permit issued in accordance with this code.
3. Not more than 80 percent of the plan review fee paid when an application for a permit for which a plan review fee has been paid is withdrawn or canceled before any plan review effort has been expended.

The Building Official shall not authorize the refunding of any fee paid, except upon written application filed by the original permittee not later than 180 days after the date of fee payment.

107.2 Required inspections and testing. It shall be the duty of the mechanical contractor, or his designated mechanic doing the work authorized by a permit, to notify the mechanical inspector that such work is ready for inspection. The Building Official may require that every request for inspection be filed at least one working day before such inspection is desired.
The mechanical inspector, upon notification from the permit holder or the permit holder's agent, shall make the following inspections and other such inspections as necessary, and shall either release that portion of the construction or shall notify the permit holder or the permit holder's agent of violations that must be corrected. The holder of the permit shall be responsible for the scheduling of such inspections.

1. Underground inspection shall be made after trenches or ditches are excavated and bedded, piping installed, and before backfill is put in place. When excavated soil contains rocks, broken concrete, frozen chunks, and other rubble that would damage or break the piping or cause corrosive action, clean backfill shall be on the job site.
2. Rough-in inspection shall be made after the roof, framing, fireblocking, and bracing are in place and all ducting and other components to be concealed are complete, and prior to the installation of wall or ceiling membranes.
3. Final inspection shall be made upon completion of the mechanical system.

Exception: Ground-source heat pump loop systems tested in accordance with Section 1208.1.1 shall be permitted to be backfilled prior to inspection.

The requirements of this section shall not be considered to prohibit the operation of any heating appliances installed to replace existing heating appliances serving an occupied portion of a structure provided that a request for inspection of such heating appliances has been filed with the department not more than 48 hours after such replacement work is placed into operation or substantially completed, and before any portion of such equipment or appliances is concealed by any permanent portion of the structure.

108.4 Violation penalties. Persons who shall violate a provision of this code or shall fail to comply with any of the requirements thereof or who shall erect, install, alter, or repair mechanical work in violation of the approved construction documents or directive of the Building Official, or of a permit or certificate issued under the provisions of this code, shall be guilty of an ordinance violation, which is a Class 2 Misdemeanor. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

108.5 Stop work orders. Upon notice from the Building Official that mechanical work is being done contrary to the provisions of this code or in a dangerous or unsafe manner, such work shall immediately cease. Such notice shall be in writing and shall be given to the owner of the property, or to the owner's agent, or to the person doing the work. The notice shall state the conditions under which work is authorized to resume. Where an emergency exists, the Building Official shall not be required to give a written notice prior to stopping the work. Any person who shall continue any work on the system after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be guilty of an ordinance violation.

109.1 Designation of Board of Appeals. In order to hear and decide appeals of orders, decisions, or determinations made by the Building Official relative to the application and interpretation of this code, the City Council hereby assumes the duties of the Board of Appeals for this code. All decisions and findings of the Board shall be final and shall be rendered in writing to the appellant with a duplicate copy to the Building Official.

109.1.1 Limitation of authority. An application for appeal shall be based on a claim that the true intent of this code or the rules legally adopted hereunder have been incorrectly interpreted, the provisions of this code do not fully apply, or an equally good or better form of construction is proposed. If the appeal is based on a claim that an equally good or better form of construction was improperly denied, the appellant must submit the alternate material, design, or method of construction they are proposing. The appellant also has the burden to demonstrate to the Board that the alternative method or material that they are proposing is an equally good or better form of construction. The Board shall have no authority to waive the requirements of the International Mechanical Code as adopted by the City.

109.2 Membership of board. Not adopted by the City.

109.2.1 Qualifications. Not adopted by the City.

109.2.2 Alternate members. Not adopted by the City.

109.2.3 Chairman. Not adopted by the City.

109.2.4 Disqualification of member. Not adopted by the City.

109.2.5 Secretary. Not adopted by the City.

109.2.6 Compensation of members. Not adopted by the City.

109.3 Notice of meeting. Not adopted by the City.

109.4 Open hearing. All hearings before the Board shall be open to the public. The appellant, the appellant's representative, the Building Official, any member of the City's staff, or any person whose interests are affected shall be given an opportunity to be heard.

109.4.1 Procedure. Not adopted by the City.

109.5 Postponed hearing. Not adopted by the City.

109.6 Submission of appeals. All appeals must be submitted in writing to the Building Official within ten days of the order, decision, or determination of the Building Official that is being appealed. Once the appeal is received by the Building Official, he shall place the appeal on the Council's next regular meeting agenda that is more than seven days (inclusive) from the date of receipt of the appeal.

201.3 Terms defined in other codes. Where terms are not defined in this code and are defined in the International Building Code, International Residential Code, International Existing Building Code, or International Fuel Gas Code, such terms shall have meanings ascribed to them as in those codes.

301.11 Plumbing connections. Potable water supply and building drainage system connections to equipment and appliances regulated by this code shall be in accordance with the Plumbing Code adopted by the State of South Dakota.

301.13 Vibration isolation. Where vibration isolation of equipment and appliances is employed, an approved means of supplemental restraint shall be used to accomplish the support and restraint.
Piping, electrical conduit, ductwork, vents and the like shall not be used to provide support or restraint of equipment.

Where other portions of this code or provisions of the building code require noncombustible construction or supports, noncombustible materials shall also be used to meet the requirements of this section.

304.10 Clearances from grade. Equipment and appliances installed at grade level shall be supported on a level concrete slab or other approved material extending not less than 1 1/2 inches above adjoining grade or shall be suspended not less than 6 inches above adjoining grade. Such support shall be in accordance with the manufacturer's installation instructions.

Equipment and appliances including the service areas shall be provided with a minimum 80-inch headroom clearance.

306.5 Equipment and appliances on roofs or elevated structures. Where equipment requiring access or appliances are located on an elevated structure or the roof of a building such that personnel will have to climb higher than 16 feet above grade or floor level to access such equipment or appliances, an interior or exterior means of access shall be provided. Such access shall not require climbing over obstructions greater than 30 inches in height or walking on roofs having a slope greater than 4 units vertical in 12 units horizontal (33 percent slope). Such access shall not require the use of portable ladders. Where access involves climbing over parapet walls, the height shall be measured to the top of the parapet wall.

Permanent ladders installed to provide the required access shall comply with the following minimum design criteria:

1. The side railing shall extend above the parapet or roof edge not less than 30 inches when the ladder is located on the exterior of the building. The side railing shall extend within 6 inches of the roof access hatch, and the side railing shall terminate within 1 inch from the side of the roof curb or wall the ladder is attached when the ladder is located in the building.
2. Ladders shall have rung spacing not to exceed 14 inches on center. The uppermost rung shall be a maximum of 24 inches below the upper edge of the roof hatch, roof or parapet, as applicable.
3. Ladders shall have a toe spacing not less than 6 inches deep.
4. There shall be a minimum of 18 inches between rails.
5. Rungs shall have a minimum 0.75-inch diameter and be capable of withstanding a 300-pound load.
6. Ladders over 30 feet in height shall be provided with offset sections and landings capable of withstanding 100 pounds per square foot. Landing dimensions shall be not less than 18 inches and not less than the width of the ladder served. A guard rail shall be provided on all open sides of the landing.
7. Climbing clearance. The distance from the centerline of the rungs to the nearest permanent object on the climbing side of the ladder shall be a minimum of 30 inches measured perpendicular to the rungs. This distance shall be maintained from the point of ladder access to the bottom of the roof hatch. A minimum clear width of 15 inches shall be provided on both sides of the ladder measured from the midpoint of and parallel with the rungs except where cages or wells are installed.
8. Landing required. The ladder shall be provided with a clear and unobstructed bottom landing area having a minimum dimension of 30 inches by 30 inches centered in front of the ladder.
9. Ladders shall be protected against corrosion by approved means.
10. Access to ladders shall be provided at all times.
11. Exterior access may be by means of a ladder which need not extend closer than 8 feet to finished grade.
12. When a new hatch is being used to access equipment or appliances on a roof or elevated structure, the handle or release must be on the same side of the roof hatch as the ladder or within 18 inches of the ladder.

Catwalks installed to provide the required access shall be not less than 24 inches wide and shall have railings as required for service platforms.

Exception: This section shall not apply to Group R-3 occupancies.

306.6 Appliances above suspended ceilings. Rooms containing appliances above suspended ceilings shall be installed in accordance with Section 306.2. In such locations there shall be a space of not less than 30 inches wide by 30 inches deep from the top of the service area of the appliance to the level floor below. Any obstructions are limited to lights and the suspended ceiling system. A wall or partition shall be allowed in the first 6 inches of the 30-inch-deep service area in front of the appliance, provided the wall or partition terminates below the bottom of the appliance and the depth of the service space is increased to 36 inches deep from the top of the appliance to the level floor below.

312.1 Load calculations. When deemed necessary by the mechanical inspector, heating and cooling system design loads for the purpose of sizing systems, appliances, and equipment shall be determined in accordance with the procedures described in the ASHRAE/ACCA Standard 183. Alternatively, design loads shall be determined by an approved equivalent computation procedure, using the design parameters specified in Chapter 3 of the International Energy Conservation Code, 2015 Edition.

401.4 Intake opening location. Air intake openings shall comply with all of the following:

1. Intake openings shall be located a minimum of 10 feet from lot lines or buildings on the same lot.
2. Mechanical and gravity outdoor air intake openings shall be located not less than 10 feet from any hazardous or noxious contaminant source, such as vents, streets, alleys, parking lots and loading docks, except as specified in Item 3 or Section 501.2.1. Outdoor air intake openings shall be permitted to be located less than 10 feet horizontally from streets, alleys, parking lots and loading docks provided that the openings are located not less than 25 feet vertically above such locations. Where openings front on a street or public way, the distance shall be measured from the centerline of the street or public way.
3. Intake openings shall be located not less than 3 feet below contaminant sources where such sources are located within 10 feet of the opening.
4. Intake openings on structures in flood hazard areas shall be at or above the elevation required by Section 1612 of the International Building Code for utilities and attendant equipment.

501.3.1 Location of exhaust outlets. The termination point of exhaust outlets and ducts discharging to the outdoors shall be located with the following minimum distances:

1. For ducts conveying explosive or flammable vapors, fumes or dusts: 30 feet from property lines; 10 feet from operable openings into buildings; 6 feet from exterior walls and roofs; 30 feet from combustible walls and operable openings into buildings which are in the direction of the exhaust discharge; and 10 feet above adjoining grade.
2. For other product-conveying outlets: 10 feet from the property lines; 3 feet from exterior walls and roofs; 10 feet from operable openings into buildings; 10 feet above adjoining grade.
3. For all environmental air exhaust: 3 feet from property lines; 3 feet from operable openings into buildings for all occupancies other than Group U, and 10 feet from mechanical air intakes. Such exhaust shall not be considered hazardous or noxious.

   Exception. Bathroom exhaust fans serving individual dwelling units or sleeping units in Group Rs may be 3 feet from property lines, operable openings, and mechanical air intakes.

4. Exhaust outlets serving structures in flood hazard areas shall be installed at or above the elevation required by Section 1612 of the International Building Code for utilities and attendant equipment.

5. For specific systems see the following sections:

    5.1. Clothes dryer exhaust, Section 504.4.
    5.2. Kitchen hoods and other kitchen exhaust equipment, Sections 506.3.13, 506.4 and 506.5.
    5.3. Dust stock and refuse conveying systems, Section 511.2.
    5.4. Subslab soil exhaust systems, Section 512.4.
    5.5. Smoke control systems, Section 513.10.3.
    5.6. Refrigerant discharge, Section 1105.7.
    5.7. Machinery room discharge, Section 1105.6.1.

506.3.6 Grease duct clearances. Where enclosures are not required, grease duct systems and exhaust equipment serving a Type I hood shall have a clearance to combustible construction of not less than 18 inches, and shall have a clearance to noncombustible construction and gypsum wallboard attached to noncombustible structures of not less than 3 inches.

Exceptions:

1. Factory-built commercial kitchen grease ducts listed and labeled in accordance with UL 1978.
2. Listed and labeled exhaust equipment installed in accordance with Section 304.1.
3. Where commercial kitchen grease ducts are continuously covered on all sides with a listed and labeled field-applied grease duct enclosure material, system, product, or method of construction specifically evaluated for such purpose in accordance with ASTM E 2336, the required clearance shall be in accordance with the listing of such material, system, product or method.
4. The 18-inch clearance to combustible construction is allowed to be reduced to 3 inches where the combustible construction is protected with materials as required for a one-hour fire-resistive construction for hood replacements only where the existing adjacent construction is combustible.

506.3.8 Grease duct cleanouts and openings. Grease duct cleanouts and openings shall comply with all of the following:

1. Grease ducts shall not have openings except where required for the operation and maintenance of the system.
2. Sections of grease ducts that are inaccessible from the hood or discharge openings shall be provided with cleanout openings.
3. Cleanout doors shall be classified in accordance with NFPA 96 or UL 1978. 4.
4. Cleanout doors shall be installed liquid-tight.
5. Door assemblies including any frames and gaskets shall be approved for the application and shall not have fasteners that penetrate the duct.
6. Gasket and sealing materials shall be rated for not less than 1500ºF.
7. Listed door assemblies shall be installed in accordance with the manufacturer's instructions.

506.3.11.4 Combustible clearance reduction. The 18-inch clearance to combustible construction is allowed to be reduced to 3 inches where the combustible construction is protected with materials as required for a one-hour fire-resistive construction for hood replacements only where the existing adjacent construction is combustible.

507.2.6 Clearances for Type I hood. A Type I hood shall be installed with a clearance to combustibles of not less than 18 inches.

Exceptions:

1. Clearance shall not be required from gypsum wallboard or 1/2-inch or thicker cementitious wallboard attached to noncombustible structures provided that a smooth, cleanable, nonabsorbent, and noncombustible material is installed between the hood and the gypsum or cementitious wallboard over an area extending not less than 18 inches in all directions from the hood.
2. The 18-inch clearance to combustible construction is allowed to be reduced to 3 inches where the combustible construction is protected with materials as required for a one-hour fire-resistive construction for hood replacements only where the existing adjacent construction is combustible.

507.3 Type II hoods. Type II hoods shall be installed above dishwashers and appliances that produce heat or moisture and do not produce grease or smoke as a result of the cooking process, except where the heat and moisture loads from such appliances are incorporated into the HVAC system design or into the design of a separate removal system. Type II hoods shall be installed above all appliances that produce products of combustion and do not produce grease or smoke as a result of the cooking process. Spaces containing cooking appliances that do not require Type II hoods shall be provided with exhaust at a rate of 0.70 cfm per square foot. For the purpose of determining the floor area required to be exhausted, each individual appliance that is not required to be installed under a Type II hood shall be considered as occupying not less than 100 square feet. Such additional square footage shall be provided with exhaust at a rate of 0.70 cfm per square foot.

Exception: An above counter high temperature dishwasher shall be installed under a Type II hood.

508.1.1 Makeup air temperature. The temperature of makeup air shall not be more than 10ºF below the temperature of the air in the conditioned space.

Exceptions:

1. Makeup air that is part of the air-conditioning system.
2. Makeup air that does not decrease the comfort conditions of the occupied space.

512.2 Materials. Subslab soil exhaust system duct material shall be air duct material listed and labeled to the requirements of UL 181 for Class 0 air ducts, or any of the following piping materials that comply with the Plumbing Code as building sanitary drainage and vent pipe: cast iron; galvanized steel; brass or copper pipe; copper tube of a weight not less than that of copper drainage tube, Type DWV; and plastic piping.

512.5 Identification. Not adopted by the City.

602.2.1.1 Wiring. Combustible electrical wires and cables and optical fiber cables exposed within a plenum shall be listed as having a maximum peak optical density of 0.50 or less, an average optical density of 0.15 or less, and a maximum flame spread distance of 5 feet or less when tested in accordance with NFPA 262 or shall be installed in metal raceways or metal sheathed cable. Combustible optical fiber and communication raceways exposed within a plenum shall be listed as having a maximum peak optical density of 0.5 or less, an average optical density of 0.15 or less, and a maximum flame spread distance of 5 feet or less when tested in accordance with ANSI/UL 2024. Only plenum-rated wires and cables shall be installed in plenum-rated raceways. Electrical wires and cables, optical fiber cables and raceways addressed in this section shall be listed and labeled and shall be installed in accordance with NFPA 70.

Exception: Alternate wiring systems located within a plenum serving an information technology equipment room are allowed per NFPA 70.

603.2 Duct sizing. Ducts installed within a single dwelling unit shall be sized in accordance with ACCA Manual D or other approved methods. Ducts installed within all other buildings may be sized in accordance with the ASHRAE Handbook of Fundamentals or other equivalent computation procedure.

603.4 Metallic ducts. All metallic ducts shall be constructed as specified in the SMACNA HVAC Duct Construction Standards—Metal and Flexible.

Exceptions:
1. Ducts installed within single dwelling units shall have a minimum thickness as specified in Table 603.4.
2. "Ductmate Standards" shall be allowed when using "Ductmate" connections.

Table 603.4 Duct Construction Minimum Sheet Metal Thicknesses for Single Dwelling Units

Duct Size	Minimum Thickness Inches and (mm)	Equivalent Galvanized Sheet No.	Minimum Thickness (In.)
Round ducts and enclosed rectangular ducts			
<14 inches	0.0127 (0.3188 mm)	30	0.0175
14 to 18 inches	0.0187 (0.4712 mm)	26	0.018
>18 inches	0.0236 (0.6010 mm)	24	0.023
Exposed rectangular ducts			
14 inches or less	0.0157 (0.3950 mm)	28	0.0175
Over 14 inches [a]	0.0187 (0.4712 mm)	26	0.018
For SI: 1 inch = 25.4 mm.			
a. For duct gages and reinforcement requirements at static pressures of 1/2 inch, 1 inch and 2 inches; w.c., SMACNA Duct Construction Standard Tables 2-1, 2-2 and 2-3 shall apply.			

603.6.1.1 Duct length. Flexible air ducts shall be limited to 14 feet in length.

603.6.2 Flexible air connectors. Not adopted by the City.

603.6.2.1 Connector length. Not adopted by the City.

603.6.2.2 Connector penetration limitations. Not adopted by the City.

603.6.3 Air temperature. The design temperature of air to be conveyed in flexible air ducts shall be less than 250ºF.

603.9 Joints, seams and connections. All longitudinal and transverse joints, seams and connections in metallic and nonmetallic ducts shall be constructed as specified in SMACNA HVAC Duct Construction Standards—Metal and Flexible and NAIMA Fibrous Glass Duct Construction Standards. All joints, longitudinal and transverse seams and connections in ductwork outside the building thermal envelope, all return ducts located within 10 feet of any appliance or all return ducts within a mechanical room, and all supply main trunk ducts and branch duct connections to the main trunk ducts shall be securely fastened and sealed with welds, gaskets, mastics (adhesives), mastic-plus-embedded-fabric systems, liquid sealants or tapes. Closure systems used to seal ductwork listed and labeled in accordance with UL 181A shall be marked "181A-P" for pressure-sensitive tape, "181 A-M" for mastic or "181 A-H" for heat-sensitive tape. Closure systems used to seal flexible air ducts and flexible air connectors shall comply with UL 181B and shall be marked "181B-FX" for pressure-sensitive tape or "181B-M" for mastic. Duct connections to flanges of air distribution system equipment shall be sealed and mechanically fastened. Mechanical fasteners for use with flexible nonmetallic air ducts shall comply with UL 181B and shall be marked "181B-C." Closure systems used to seal metal ductwork shall be installed in accordance with the manufacturer's installation instructions. Unlisted duct tape is not permitted as a sealant on any duct.

Exception: Continuously welded and locking-type longitudinal joints and seams in ducts operating at static pressures less than 2 inches of water column pressure classification shall not require additional closure systems.

606.4.1 Supervision. The duct smoke detectors shall be connected to a fire alarm system where a fire alarm system is required by Section 907.2 of the International Fire Code. The actuation of a duct smoke detector shall activate a visible and audible supervisory signal at a constantly attended location. Duct smoke detectors installed more than 10 feet above a finished floor, above a ceiling or on a rooftop shall be installed with remote test/indicators in an approved location below and in proximity to the unit served.

Exceptions:

1. The supervisory signal at a constantly attended location is not required where the duct smoke detector activates the building's alarm-indicating appliances.
2. In occupancies not required to be equipped with a fire alarm system, actuation of a smoke detector shall activate a visible and audible signal in an approved location. Duct smoke detector trouble conditions shall activate a visible or audible signal in an approved location and shall be identified as air duct detector trouble.

802.3 Installation. Vent systems shall be sized, installed, and terminated in accordance with the vent and appliance manufacturer's installation instructions. Type L vents shall not be installed with offsets in concealed spaces.

9.07.03. Local amendments, additions, and deletions to the 2015 International Fuel Gas Code. The following sections and subsections of the fuel gas code adopted in this Ordinance shall be amended, added, or deleted as follows. All other sections or subsections of the 2015 International Fuel Gas Code shall remain as originally published.

101.1 Title. These regulations shall be known as the Fuel Gas Code of the City of Harrisburg, South Dakota, hereinafter referred to as "this code."

101.2 Scope. This code shall apply to the installation of fuel gas piping systems, fuel gas appliances, gaseous hydrogen systems, and related accessories in accordance with Sections 101.2.1 through 101.2.5.

Exceptions:

1. Detached one- and two-family dwellings and multiple single-family dwellings (town houses) not more than three stories high with separate means of egress and their accessory structures shall comply with the International Residential Code.
2. Mechanical systems in existing buildings undergoing repair, alterations or additions, and change of occupancy shall be permitted to comply with the International Existing Building Code.

103.2 Appointment. Not adopted by the City.

103.4 Liability. The Building Official, member of the board of adjustment, or employee charged with the enforcement of this code, while acting for the City in good faith and without malice in the discharge of the duties required by this code or other pertinent law or ordinance, shall not thereby be rendered liable personally, and is hereby relieved from all personal liability for any damage accruing to persons or property as a result of an act or by reason of an act or omission in the discharge of official duties.

Any suit instituted against any officer or employee, because of an act or omission performed by that officer or employee in the lawful discharge of duties and under the provisions of this code shall be afforded all the protection provided by the City's insurance pool and immunities and defenses provided by other applicable state and federal laws and defended by the legal representative of the City until the final termination of the proceedings. The Building Official or any subordinate shall not be liable for costs in an action, suit, or proceeding that is instituted in pursuance of the provisions of this code.

106.1 Where required. An owner, authorized agent, or contractor who desires to erect, install, enlarge, alter, repair, remove, convert, or replace an installation regulated by this code, or to cause such work to be done, shall first make application to the Building Official and obtain the required permit for the work.

Exception: Where appliance and equipment replacements and repairs are required to be performed in an emergency situation, the inspection request shall be submitted within 48 hours after the replacement work is completed and before any portion of the appliance is concealed by any permanent portion of the structure.

106.6.1 Work commencing before permit issuance. Any person who commences work on an installation before obtaining the necessary permits may be subject to a Late Application Fee established by resolution by the City Council that shall be in addition to the required permit fees.

106.6.2 Fee schedule. The fees for work shall be as adopted by resolution by the City Council.

106.6.3 Fee refunds. The Building Official shall authorize the refunding of fees as follows.

1. The full amount of any fee paid hereunder which was erroneously paid or collected.

2. Not more than 80 percent of the permit fee paid when no work has been done under a permit issued in accordance with this code.
3. Not more than 80 percent of the plan review fee paid when an application for a permit for which a plan review fee has been paid is withdrawn or canceled before any plan review effort has been expended.

The Building Official shall not authorize the refunding of any fee paid, except upon written application filed by the original permittee not later than 180 days after the date of fee payment.

107.2 Required inspections and testing. The mechanical inspector, upon notification from the permit holder or the permit holder's agent, shall make the following inspections and other such inspections as necessary, and shall either release that portion of the construction or notify the permit holder or the permit holder's agent of violations that are required to be corrected. The holder of the permit shall be responsible for scheduling such inspections.

It shall be the duty of the mechanical contractor, or his designated mechanic, doing the work authorized by a permit to notify the mechanical inspector that such work is ready for inspection. The building official may require that every request for inspection be filed at least one working day before such inspection is desired.

1. Underground inspection shall be made after trenches or ditches are excavated and bedded, piping is installed, and before backfill is put in place. When excavated soil contains rocks, broken concrete, frozen chunks, and other rubble that would damage or break the piping or cause corrosive action, clean backfill shall be on the job site.
2. Rough-in inspection shall be made after the roof, framing, fireblocking, and bracing are in place and components to be concealed are complete, and prior to the installation of wall or ceiling membranes.
3. Final inspection shall be made upon completion of the installation.

The requirements of this section shall not be considered to prohibit the operation of any heating appliance installed to replace existing heating appliance serving an occupied portion of a structure in the event a request for inspection of such heating appliance has been filed with the department not more than 48 hours after replacement work is placed into operation or substantially completed, and before any portion of such appliance is concealed by any permanent portion of the structure.

108.4 Violation penalties. Persons who shall violate a provision of this code, fail to comply with any of the requirements thereof, or erect, install, alter, or repair work in violation of the approved construction documents or directive of the Building Official, or of a permit or certificate issued under the provisions of this code, shall be guilty of an ordinance violation. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

108.5 Stop work orders. Upon notice from the Building Official that work is being done contrary to the provisions of this code or in a dangerous or unsafe manner, such work shall immediately cease. Such notice shall be in writing and shall be given to the owner of the property, the owner's agent, or the person doing the work. The notice shall state the conditions under which work is authorized to resume. Where an emergency exists, the Building Official shall not be required to give a written notice prior to stopping the work. Any person who shall continue any work on the system after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be guilty of an ordinance violation and punishable by the general provisions of this code.

109.1 Board of appeals. In order to hear and decide appeals of orders, decisions, or determinations made by the Building Official relative to the application and interpretation of this code, the City Council hereby assumes the responsibilities of the Board of Appeals for this code. All decisions and findings of the Board shall be final and shall be rendered in writing to the appellant with a duplicate copy to the Building Official.

109.1.1 Limitation of authority. An application for appeal shall be based on a claim that the true intent of this code or the rules legally adopted hereunder have been incorrectly interpreted, the provisions of this code do not fully apply, or an equally good or better form of construction is proposed. If the appeal is based on a claim that an equally good or better form of construction was improperly denied, the appellant must submit the alternate material, design, or method of construction they are proposing. The appellant also has the burden to demonstrate to the Board that the alternative method or material that they are proposing is an equally good or better form of construction. The Board shall have no authority to waive the requirements of the International Fuel Gas Code as adopted by the City.

109.2 Membership of board. Not adopted by the City.

109.2.1 Qualifications. Not adopted by the City.

109.2.2 Alternate members. Not adopted by the City.

109.2.3 Chairman. Not adopted by the City

109.2.4 Disqualification of member. Not adopted by the City.

109.2.5 Secretary. Not adopted by the City.

109.2.6 Compensation of members. Not adopted by the City.

109.3 Notice of meeting. Not adopted by the City.

109.4 Open hearing. All hearings before the Board shall be open to the public. The appellant, the appellant's representative, the Building Official, any member of the City's staff, or any person whose interests are affected shall be given an opportunity to be heard.

109.4.1 Procedure. Not adopted by the City.

109.5 Postponed hearing. Not adopted by the City.

201.3 Terms defined in other codes. Where terms are not defined in this code and are defined in the International Building Code, International Residential Code, International Fire Code, International Existing Building Code, International Mechanical Code, or State Plumbing Code, such terms shall have meanings ascribed to them as in those codes.

301.6 Plumbing connections. Potable water supply and building drainage system connections to appliances regulated by this code shall be in accordance with the Plumbing Code adopted by the State of South Dakota.

304.6 Outdoor combustion air. Outdoor combustion air shall be provided through opening(s) to the outdoors in accordance with Section 304.6.1, 304.6.2, or 304.6.3. The minimum dimension of air openings shall be not less than 3 inches.

304.6.3 Alternate combustion air sizing (IFGC). As an alternate, the net free area of openings, ducts, or plenums supplying air to an area containing gas- and oil-burning appliances shall be in accordance with B149.1-10, Natural Gas and Propane Installation Code, published by the Canadian Standards Association (CSA).

When all air is taken from the outdoors for appliances, one outside air duct may be used and shall terminate below the draft hood. An exterior opening may be used in place of a duct provided that it terminates within 1 foot above, and within 2 feet horizontally from, the burner level of the appliance having the largest input.

The combustion air duct is required to be upsized one diameter size when a dryer is installed in the same room as the combustion air.

304.11 Combustion air ducts. Combustion air ducts shall comply with all of the following:

1. Ducts shall be constructed of galvanized steel complying with Chapter 6 of the International Mechanical Code or of a material having equivalent corrosion resistance, strength and rigidity.
   Exception: Within dwellings units, unobstructed stud and joist spaces shall not be prohibited from conveying combustion air, provided that not more than one required fire block is removed.
2. Ducts shall terminate in an unobstructed space allowing free movement of combustion air to the appliances.
3. Ducts shall serve a single enclosure.
4. Ducts shall not serve both upper and lower combustion air openings where both such openings are used. The separation between ducts serving upper and lower combustion air openings shall be maintained to the source of combustion air.
5. Ducts shall not be screened where terminating in an attic space.
6. Horizontal upper combustion air ducts shall not slope downward toward the source of combustion air.
7. The remaining space surrounding a chimney liner, gas vent, special gas vent, or plastic piping installed within a masonry, metal, or factory-built chimney shall not be used to supply combustion air.
   Exception: Direct-vent gas-fired appliances designed for installation in a solid fuel-burning fireplace where installed in accordance with the manufacturer's instructions.
8. Combustion air intake openings located on the exterior of a building shall have the lowest side of such openings located not less than 12 inches vertically from the adjoining finished ground level.
9. Mechanical and gravity outdoor air intake openings shall be located not less than 10 feet from any hazardous or noxious contaminant source, such as vents, streets, alleys, parking lots, and loading docks, except as specified in Item 3 or Section 501.3.1 of the International Mechanical Code.

305.1 General. Equipment and appliances shall be installed as required by the terms of their approval in accordance with the conditions of listing, the manufacturer's instructions, and this code. Manufacturer's installation instructions shall be available on the job site at the time of inspection. Where a code provision is less restrictive than the conditions of the listing of the equipment or appliance or the manufacturer's installation instructions, the conditions of the listing and the manufacturer's installation instructions shall apply.

After completion of the installation, all safety and operating controls and venting shall be tested before placing the burner in service in accordance with the manufacturer's installation instructions. The following requirements need to be recorded and affixed to the inside of the gas train access panel:

1. The rate of flow of the gas or fuel shall be adjusted to within plus or minus 5 percent of the required Btu/hr rating at the manifold pressure specified by the manufacturer. When the prevailing pressure is less than the manifold pressure specified, the rates shall be adjusted at the prevailing pressure.
2. The gas inlet pressure per the manufacturer's installation settings.
3. The temperature rise across the heat exchanger per the manufacturer's installation settings.
4. The static pressure of the supply and return ducts per the manufacturer's installation settings.

Unlisted appliances approved in accordance with Section 301.3 shall be limited to uses recommended by the manufacturer and shall be installed in accordance with the manufacturer's instructions, the provisions of this code, and the requirements determined by the building official.

306.5 Equipment and appliances on roofs or elevated structures. Where equipment requiring access or appliances are located on an elevated structure or the roof of a building such that personnel will have to climb higher than 16 feet above grade or floor level to access such equipment or appliances, an interior or exterior means of access shall be provided. Such access shall not require climbing over obstructions greater than 30 inches in height or walking on roofs having a slope greater than 4 units vertical in 12 units horizontal (33 percent slope). Such access shall not require the use of portable ladders.

Permanent ladders installed to provide the required access shall comply with the following minimum design criteria:

1. The side railing shall extend above the parapet or roof edge not less than 30 inches when the ladder is located on the exterior of the building. The side railing shall extend within 6 inches of the roof access hatch, and the side railing shall terminate within 1 inch from the side of the roof curb or wall the ladder is attached when the ladder is located in the building.
2. Ladders shall have rung spacing not to exceed 14 inches on center. The upper-most rung shall be a maximum of 24 inches below the upper edge of the roof hatch, roof or parapet, as applicable.
3. Ladders shall have a toe spacing not less than 6 inches deep.
4. There shall be a minimum of 18 inches between rails.
5. Rungs shall have a minimum 0.75-inch diameter and be capable of withstanding a 300-pound load.
6. Ladders over 30 feet in height shall be provided with offset sections and landings capable of withstanding 100 pounds per square foot. Landing dimensions shall be not less than 18 inches and not less than the width of the ladder served. A guard rail shall be provided on all open sides of the landing.
7. Climbing clearance. The distance from the centerline of the rungs to the nearest permanent object on the climbing side of the ladder shall be a minimum of 30 inches measured perpendicular to the rungs. This distance shall be maintained from the point of ladder access to the bottom of the roof hatch. A minimum clear width of 15 inches shall be provided on both sides of the ladder measured from the midpoint of and parallel with the rungs except where cages or wells are installed.
8. Landing required. The ladder shall be provided with a clear and unobstructed bottom landing area having a minimum dimension of 30 inches by 30 inches centered in front of the ladder.
9. Ladders shall be protected against corrosion by approved means.

10. Access to ladders shall be provided at all times.
11. Exterior access may be by means of a ladder which need not extend closer than 8 feet to finished grade.
12. When a new hatch is being used to access equipment or appliances on a roof or elevated structure, the handle or release must be on the same side of the roof hatch as the ladder or within 18 inches of the ladder.

Catwalks installed to provide the required access shall be not less than 24 inches wide and shall have railings as required for service platforms.

Exception: This section shall not apply to Group R-3 occupancies.

306.7 Appliances above suspended ceilings. Rooms containing appliances above suspended ceilings shall be installed in accordance with Section 306.2. In such locations, there shall be a space of not less than 30 inches wide by 30 inches deep from the top of the service area of the appliance to the level floor below. Any obstructions are limited to lights and the suspended ceiling system. A wall or partition shall be allowed in the first 6 inches of the 30-inch-deep service area in front of the appliance, provided the wall or partition terminates below the bottom of the appliance and the depth of the service space is increased to 36 inches deep from the top of the appliance to the level floor below.

310.1.1 CSST. Corrugated stainless steel tubing (CSST) gas piping systems shall be bonded to the electrical service grounding electrode system at the point where the gas service enters the building. The bonding jumper shall be not smaller than 6 AWG copper wire or equivalent. Gas piping systems that contain one or more segments of CSST shall be bonded in accordance with this section.

404.3 Prohibited locations. Piping shall not be installed in or through a ducted supply, return or exhaust, or a clothes chute, chimney or gas vent, dumbwaiter or elevator shaft.
502.5 Installation. Vent systems shall be sized, installed and terminated in accordance with the vent and appliance manufacturer's installation instructions and Section 503. Type B vents shall not be installed with offsets in concealed spaces.

503.4.1.1 Plastic vent joints. Plastic pipe and fittings used to vent appliances shall be installed in accordance with the appliance manufacturer's installation instructions. The primer shall be of a contrasting color.

Plastic pipe and fittings used to vent appliances shall be installed in accordance with the pipe manufacturer's installation instructions and the appliance manufacturer's installation instructions. Solvent cement joints between ABS pipe and fittings shall be cleaned. Solvent cement joints between CPVC and PVC pipe and fittings shall be primed.

Exception: Where compliance with this section would conflict with the appliance manufacturer's installation instructions.

CHAPTER 9.07 - PROPERTY MAINTENANCE CODE

9.0701 Adopted.

The City Council hereby adopts Chapters 1 through 8 the International Property Maintenance Code, 2015 Edition, including Appendix A, as published by the International Code Council, Inc. as the Property Maintenance Code of the City to provide standards to safeguard life or limb, health, property, and public welfare by regulating, governing, and controlling the use, occupancy, conditions, and maintenance of all property, buildings, and structures within this City and to provide for a just, equitable, and practicable method whereby buildings or structures, which from any cause endanger the life, limb, morals, property, safety, or welfare of the general public or their occupants, may be repaired, vacated, or demolished. The minimum requirements and standards of the 2015 International Property Maintenance Code will become effective on January 1, 2016. A copy of this Code shall be kept on file in the office of the Building Official.

9.0702 Local amendments, additions, and deletions to the 2015 International Property Maintenance Code**.**

The following sections and subsections of the property maintenance code adopted in this Ordinance shall be amended, added, or deleted as follows. All other sections or subsections of the 2015 International Property Maintenance Code shall remain as originally published.

101.1 Title. These regulations shall be known as the Property Maintenance Code of the City of Harrisburg, South Dakota, hereinafter referred to as "this code."

101.3 Intent. This code shall be construed to secure its expressed intent, which is to ensure public health, safety, and welfare insofar as they are affected by the continued occupancy and maintenance of structures and premises. Existing structures and premises that do not comply with these provisions shall be altered or repaired to provide a minimum level of health and safety as required herein. Repairs, alterations, additions to, and change of occupancy in existing buildings shall comply with this Ordinance and with any other applicable City ordinances or regulations.

102.3 Application of other codes. Repairs, additions, or alterations to a structure, or changes of occupancy, shall be done in accordance with the procedures and provisions of the International Building Code, International Existing Building Code, International Fuel Gas Code, International Mechanical Code, International Residential Code, and the Plumbing and Electrical Codes adopted by the State of South Dakota. Nothing in this code shall be construed to cancel, modify or set aside any provision of the Zoning Ordinance of the City of Harrisburg, South Dakota.

103.1 Creation of enforcement agency. Building services is hereby created and the official in charge thereof shall be known as the Building Official.

103.2 Appointment. Not adopted by the City.

103.3 Deputies. Not adopted by the City.

103.4 Liability. The Building Official, members of the board of appeals, or employees charged with the enforcement of this code, while acting for the jurisdiction, in good faith and without malice in the discharge of the duties required by this code or other pertinent law or ordinance, shall not thereby be rendered liable personally, and are hereby relieved from all personal liability for any damage accruing to persons or property as a result of an act or by reason of an act or omission in the discharge of

official duties. Any suit instituted against any officer or employee because of an act performed by that officer or employee in the lawful discharge of duties and under the provisions of this code shall be afforded all the protection by the city's insurance pool and any immunities and defenses provided by other applicable state and federal laws and be defended by the legal representative of the City until the final termination of the proceedings. The Building Official or any subordinate shall not be liable for costs in an action, suit, or proceeding that is instituted in pursuance of the provisions of this code.

103.5 Fees. The fees for activities and services performed by the department in carrying out its responsibilities under this code shall be adopted by resolution by the Council.

107.7 Extension of time agreement. If the Building Official determines that an extension of time will not create or perpetuate a situation imminently dangerous to life or property, the Building Official may grant an extension of time, not to exceed 180 days, in which to complete the work listed in the Notice and Order. Any extension shall not extend the time to appeal the Notice and Order. Any extension shall be agreed to in writing in a document containing the following:

1. A reasonable and acceptable schedule, setting forth specific dates to complete corrective action for each violation listed in the Notice and Order.
2. A signature of the responsible party.

111.1 Application for appeal. Any person directly affected by a decision of the Building Official or a notice or order issued under this code shall have the right to appeal to the Board of Appeals, provided that a written application for appeal is filed within 10 days after the day the decision, notice, or order was served. An application for appeal shall be based on a claim that the true intent of this code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this code do not fully apply, or the requirements of this code are adequately satisfied by other means. The Board shall have no authority relative to the interpretation of the administrative provisions of this code nor shall the Board be empowered to waive requirements of this code.

111.2 Designation of Board of Appeals. In order to hear and decide appeals of orders, decisions, or determinations made by the Building Official relative to the application and interpretation of this code, the Council hereby assumes the responsibilities of the Board of Appeals for this code. All decisions and findings of the Board shall be final and shall be rendered in writing to the appellant with a duplicate copy to the Building Official.

111.2.1 Alternate members. Not adopted by the City.

111.2.2 Chairman. Not adopted by the City.

111.2.3 Disqualification of member. Not adopted by the City.

111.2.4 Secretary. Not adopted by the City.

111.2.5 Compensation of members. Not adopted by the City.

111.3 Notice of meeting. Not adopted by the City.

111.4 Submission of appeals. All appeals must be submitted in writing to the Building Official within ten days of the order, decision, or determination of the Building Official that is being appealed. Once the appeal is received by the Building Official, he shall place the appeal on the Council's next regular meeting agenda that is more than seven days (inclusive) from the date of receipt of the appeal.

111.4.1 Appeal hearings. All hearings before the Board shall be open to the public. The appellant, the appellant's representative, the Building Official, any member of the City's staff, or any person whose interests are affected shall be given an opportunity to be heard.

111.4.1 Procedure. Not adopted by the City.

111.5 Postponed hearing. Not adopted by the City.

112.4 Failure to comply. Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be deemed in violation of this Ordinance and subject to the penalties prescribed by this Ordinance.

201.3 Terms defined in other codes. Where terms are not defined in this code and are defined in the International Building Code, International Existing Building Code, International Fuel Gas Code, International Mechanical Code, International Residential Code, or the electrical and plumbing codes of the State of South Dakota, such terms shall have the meanings ascribed to them as stated in those codes.

302.4 Weeds. All premises and exterior property shall be maintained free from weeds, or tall grasses in excess of 8" in height. All noxious weeds shall be prohibited. Weeds shall be defined as all grasses, annual plants, and vegetation, other than trees or shrubs provided; however, this term shall not include cultivated flowers and gardens.

Upon failure of the owner or agent having charge of a property to cut and destroy weeds or tall grasses after service of a notice of violation, they shall be subject to prosecution in accordance with Section 106.3 and as prescribed by the authority having jurisdiction. Upon failure to comply with the notice of violation, any duly authorized employee of the City or contractor hired by the City shall be authorized to enter upon the property in violation and cut and destroy the weeds or tall grasses growing thereon, and the costs of such removal shall be paid by the owner or agent responsible for the property.

303.2 Enclosures. Private swimming pools, hot tubs, and spas containing water more than 18 inches in depth shall be completely surrounded by a fence or barrier at least 42 inches in height above the finished ground level measured on the side of the barrier away from the pool. Gates and doors in such barriers shall be self-closing and self-latching. The latch release mechanism shall be located on the pool side of the gate. Self-closing and self-latching gates shall be maintained such that the gate will positively close and latch when released from an open position. No existing pool enclosure shall be removed, replaced, or changed in a manner that reduces its effectiveness as a safety barrier.

Exception: Spas or hot tubs with a safety cover that complies with ASTM F 1346 shall be exempt from the provisions of this section.

304.14 Insect screens. During the period from April 1 to September 30, every door, window, and other outside opening required for ventilation of habitable rooms, food preparation areas, food service areas, or any areas where products to be included or utilized in food for human consumption are processed, manufactured, packaged, or stored shall be supplied with approved tightly fitting screens of not less than 16 mesh per inch, and every screen door used for insect control shall have a self-closing device in good working condition.

Exception: Screens shall not be required where other approved means, such as air curtains or insect repellent fans, are employed.

304.18 Building security. Doors, windows, or hatchways for dwelling units, room units, or housekeeping units shall be provided with devices designed to provide security for the occupants and property within and shall comply with Section 702.3.

305.1 General. The interior of a structure and equipment therein shall be maintained in good repair, structurally sound, and in a sanitary condition. Occupants shall keep that part of the structure which they occupy or control in a clean and sanitary condition. Every owner of a structure shall maintain, in a clean and sanitary condition, the shared or public areas of the structure and exterior property.

404.4.1 Room area. Every living room shall contain at least 120 square feet and every bedroom shall contain a minimum of 70 square feet. Bedrooms 100 square feet or less are allowed two occupants and every bedroom occupied by more than two persons shall contain a minimum of 50 additional square feet of floor area for each occupant thereof.

502.5 Public toilet facilities. Public toilet facilities shall be maintained in a safe, sanitary, and working condition in accordance with the current codes adopted by the State of South Dakota for plumbing. Except for periodic maintenance or cleaning, public access and use shall be provided to the toilet facilities at all times during occupancy of the premises.

505.1 General. Every sink, lavatory, bathtub or shower, drinking fountain, water closet, or other plumbing fixture shall be properly connected to either a public water system or to an approved private water system. All kitchen sinks, lavatories, laundry facilities, bathtubs, and showers shall be supplied with hot or tempered and cold running water in accordance with the current codes adopted by the State of South Dakota for plumbing.

602.2 Residential occupancies. Dwellings shall be provided with heating facilities capable of maintaining a room temperature of 68°F in all habitable rooms, bathrooms and toilet rooms. Cooking appliances shall not be used, nor shall portable unvented fuel-burning space heaters be used, as a means to provide required heating.

Exception: In areas where the average monthly temperature is above 30°F, a minimum temperature of 65°F shall be maintained.

602.3 Heat supply. Every owner and operator of any building who rents, leases or lets one or more dwelling units or sleeping units on terms, either expressed or implied, to furnish heat to the occupants thereof shall supply heat during the period from September 1 to April 30 to maintain a minimum temperature of 68°F in all habitable rooms, bathrooms and toilet rooms.

Exceptions:

1. When the outdoor temperature is below the winter outdoor design temperature for the locality, maintenance of the minimum room temperature shall not be required provided that the heating system is operating at its full design capacity.
2. In areas where the average monthly temperature is above 30°F a minimum temperature of 65°F shall be maintained.

602.4 Occupiable work spaces. Indoor occupiable work spaces shall be supplied with heat during the period from September 1 to April 30 to maintain a temperature of not less than 65°F during the period the spaces are occupied.

Exceptions:

1. Processing, storage, and operation areas that require cooling or special temperature conditions.
2. Areas in which persons are primarily engaged in vigorous physical activities.

CHAPTER 9.08 - FLOOD DAMAGE PREVENTION

9.0801 Purpose. The purpose of Chapter 9.08 is to promote the public health, safety, and general welfare and to minimize public and private losses due to flood conditions in areas of special flood hazard by regulations designed to:

1. Protect human life, health, safety, and welfare;
2. Minimize expenditure of public money for costly flood-control projects;
3. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
4. Minimize prolonged business interruptions;
5. Minimize damage to public facilities and utilities such as water, sewer, and gas mains, electric and telephone lines, and streets, culverts and bridges located in areas of special flood hazard;
6. Help maintain a stable tax base by providing for the sound use and development of flood-prone areas in such a manner as to minimize future blight due to floods; and
7. Ensure that potential buyers are notified that property is in an area of special flood hazard.

9.0802 Findings of Fact.

A. The areas of special flood hazard within the statutory jurisdiction of the City of Harrisburg are subject to periodic inundation which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, and extraordinary public expenditures for flood protection and relief, all of which may adversely affect the public health, safety and general welfare.

B. These flood losses are created by the cumulative effects of added impervious surface areas in contributing watersheds and of obstructions in areas of special flood hazard which cause an increase in flood heights and velocities, and by the occupancy of areas of special flood hazard by uses vulnerable to floods and thus hazardous to other lands because they are inadequately elevated, floodproofed, or otherwise protected from flood damage.

9.0803 Policies for Reducing Flood Losses. The City Council hereby adopts the following policies in order to accomplish the purposes of Chapter 9.08:

1. To restrict or prohibit land uses that are dangerous to health, safety, or property in times of flood, or that cause damaging increases in soil erosion, flood heights, or flood velocities;
2. To require that land uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of their initial construction and throughout their intended life span;
3. To control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of flood waters;

4. To control filling, grading, dredging, and other development activities which may result in increased flood damage; and
5. To prevent or regulate the construction of flood barriers which will divert floodwaters onto, or which may increase flood hazards to, other lands.

9.0804 Definitions. For the purposes of Chapter 9.08, and in order to carry out the provisions and intentions as set forth herein, certain words, terms, and phrases are to be used and interpreted as defined hereafter. Words used in the present tense shall include the future tense; words in the singular number include the plural; words in the plural number include the singular; the word "person" includes a firm, partnership, or corporation as well as an individual; the term "shall" is always mandatory and not discretionary; and the word "may" is permissive. The terms “used” or “occupied” as applied to any land or building shall be construed to include the terms “intended, arranged, or designed to be used or occupied”.

AREA OF SPECIAL FLOOD HAZARD: Land subject to a one percent (1%) or greater chance of flooding in any given year. For the purposes of Chapter 9.08, the term “special flood hazard area” is synonymous in meaning with the term “area of special flood hazard”.

BASE FLOOD: The flood having a one percent (1%) chance of being equaled or exceeded in any given year.

BASE FLOOD ELEVATION (BFE): The water surface elevation of the base flood. The height of the water surface in relation to mean sea level expected to be reached by the waters of the base flood at pertinent points in areas of special flood hazard.

BASEMENT: Any area of a structure having its floor below ground level (subgrade) on all sides.

BUILDING: See STRUCTURE.

CERTIFICATION: A certification by a registered professional engineer or other party does not constitute a warranty or guarantee of performance, expressed or implied. Certification of data is a statement that the data is accurate to the best of the certifier’s knowledge. Certification of analyses is a statement that the analyses have been performed correctly and in accordance with sound engineering practices. Certification of structural works is a statement that the works are designed in accordance with sound engineering practices to provide protection from the base flood. Certification of “as built” conditions is a statement that the structure(s) has been built according to the plans being certified, is in place, and is fully functioning.

CITY: The City of Harrisburg, South Dakota.

CLOMR: A Conditional Letter Of Map Revision.

COUNCIL: The City Council of the City.

DEVELOPMENT: Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, drilling operations, or storage of equipment or materials.

EROSION: The process of the gradual wearing away of land masses. This peril is not per se covered under the National Flood Insurance Program.

EXISTING CONSTRUCTION: For the purposes of Chapter 9.08, structures for which the start of construction commenced before October 15, 1977. “Existing construction” may also be referred to as “existing structures”.

EXISTING MANUFACTURED HOME PARK: A manufactured home park for which the construction of facilities for servicing the lots on which the factory-built homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) was completed before October 15, 1977.

EXISTING STRUCTURES: See EXISTING CONSTRUCTION.

EXPANSION OF AN EXISTING MANUFACTURED HOME PARK: The preparation of additional sites for an existing manufactured home park by the construction of facilities for servicing the lots on which the factory-built homes
are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

FACTORY-BUILT HOMES: Structures built off-site and designed for long-term, single-family residential use. For the purpose of these regulations, factory-built homes consist of three (3) types: manufactured homes, mobile homes, and modular homes.

FEMA: The Federal Emergency Management Agency.

FHBM: Flood Hazard Boundary Map.

FIRM: Flood Insurance Rate Map.

FIS: Flood Insurance Study.

FLOOD/FLOODING: A general and temporary condition of partial or complete inundation of normally dry land areas from:

1. The overflow of inland or tidal waters;
2. The unusual and rapid accumulation or runoff of surface waters from any source; or
3. Mudslides (i.e., mudflows) which are proximately caused by flooding as defined in paragraph 2 of this definition and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.
4. The collapse or subsidence of land along the shore of a body of water as a result of erosion or undermining caused by waves or currents of water caused by an unusually high water level in a natural body of water, such as a flash flood, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph 1 of this definition.

FLOOD INSURANCE RATE MAP: The official map of the City prepared under the direction of FEMA upon which areas of special flood hazard and other flood-related information have been delineated.

FLOOD INSURANCE STUDY/FLOOD ELEVATION STUDY: An examination, evaluation, and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation, and determination of mudslide (i.e., mudflow) and/or flood-related erosion hazards under the direction of FEMA.

FLOODPLAIN: Any land area susceptible to being inundated by water from any source.
FLOODPLAIN MANAGEMENT: The operation of an overall program of corrective and preventive measures for reducing flood damage, including, but not limited to, emergency preparedness plans, flood control works, and floodplain management regulations.

FLOODPROOFING: Any combination of structural and/or non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, to water and sanitary facilities, or to structures and their contents.
FLOODWAY: The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot (1').

FREEBOARD: A factor of safety, usually expressed in feet above a flood level, for purposes of floodplain management. Freeboard tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings, and the hydrological effects of urbanization of the watershed.

HIGHEST ADJACENT GRADE: The highest natural elevation of the undisturbed ground surface next to the proposed walls of a structure prior to construction.

HISTORIC STRUCTURE: Any structure that is:

1. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
3. Individually listed on a state inventory of historic places in states with historic reservation programs which have been approved by the Secretary of the Interior; or
4. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either: (a) By an approved state program as determined by the Secretary of the Interior or
   (b) Directly by the Secretary of the Interior in states without approved programs.

LOMC: Letter of Map Change. Authorization from FEMA for changes to the City's adopted FIRM and FIS through approval of either a Letter of Map Amendment or a Letter of Map Revision.

LOWEST FLOOR: The lowest floor of the lowest enclosed area (including a basement floor) of a structure. An unfinished or flood-resistant enclosure (including a crawlspace), usable solely for parking of vehicles, building access, or storage is not considered a building's lowest floor; provided that such enclosure is not built so as to render the structure in violation of applicable non-elevation design requirements.

MANUFACTURED HOME: A factory-built, single-family dwelling, designed to be a permanent residence, that meets the 1976 Federal Manufactured Home Construction and Safety Standards Act (42 U.S.C. Sec. 5401), commonly known as the HUD (U.S. Department of Housing and Urban Development) Code. Manufactured homes typically are not placed on a permanent foundation or basement and consist of one (1) or more transportable sections that do not have a permanently attached towing hitch.
MANUFACTURED HOME PARK (MHP): A site containing three (3) or more spaces with required improvements and utilities that are leased for the long-term placement of factory-built homes, recreational vehicles, or travel trailers.

MEAN SEA LEVEL: For the purposes of Chapter 9.08, the North American Vertical Datum of 1988 (NAVD 88) to which base flood elevations shown on the City's adopted FIRM are referenced.

MOBILE HOME: A factory-built, single-family dwelling, designed to be a permanent residence, and built prior to enactment of the 1976 Federal Manufactured Home Construction and Safety Standards Act (42 U.S.C. Sec. 5401), commonly known as the HUD (U.S. Department of Housing and Urban Development) Code. Mobile homes typically are not placed on a permanent foundation or basement and consist of one (1) or two (2) transportable sections that have a permanently attached towing hitch and chassis.

MODULAR HOME: A factory-built, single-family dwelling, designed to be a permanent residence that meets state and City building codes. Modular homes typically are placed on a permanent foundation or basement and consist of one (1) or more transportable sections that do not have a permanently attached towing hitch and chassis. For the purposes of Chapter 9.08, single-family, site-built homes that were constructed elsewhere and are now being moved to a different parcel within the City are considered to be modular homes.

NEW CONSTRUCTION: Structures for which the start of construction commenced on or after the effective date of October 15, 1977, and includes any subsequent improvements to such structures.

NEW MANUFACTURED HOME PARK: A manufactured home park for which the construction of facilities for servicing the lots on which the factory-built homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) was completed on or after the effective date of October 15, 1977.

REASONABLY SAFE FROM FLOODING: Base flood waters will not inundate the land or damage structures to be removed from an area of special flood hazard by a Letter of Map Change and that any subsurface waters related to the base flood will not damage existing or proposed buildings.

RECREATIONAL VEHICLE: A vehicle which is:

1. Built on a single chassis;
2. Four hundred (400) square feet or smaller when measured at the largest horizontal projection;
3. Designed to be self-propelled or permanently towable by a light duty truck; and
4. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

REPETITIVE LOSS STRUCTURE: A structure covered by a contract for flood insurance that has incurred flood-related damages on two separate occasions during a ten-year period (the period ends on the date of the event for which the second claim is made) for which the cost of repairs at the time of each such flood event, on the average, equaled or exceeded 25% of the market value of the structure at the time of each such flood event.
SDDENR: The South Dakota Department of Environment and Natural Resources.

SDOEM: The South Dakota Office of Emergency Management.

SPECIAL FLOOD HAZARD AREA: See AREA OF SPECIAL FLOOD HAZARD.

START OF CONSTRUCTION: This definition includes substantial improvement and means the date the building or grading permit is issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement begins within one hundred and eighty (180) days of the permit issuance date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of a slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a factory-built home on a foundation. Construction under a grading permit includes land preparation, such as clearing, grading and filling; the installation of streets and/or walkways; the excavation for a basement, footings, piers, or foundations; or the erection of temporary forms. Construction under a building permit includes the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

STRUCTURE: For the purposes of Chapter 9.08, a walled and roofed building, including a factory-built home or a gas or liquid storage tank, that is principally above ground.

SUBSTANTIAL DAMAGE: Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred. Substantial damage also means flood-related damages sustained by a structure on two separate occasions during a ten-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds twenty-five percent (25%) of the market value of the structure before the damages occurred.

SUBSTANTIAL IMPROVEMENT: Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure before the start of construction of the improvement. This term includes structures which have incurred repetitive loss or substantial damage regardless of the actual repair work performed. This term does not include either:

1. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code regulations which have been identified by a code enforcement or building official and which are the minimum necessary to assure safe living conditions; or

2. Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.

VARIANCE: A specific exception to the terms of Chapter 9.08 where such deviation will not be contrary to the public interest and will be granted due to circumstances peculiar to a property.

VIOLATION: The failure of a structure or other development to be fully compliant with the City's floodplain management regulations. A structure or other development without the elevation certificate, no-rise certification, or other evidence of compliance required in Chapter 9.08 is presumed to be in violation until such time as that documentation is accepted and approved.

WATER SURFACE ELEVATION: The height, in relation to the North American Vertical Datum of 1988 (NAVD 88), of floods of various magnitudes and frequencies in an area of special flood hazard.

GENERAL PROVISIONS

9.0805 Lands to Which Chapter 9.08 Applies. Chapter 9.08 shall apply to all areas of special flood hazard within the statutory jurisdiction of the City.

9.0806 Areas of Special Flood Hazard. The Flood Insurance Study and Flood Insurance Rate Maps for the City of Harrisburg (Community 460114) and Lincoln County (Community 460277) with an effective date of April 2, 2008, and any revisions thereto, delineate areas of special flood hazard and are hereby adopted by reference and declared to be a part of Chapter 9.08. Said FIRMs are hereby designated as the official maps of the City for the purposes of Chapter 9.08.

9.0807 Compliance. No structure shall hereafter be located, constructed, or altered nor shall land hereafter have its use changed without full compliance with the terms of Chapter 9.08 and other applicable regulations.

9.0808 Abrogation and Greater Restrictions. Chapter 9.08 is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where Chapter 9.08 and another chapter, ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

9.0809 Interpretation. In the interpretation and application of Chapter 9.08, all provisions shall be considered as minimum requirements, liberally construed in favor of the City, and deemed neither to limit nor repeal any other powers granted under State statutes.

9.0810 Warning and Disclaimer of Liability. The degree of flood protection required by Chapter 9.08 is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. On rare occasions greater floods can and will occur and flood heights may be increased by man-made or natural causes. Chapter 9.08 does not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damages. Chapter 9.08 shall not create liability on the part of the City or any official or employee thereof for any flood damages that result from reliance on Chapter 9.08 or any administrative decision lawfully made thereunder.

ADMINISTRATION

9.0811 Designation of the Floodplain Management Administrator. The Council hereby appoints the Planning and Zoning Official as the Floodplain Management Administrator to administer and implement the provisions of Chapter 9.08.

9.0812 Duties and Responsibilities of the Floodplain Management Administrator. Duties and responsibilities of the Floodplain Management Administrator shall include, but not be limited to, the following:

A. To maintain and hold open for public inspection all records pertaining to the provisions of Chapter 9.08.

B. To review all development permit applications to assure that the requirements of Chapter 9.07 have been met.

C. To review permit applications to determine whether a proposed building site, including the placement site of a factory-built home, will be reasonably safe from flooding.

D. To review each Floodplain Development Permit Application and approve, approve with conditions, or deny the Permit.

E. To review Floodplain Development Permit Applications for proposed development to assure that all necessary permits have been obtained from those Federal, State, or local governmental agencies from which prior approval is required and to ensure that such documentation is maintained on file with the Floodplain Development Permit.

F. To interpret, as needed, the exact location of a boundary of an area of special flood hazard or floodway. In those cases where there appears to be a conflict between a mapped boundary and actual field conditions, the Floodplain Management Administrator shall make the necessary interpretation.

G. To notify adjacent communities, SDDENR, and SDOEM prior to any alteration or relocation of a watercourse, and submit evidence of such notification to FEMA and assure that the flood-carrying capacity within the altered or relocated portion of any watercourse is maintained.

H. To obtain, review, and reasonably utilize any base flood elevation data and floodway data available from a Federal, State, or other source when base flood elevation data or floodway data has not been provided by the adopted FIRM, in order to administer the provisions of Chapter 9.08.

I. To review Floodplain Development Permit Applications for proposed development to assure that no new construction, substantial improvements, or other development (including fill) be permitted within areas of special flood hazard with designated base flood elevations on the adopted FIRM when a floodway has not been designated, unless it is demonstrated by the applicant's Professional Engineer that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood at any point within the City.

J. To ensure that FEMA has approved a CLOMR before a Floodplain Development Permit for which a CLOMR will be required is reviewed and approved.

K. To declare that a structure is a repetitive loss or is substantially damaged.

L. To ensure that certified plans and specifications for development within areas of special flood hazard are reviewed for compliance with the requirements of Chapter 9.08.

9.0813 CLOMR and LOMR Requirements. A CLOMR is required for development projects that are located in an area of special flood hazard for which base flood elevations have been specified on the adopted FIRM and the proposed project would result in any (other than 0.0') change in the base flood elevation or alteration of any floodplain or floodway boundary. Proof that FEMA has granted a CLOMR must be provided with the Floodplain Development Permit Application for the project before work may be allowed to begin. In such cases, the Floodplain Development Permit may be approved contingent upon the applicant submitting an application to FEMA within six months of project completion for the LOMR proposed in the granted CLOMR AND eventual notification by FEMA that said LOMR has been granted.

9.0814 Establishment of the Floodplain Development Permit. A Floodplain Development Permit shall be obtained, before construction begins, for any building or structure that will be built within an area of special flood hazard. Building, grading, or moving permits shall not be issued by City Building Officials for sites within areas of special flood hazard before a Floodplain Development Permit for the site is approved. The Floodplain Development Permit shall be required to ensure conformance with the provisions of Chapter 9.08. City or public utility projects to install underground or overhead utilities that will result in no net change to ground surface elevations within areas of special flood hazard are exempt from the requirement to obtain a Floodplain Development Permit. Replacement of an existing mobile home or manufactured home by a different manufactured home in an existing manufactured home park shall be exempt from the requirement to first obtain a Floodplain Development Permit. However, an as-built Elevation Certificate shall be submitted to the Floodplain Management Administrator within thirty days of the date the replacement manufactured home is moved into the manufactured home park. Failure to provide said Elevation

Certificate within the thirty-day period shall result in immediate revocation of the certificate of occupancy for the home and may result in removal of the manufactured home from the City at the owner's expense.

9.0815 Floodplain Development Permit Procedure.

A. Applications for Floodplain Development Permits shall be submitted, prior to the commencement of any development activities, to the Floodplain Management Administrator. The Floodplain Development Permit Application shall consist of: a Floodplain Development Permit Application form; a scaled and dimensioned site plan of the property showing existing and proposed structure locations (including the placement of factory-built homes) and elevations, location of material or equipment storage, location of wetlands and other protected areas, existing and proposed utility and street infrastructure, property boundaries, areas of special flood hazard and/or floodway boundaries, and the location, extent, and elevation of areas of excavation, fill, and grading (preparation of the site plan may be required to be produced by a Registered Land Surveyor); an elevation certificate stamped by a Registered Land Surveyor may be required; a No Rise Certification by a Professional Engineer may be

required; a Floodproofing Certificate prepared and stamped by a Professional Engineer may be required; other relevant engineering data and certifications may be required; and a non-refundable Floodplain Development Permit Application Fee. All elevation information shall utilize the North American Vertical Datum of 1988 (NAVD 88). The Floodplain Management Administrator shall maintain a record of all such information that has been submitted.

B. The following information is required as part of the application, where pertinent:

1. Elevation (in relation to mean sea level), of the lowest floor (including basement and/or crawlspace) of all new and substantially improved structures;
2. Elevation (in relation to mean sea level) to which any nonresidential structure shall be floodproofed;
3. A certification from a Professional Engineer or Architect that the nonresidential floodproofed structure shall meet the floodproofing criteria of Section 9.0817; and
4. A written description from a Professional Engineer of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development.

C. The provisions of Chapter 9.08 and the following relevant factors shall be considered during the review of a Floodplain Development Permit Application by the Floodplain Management Administrator before he approves, approves with conditions, or denies the Floodplain Development Permit:

1. The danger to life and property due to flooding or erosion damage;
2. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
3. The danger that materials may be swept onto other lands to the injury of others;
4. The compatibility of the proposed use with existing and anticipated development;
5. The safety of access to the property in times of flood for ordinary and emergency vehicles;
6. The costs of providing governmental services during and after flood conditions including maintenance and repair of streets and bridges, public utilities, and facilities such as sewer, gas, electrical, and water systems;
7. The expected height, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site;
8. The necessity to the facility of a waterfront location, where applicable;
9. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use; and
10. The relationship of the proposed use to the comprehensive plan for that area.

D. Upon placement of the lowest floor, or Floodproofing by whatever approved construction means, it shall be the duty of the Permit holder to submit to the Floodplain Management Administrator a certification of the elevation of the lowest floor or floodproofed elevation, as built, in relation to mean sea level. Said certification shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by same on the current FEMA-authorized form. Any work undertaken prior to submission of the certification shall be at the permit holder’s risk.

E. Each Permit shall be valid for a period of one year from its date of issuance. A Permit shall become invalid if the proposed development is not commenced within 180 days of Permit issuance, or if the work authorized is suspended or abandoned for a period of 180 days after such work commences. Extensions shall be requested in writing and justifiable cause demonstrated. The Floodplain Management Administrator is authorized to grant, in writing, extensions of time for the Permit to remain valid.

F. The Floodplain Management Administrator is authorized to suspend or revoke a Permit issued under Chapter 9.08 whenever the Permit is issued in error or on the basis of incorrect, inaccurate, or incomplete information, or in violation of any ordinance or code of the City, or if the Floodplain Management Administrator determines that the work being performed does not conform to the work authorized by the Permit.

G. In order to hear and decide appeals of orders, decisions, or determinations made by the Floodplain Management Administrator relative to the application and interpretation of Chapter 9.08, the Council hereby designates the Planning Commission to be the Board of Appeals for these regulations. All decisions and findings of the Board shall be final and shall be rendered in writing to the appellant with a duplicate copy to the Floodplain Management Administrator.

PROVISIONS FOR FLOOD HAZARD REDUCTION

9.0816 General Standards. In or near all areas of special flood hazard the following provisions for flood hazard reduction are required for all new construction and substantial improvements:

A. All new construction or substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.

B. All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage.

C. All new construction or substantial improvements shall be constructed with materials resistant to flood damage.

D. All new construction or substantial improvements shall be constructed with electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within their components during conditions of flooding.

E. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.

F. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharge from the system into flood waters.

G. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

H. All existing buildings or substantial improvements that are to be removed from areas of special flood hazard by Letters of Map Change (LOMA or LOMR) shall show that the lowest adjacent grade of the structure must also be equal to or higher than the base flood elevation.

9.0817 Specific Standards. In or near all areas of special flood hazard where base flood elevation data has been provided the following provisions for flood hazard reduction are required:

A. Residential Construction: New construction or substantial improvement of any residential structure shall have the lowest floor (including the basement floor), elevated at least two feet (2') above the base flood elevation. The construction of any residential structure shall conform to the guidance provided in FEMA Technical Bulletin 10-01, Ensuring That Structures Built on Fill In or Near Special Flood Hazard Areas Are Reasonably Safe From Flooding (FEMA Publication FIA-TB-10). A Professional Engineer, Architect, or Registered Land Surveyor shall submit an elevation certificate to the Floodplain Management Administrator that certifies this elevation data both for the "per plans" application and for the post-construction "as-built" circumstances.

B. Nonresidential Construction: New construction or substantial improvements of any commercial, industrial, or other nonresidential structure shall either have the lowest floor (including the basement floor) elevated at least two feet (2') above the base flood elevation or, together with attendant utility and sanitary facilities, be designed so that the structure below a level that is three feet (3') above the base flood elevation is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A Professional Engineer or Architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice as outlined in this subsection. A record of such certification which includes the specific elevation (in relation to mean sea level) to which such structure is floodproofed shall be submitted to the Floodplain Management Administrator. An exception to the two-foot-elevation requirement may be allowed for detached accessory structures, such as sheds, shops, or garages, which may have the lowest floor at or above the base flood elevation.

C. Enclosures: New construction or substantial improvements with fully enclosed areas below the lowest floor (including a crawlspace) that are usable solely for parking of vehicles, building access, or storage and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must be certified by a Professional Engineer or Architect and meet or exceed the following minimum criteria:

1. A minimum of two (2) openings having a total net area of not less than one (1) square inch for every one (1) square foot of enclosed area subject to flooding shall be provided;

2. The bottom of all openings shall be no higher than one foot (1') above grade; and

3. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

D. Crawlspace Construction: The construction of any crawlspace shall conform to the guidance provided in FEMA Technical Bulletin 11-01, Crawlspace Construction for Buildings Located in Special Flood Hazard Areas (FEMA Publication FIA-TB-11 (11/01).

E. Factory-built Homes:

1. All factory-built homes to be placed or substantially improved within areas of special flood hazard shall be installed using methods and practices which minimize flood damage. For the purposes of this requirement, factory-built homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable anchoring requirements for resisting wind forces.

2. All factory-built homes to be placed or substantially improved within areas of special flood hazard shall be installed on a foundation such that the lowest floor of the factory-built home is elevated at least two feet (2') above the base flood elevation and such that the factory-built home is securely anchored to an adequately anchored foundation system that is designed to resist flotation, collapse, and lateral movement when the factory-built home site is:

   (a) outside of a manufactured home park;
   (b) in a new manufactured home park;
   (c) in an expansion of an existing manufactured home park; or
   (d) in an existing manufactured home park in which a factory-built home has incurred "substantial damage" as a result of a flood.

3. All factory-built homes to be placed or substantially improved within areas of special flood hazard in an existing manufactured home park shall be elevated so that the lowest floor is at least two feet (2') above the base flood elevation AND the chassis of the factory-built home is supported by reinforced piers that are no less than thirty-six inches (36") in height above grade and securely anchored.

F. Recreational Vehicles: All recreational vehicles placed on sites within areas of special flood hazard shall either:

1. be on the site for fewer than one hundred and eighty (180) consecutive days and be fully licensed and ready for highway use, or
2. meet Floodplain Development Permit requirements and the elevation and anchoring requirements for factory-built homes.

A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.

9.0818 Standards for Subdivision Proposals. In all areas of special flood hazard the following provisions for flood hazard reduction are required for all subdivision proposals, including the placement of manufactured home parks:

A. All subdivision proposals shall be consistent with the provisions of Chapter 9.08.

B. All subdivision proposals shall meet the Floodplain Development Permit requirements of Chapter 9.08.

C. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards.

D. All subdivision proposals shall have infrastructure such as streets, sewer, gas, electrical, and water systems designed, located, and constructed to minimize or eliminate flood damage.

E. All subdivision proposals which propose either more than fifty (50) lots or encompass more than five (5.0) acres shall provide base flood elevation contour data prepared by a Professional Engineer.

9.0819 Standards for Floodways. Areas of special flood hazard that have been designated on the adopted FIRM or FHBM as floodways are extremely hazardous areas due to the velocity of flood waters which carry debris and have extreme erosion and scour potential. In all floodways the following provisions for flood hazard reduction are required:

A. Encroachment of the floodway, including fill, new construction, substantial improvements, and other development shall be prohibited unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice by a Professional Engineer that the proposed encroachment would not result in any increase (0.0') in base flood elevations during the occurrence of the base flood discharge. The Professional Engineer shall submit supporting calculations with his No Rise Certification.

B. All new construction and substantial improvements in the floodway shall comply with all applicable flood hazard reduction provisions of Chapter 9.08.

C. Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Regulations, encroachments may be permitted within the floodway that would result in an increase in base flood elevations, provided that the community first receives approval of a CLOMR through FEMA and that the provisions of Section 9.0813 are followed.

9.0820 Variances.

A. The Council shall hear and render judgment on requests for variances from the requirements of Chapter 9.08.

B. Any person(s) aggrieved by the decision of the Council may appeal such decision to a court of competent jurisdiction.

C. The Floodplain Management Administrator shall maintain a record of all actions involving an appeal and shall report variances to FEMA and SDOEM upon the issuance of a variance by the Council.

D. Variances may be issued for new construction and substantial improvements to be erected on a lot of one-half (½) acre or smaller in size that is contiguous to and surrounded by lots with existing structures that are constructed below the base flood

elevation, providing the relevant factors of Section 9.0815.C have been fully considered. As the lot size increases beyond one-half (½) acre, the technical justification required for issuing the variance increases.

E. Upon consideration of the factors noted above and the intent of Chapter 9.08, the Council may attach such conditions to the granting of a variance as it deems necessary to further the purpose and objectives of Chapter 9.08.

F. Variances shall not be issued within any designated floodway if any increase in base flood elevation during the base flood discharge would result.

G. Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

H. The following are prerequisites for granting a variance:

1. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

2. Variances shall only be issued upon:

   (a) the applicant showing a good and sufficient cause;
   (b) a determination by the Council that failure to grant the variance would result in exceptional hardship to the applicant; and
   (c) a determination by the Council that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud or victimization of the public, or conflict with existing local laws or ordinances.

3. Any applicant to whom a variance is granted shall be given written notice by the Floodplain Management Administrator that the structure will be permitted to be built with the lowest floor elevation below the base flood elevation, and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

I. Variances may be issued for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that:

1. The criteria outlined in this Chapter 9.08 are met; and

2. The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

TITLE 10 - UTILITY FRANCHISES

Chapter 10.01 – Cable Services
Chapter 10.02 – Electricity
Chapter 10.03 – Natural Gas

CHAPTER 10.01 - CABLE SERVICES

10.0101 Short Title. This ordinance shall be known and may be cited as the Harrisburg Cable Services Ordinance ("Ordinance").

10.0102 Definitions. For the purpose of this Ordinance, the following terms, phrases, words, and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

1. "Basic Cable Service" means any service tier which includes the retransmission of local television broadcast signals, as provided in the Cable Act.

2. "Cable Act" means the Cable Communications Policy Act of 1984, Pub. L. No. 98-549, (codified at 47 U.S.C. §§ 521 *et. seq.* (1982 & Supp. V. 1987)) as amended by the Cable Television Consumer Protection and Competition Act of 1992, Pub. L. No. 102-385, and the Telecommunications Act of 1996, Pub. L. No. 104-104, as it may, from time to time, be amended.

3. "Cable Service"has the same meaning as in the Cable Act.

4. "Cable System" has the same meaning as in the Cable Act.

5. "Channel" has the same meaning as in the Cable Act.

6. "City" means the City of Harrisburg, South Dakota.

7. "City Council" means the mayor and the council members of Harrisburg, South Dakota.

8. "County" means Lincoln County, South Dakota.

9. "Demarcation" means a point that is 12 inches on the subscriber's side of the protector, or the equivalent thereof in cases where a protector is not.

10. "Drop" means the cable that connects the subscriber ground block or other point of demarcation to the nearest feeder cable of the system.

11. "FCC" means Federal Communications Commission, its designee, or any successor thereto.

12. "Franchise" means the initial authorization, or renewal thereof, issued by the franchising authority, whether such authorization is designated as a franchise, permit, license resolution, contract, certificate, or otherwise, which authorizes construction and operation of a Cable System for the purpose of offering Cable Service or other service to subscribers.

13. “Franchise Fee" means any tax, fee, or assessment of any kind imposed by the City on the Grantee or Grantee's subscriber, or both, solely because of their status as a cable operator, cable subscriber, or cable user.

14. "Grantee" means the Person agreeing to be bound by the terms of this Franchise ordinance, its contractors/subcontractors, agents, assigns or its successor in accordance with the provisions of this Franchise.

15. "Gross Revenues" shall mean all revenue received from Cable Service directly by the Grantee from the Operation of a Cable System within the City, including but not limited to Basic Cable Service, Premium Cable Service and Other Services, The term "Gross Revenues" shall not include installation fees, diconnection fees, reconnection fees, upgrade or downgrade service fees, fees for telecommunications services, if any, fees for the sale of or serviceing of equipment, Franchise Fees, advertising revenues, late fees, any fees itemized and passed through as a result of Franchise imposed requirements or any taxes or fees on services furnished by Grantee imposed directly on any Subscriber or user by any municipality, state or other governmental unit and collected by Grantee for such governmental unit.

16. "Person" means any individual person, firm, partnership, association, corporation or organization of any kind, and any other legally recognized entity.

17. “Premium Cable Service” means the delivery over a Cable System of pay-per-channel audio-visual signals to Subscribers, including rental of equipment used specifically for the receipt of such programming, for a fee or charge, in addition to the charge for Basic Cable Services or Cable Services.

18. "Public Way" means the surface of, and the space above and below, any public street, highway, freeway, bridge, land path, alley, court, boulevard, sidewalk, parkway, way, lane, public way, drive, circle, or other public right-of-way, including, but not limited to, public utility easements, dedicated utility strips, or rights-of-way dedicated for compatible uses and any temporary or permanent fixtures or improvements located thereon now or hereafter held by the City in the Service Area which shall entitle the City and the Grantee to the use thereof for the purpose of installing, operating, repairing, and maintaining the Cable System. Public way shall also mean any easement now or hereafter held by the City within the Service Area for the purpose of public travel, or for utility or public service use dedicated for compatible uses, and shall include other easements or rights-of-way as shall within their proper use and meaning entitle the City and the Grantee to the use thereof for the purposes of installing or transmitting the Grantee's Cable Service or other service over poles, wires, cables, conductors, ducts, conduits, vaults, manholes, amplifiers, appliances, attachments, and other property as may be ordinarily necessary and pertinent to the Cable System.

19. “Other Cable Service” means the delivery over the System of pay-per-program or pay-per-view audio-visual signals or any other type of Video Programming other than Basic

Cable Service and Premium Cable Service to Subscribers, including rental of equipment used for the receipt of such programming, for a fee or charge, in addition to the charge for Basic Cable Service, Cable Service, and/or Premium Cable Service.

20. “School District” means the Harrisburg School District 41-5.

21. "Service Area" means the present municipal boundaries of the City, and shall include any additions thereto by annexation or other legal means.

22. "Subscriber" means any member of the general public who receives Cable Service distributed by a Cable System and does not further distribute it.

23. "Video Programming”has the same meaning as in the Cable Act.

10.0103 Qualifications of Grantee and Grant of Non-Exclusive Authority.

1. The City hereby grants to the Grantee a nonexclusive Franchise, right and privilege to construct, erect, operate, modify and maintain, in, upon, along, across, above and over and under all Public Ways and all future extensions thereof, and additions thereto, within in the City using poles, wires, cables, underground conduits, manholes and other television conductors and fixtures necessary for the maintenance and operation in the City of a Cable System for the purpose of providing Cable Service, Video Programming and other electronic impulses, in order to furnish television and radio programs, and various communications and other electronic services to the public, provided that all operable permits are applied for and granted, all fees paid and all other City codes and ordinances are otherwise complied with in a manner acceptable to the City. The right so granted includes the right to use and occupy said Public Ways, public places, and easements for the purposes herein set forth.

2. The City specifically reserves the right to grant, at any time, additional Franchises for a system in accordance with City, state and federal law.

10.0104 Duration and Acceptance of Franchise. This Franchise shall commence on the effective date of the signed acceptance of this Ordinance by the Grantee and shall expire ten (10) years thereafter unless renewed, revoked, or terminated sooner as herein provided.

10.0105 Compliance with Applicable Laws, Regulations, Ordinances and Codes.

1. Except in those areas which have been preempted by the Cable Act, or any other applicable federal or state law, the Grantee shall be subject to the police powers of the City to adapt and enforce ordinances necessary to the health, safety, and welfare of the public.

2. All facilities and equipment of the Grantee shall be constructed and maintained to the premise demarcation point in accordance with the provisions of the National Electrical Safety Code, prepared by the National Bureau of Standards. All facilities and equipment of the Grantee from the demarcation point to customer premise equipment shall be constructed and maintained in accordance with the provisions of the National Electrical Code of the National Board of Fire Underwriters, and other national, state or City electrical or construction codes which may be in effect.

10.0106 Territorial Area Involved. This Franchise relates to the present territorial limits of the City and to any area added to the City during the term of this Franchise.

10.0107 Liability and Indemnification.

1. Grantee shall maintain the following types of insurance with a company, authorized to do business as an insurance producer in the State of South Dakota with a rating by Best of not less than "A."

    a. Worker's compensation upon its employees with statutory limits of the worker's compensation laws of the State of South Dakota and Coverage B employer's liability covering operations of the individual/group/business and its consultants/subcontractors. This shall include “Other States Insurance” so as to include all states not named on the “declarations” page of the insurance policy, but excepting monopolistic state funds states. The available limits for Coverage B, employer’s liability shall be not less than $1,000,000 each accident, $1,000,000 disease policy limits.

    b. Commercial general liability (CGL) insurance providing coverage not less than that of the standard commercial general liability insurance policy (“occurrence form”) for operations of the individual/group/business or its consultants/subcontractors. If the “occurrence form” is not available, “claims made” coverage shall be maintained for three years after final completion and acceptance of the project by the City. The policy shall include contractual personal injury, bodily injury, and property damage liability coverages with total available limits not less than $1,000,000 per occurrence, not less than $2,000,000 general aggregate, $2,000,000 aggregate products and completed operations. The CGL insurance policy shall name the City and its duly authorized representatives as an additional insured. The City shall be provided with a copy of the certificate of insurance and policy endorsement prior to the effective date of this ordinance.

    c. Automobile liability insurance covering all owned, non-owned, and hired automobiles, trucks, and trailers. Such insurance shall provide coverage at least as broad as that found in the standard comprehensive automobile liability policy with limits of not less than $1,000,000 combined single limit each occurrence.

2. Grantee shall indemnify, defend, and hold harmless the City from and against losses and physical damage to property and bodily injury or death to persons, including payments made under the Worker’s Compensation law which may be caused by the erection, maintenance, use or removal of any of Grantee’s attachments, poles, or other undertakings, within the City, or by any action of Grantee, its agents or employees, provided the Grantee shall not have any liability or duty to defend arising out of any claim, demand, cause of action, or proceeding resulting from the negligence or willful misconduct of the City, the City Council, or any officers, agents, employee, or commission of the City.

3. Grantee shall carry insurance in the above described amounts to protect the parties hereto from and against all claims, demands, actions, suits, judgments, costs, expenses and liabilities which may arise or result, directly or indirectly, from or by reason of

such loss, injury or damage. The City shall give the Grantee prompt written notice of any such claims, demands, actions, suits, judgments, costs, expenses or liabilities.

4. All insurance required shall be in full force and effect, and remain so, for the entire life of this Franchise. Said policy or policies of insurance, or a certificate of insurance thereof, shall be provided to the City prior to the effective date of this ordinance, and then deposited with and kept on file by the City. The City shall be notified at least 30 days prior to expiration or cancellation of any such insurance policy.

5. All subcontractors of Grantee working in the City's right-of-way shall be bonded.

6. In addition, Grantee shall indemnify, defend, and hold harmless the City for all damages and penalties at all times during the term of this Franchise, as a result of the legal process followed and conducted by the City for granting this Franchise, or Grantee's conduct or performance under this Franchise. These damages and penalties shall include, but shall not be limited to, damages arising out of personal injury, property damage, copyright infringement, defamation, anti-trust, errors and omissions, theft, fire, and all other damages arising out of Grantee's exercise of this Franchise, whether or not any act or omission complained of is authorized, allowed or prohibited by this Franchise; such indemnification shall include, but not be limited to, reasonable attorneys' fees and costs.

7. If, in the opinion of the City, the interests of the City cannot reasonably be represented in good faith by the Grantee, the Grantee shall pay all expenses incurred by the City in defending itself, including all reasonable out-of-pocket expenses, including attorneys' fees and costs.

10.0108 System Design. Grantee shall construct a Cable System as follows:

1. The system shall be of the type generally referred to as “single trunk, single feeder” wherein the trunk cable shall carry signals in the minimum frequency range of 5-750 MHz. The system shall provide the capability of distribution of multiple Channels of Video Programming.

2. The system shall have the capability of providing video, voice, and data services.

3. Grantee shall provide status monitoring of all power supplies at the node sites. This will be completed by the end of the first year of this Franchise agreement.

4. Within 18 months of the effective date of this Franchise, Grantee's Cable System shall be fully capable of two-way addressable operation at the subscriber's receivers and from Grantee's customer service and head end facilities on at least one Channel.

5. Any system improvements shall be designed, constructed, and operated to meet the technical standards promulgated by the FCC.

6. The system shall be capable of interconnecting with other able Systems within and adjacent to the City.

10.0109 Operation and Maintenance of System.

1. The Grantee shall render safe and efficient service, make repairs promptly, and interrupt service only for good cause and for the shortest possible time. Such interruptions, insofar as possible, shall be preceded by notice and shall occur during periods of minimum use of the system.

2. The Grantee shall maintain a force of sufficient employees to provide safe, adequate and prompt service for its facilities.

3. Service shall be provided in compliance with all consumer protection and customer service regulations governed by the Cable Act, as amended from time to time.

10.0110 Continuity of Service Mandatory.

1. All Subscribers shall have the right to continue to receive service, insofar as such Subscribers comply with the financial and policy obligations owed to Grantee. If Grantee elects to overbuild, rebuild, modify, or sell the system, or the City gives notice of intent to terminate or fails to renew this Franchise, Grantee shall act so as to ensure that all Subscribers receive continuous, uninterrupted service. If Grantee fails to provide such service, the City may do so.

2. If the Franchisee is changed, or if a new operator acquires the system, Grantee shall cooperate with the City, new Franchisee, or operator in maintaining service to all Subscribers. During such period Grantee shall be entitled to the revenues for any period during which it operates the system, and shall be entitled to reasonable costs for its services when it no longer operates the system.

3. If the Grantee fails, for reasons not beyond its control, to operate the system for ten consecutive days without prior approval of the City, the City may, at its option, operate the system or designate an operator until such time as Grantee restores service under conditions acceptable to the City or a permanent operator is selected. If the City is required to fulfill this obligation for Grantee, the City shall receive the revenue from the system's operation, and the Grantee shall reimburse the City for all reasonable costs or damages in excess of revenues from the system received by the City during its period of operation that is the result of Grantee's failure to perform.

4. Nothing in this ordinance shall be construed to be a waiver by Grantee of its constitutional or statutory rights under federal or state law.

10.0111 Subscriber Privacy. The Grantee shall comply with all federal subscriber privacy laws, including information relating to signals from any cable communications Channel to a Subscriber terminal for purposes of monitoring individual viewing patterns, data or information gathered by monitoring transmission of a signal from a Subscriber terminal, and electronic sweeps of the system. The Grantee will comply with Section 631 of the Cable Act.

10.0112 Emergency Use of Facilities. In the case of any emergency or disaster, including weather emergencies, the Grantee shall, upon request of the governing body of the City or an appropriate law enforcement or civil defense authority, make available its facilities to the City, local law enforcement official, or civil defense authorities during any emergency or disaster.

10.0113 Safety Requirements. The Grantee shall at all times employ ordinary care and shall install and maintain commonly accepted methods and devices for preventing failures and accidents which are likely to cause damages, injuries, or nuisances to the public.

10.0114 Conditions.

1. All transmission and distribution structures, lines, and equipment erected by the Grantee within the City shall be installed in accordance with the provisions of the National Electrical Safety Code (NESC) prepared by the Bureau of Standards and so located as to cause minimum interference with the proper use of Public Ways and places, and to cause minimum interference with the rights and reasonable convenience of property owners who join any Public Ways and places, and poles, towers, and any other structures, lines, or equipment shall be removed by Grantee whenever in the opinion of the City Engineer, they restrict or obstruct the operation or location of any facility.

2. All transmission and distribution structures, lines and equipment erected by the Grantee within the City shall be located, erected and maintained so as not to endanger or interfere with the lives of persons or to interfere with any installations of the City or of a public utility serving the City, or to interfere with new improvements the City may deem proper to make.

3. In the maintenance and operation of their transmission and distribution system in the Public Way, and in the course of any new construction or addition to their facilities. Grantee shall proceed so as to cause the least possible inconvenience to the general public. Any opening or obstruction in the streets or other public places made by Grantee in the course of their operations shall be guarded and protected at all times by the placement of adequate barriers, fences, or boardings, the bounds of which, during periods of dusk and darkness, shall be clearly designated by warning lights.

4. No excavations of any type shall be performed or caused to be performed without prior written authorization from the City Engineer. The City may require all or any part of the installation to be buried underground in instances or areas where other public utilities are required to be located underground.

5. If the business of Grantee necessitates the opening, breaking or tearing up of a portion of a Public Way or other part of any City-owned or City-controlled property, such act of opening, breaking up or tearing up of the property shall, at the option of the City be performed by the City prior to the performance of Grantee's work by Grantee. If the City does not exercise it's option, in the case of a disturbance of any Public Way, the Grantee shall, at its own cost and expense and in a manner approved by the City Engineer, replace and restore such Public Way to the same or substantially the same condition as the Public Way was prior to such disturbance. In such instances, Grantee shall save the City harmless against all loss or damage to any Person or property in accordance with the provisions of Section VII hereof.

6. If at any time during the period of this Franchise the City shall lawfully elect to alter or change the grade of any Public Way, the Grantee shall, upon 30 days prior notice by the City, remove, relay, and/or relocate its poles, wires, cables, underground conduits, manholes and/or other fixtures, as applicable, at Grantee's sole cost and expense.

7. All installations of equipment shall be of permanent nature, durable, and installed in accordance with good engineering practices, and of sufficient height to comply with all existing City regulations, ordinances, and state laws so as not to interfere in any manner with the right of the public or individual property owner, and any equipment installed in a Public Way or place shall not interfere with the usual travel on such Public Way or usual use of such public place by the public and during the construction, repair, or removal thereof, shall not obstruct or impede traffic.

8. The Grantee shall, at the request of any Person holding a building moving permit issued by the City, temporarily raise or lower its wires to permit the moving of buildings. The expense of such temporary removal or raising or lowering of wires shall be paid by the Person requesting it, and the Grantee may require such payment in advance. The Grantee shall be given not less than ten (10) days advance written notice of such action.

9. The Grantee may trim trees upon the overhanging Public Ways and places of the City so as to prevent the branches of such trees from coming in contact with the wires and cables of the Grantee, except that at the option of the City, such trimming may be performed by the City or under the City's supervision and direction, at the expense of Grantee.

10. In all sections of the City where cables, wires or other like facilities of public utilities are maintained underground, the Grantee shall bury and maintain its wires, cables or other like facilities underground to the maximum extent that existing technology reasonably permits the Grantee to do so. Underground lines shall be placed at depths consistent with the provisions of the National Electrical Safety Code prepared by the National Bureau of Standards. The Grantee shall be responsible for all costs associated with damage to any line which has been installed at a depth less or more than that required. If the ground is frozen, saturated or otherwise unable to facilitate an underground installation and underground installation is required, the installation shall be performed on a temporary basis in compliance with state and federal rules. As soon as conditions change to permit proper underground installation of the facilities, the Grantee shall install the facilities no later than 30 days after such conditions have changed to allow the installation.

11. The Grantee shall not allow its Cable Service or other operations to interfere with television and radio reception of persons not served by the Grantee.

12. Grantee shall, at its sole and exclusive expense, protect, support, temporarily disconnect, relocate on the same Public Way or public place, or remove from the Public Way or public place, any property of Grantee when required by the City by reason of traffic conditions, public safety, street vacation, freeway and street-construction, change or establishment of street grade, installation of sewers, drains, water pipes, power lines, signal lines, and tracks or any other types of structures or improvements by governmental agencies when acting in a governmental or proprietary capacity, or other structure of public improvement, provided, however, that Grantee may abandon any property of Grantee in place as hereinafter provided.

13. If the use of any part of the system is discontinued for any reason for a continuous period of twelve months, or if the system or property has been installed in any Public Way or public place without complying with the requirements of this ordinance, or the

rights granted hereunder have been terminated, cancelled or have expired, Grantee shall promptly remove from the Public Way, or public places all such property and poles of such system other than any which the City, may permit to be abandoned in place. In the event of such removal, Grantee shall promptly restore the Public Way or other area from which such property has been removed to a condition the City.

14. Any property of Grantee to be abandoned in place shall be abandoned in such a manner as the City may prescribe. Upon permanent abandonment of the property of Grantee in place, it shall submit to the City an instrument to be approved by the City, transferring to the City the ownership of such property.

10.0115 Removal of Facilities.

1. Upon termination of service to any Subscriber, the Grantee shall promptly remove all of its aerial drops and other equipment from the premises of such Subscriber upon request. Underground drops shall remain buried.

2. Upon revocation or expiration of this Franchise, the City may request the removal of the Grantee's aerial equipment and facilities. Such removal shall be at the sole and exclusive expense of the Grantee. Any disturbance to City property during such removal process shall be restored to its original condition in so far as may be reasonably practicable for the situation. The City reserves the right to inspect and approve the condition of its property after such removal. Underground facilities shall remain buried.

10.0116 Transfer or Sale of Franchise.

1. This Franchise and the rights granted under this Ordinance may not be sold, assigned, or transferred by the Grantee either in whole or in part, or leased or sublet in any manner, nor shall title thereto, either legal or equitable, or any rights, interest, or property therein, pass to or vest in any Person without the consent of the City.

2. The Grantee shall provide written notice to the City of any proposed sale, assignment, or transfer. Within 120 days of receipt of such notice, and following a public hearing, within ten days after the public hearing, the City shall approve or deny the sale, assignment, or transfer.

3. The City reserves the right of first refusal of any offer to purchase the system in favor of the City purchasing the system under substantially the same terms and conditions as the offer.

4. If a renewal or extension of the Grantee's Franchise is denied or the Franchise is lawfully terminated, and the City either lawfully acquires ownership of the Cable System or by its actions lawfully affects a transfer of ownership of the Cable System to another party, any such acquisition or transfer shall be on the terms set forth in 47 U.S.C.§ 547.

5. If the Franchise is revoked, the Grantee may request and the City shall give Grantee in its sole discretion, a reasonable opportunity to effectuate a transfer of its Cable System to a qualified third party. During such period, the Grantee may continue to operate pursuant to the terms of its prior Franchise. However, in no event shall such authorization exceed a period greater than 120 days from the effective date of such

revocation. If, at the end of that time, the Grantee is unsuccessful in procuring a qualified transferee or assignee of its Cable System which is acceptable to the City, the Grantee and the City may avail themselves of any rights they may have pursuant to federal or state law. The Grantee's continued operation of its Cable System during the 120 day period shall not be deemed to be a waiver, nor an extinguishment of, any rights of either the City or the Grantee.

10.0117 Payment to the City.

1. During the term of this Franchise and so long as Grantee or its successors or assigns operate the Cable System, commencing from the effective date of this ordinance, Grantee shall pay to the City the sum of five (5) percent of the total annual Gross Revenue. The Franchise Fee shall be payable monthly or quarterly, upon the written notice of such election by Grantee, within thirty (30) days of the expiration of the preceding month. A brief report shall accompany the payment showing the basis for the computation of the amount paid in a manner described in Appendix A.

2. Such payments by Grantee to City shall be in lieu of any occupation tax, license tax, or similar levy, and shall be paid annually. Nothing herein contained, however, shall in any way relieve Grantee or its assigns or successors from the obligation of paying property taxes to the City, or any other governmental subdivision of the State of South Dakota or any other taxes lawfully levied by the State of South Dakota on the operation of the Grantee. Such payment also does not affect the responsibility of Grantee to collect state and local sales tax on the service provided.

3. The City may, at its request, audit or inspect the books and records of Grantee related to gross revenue, as defined herein, up to seven years prior to the date of the request. In the event any such audit or inspection by the City determines that the Grantee's obligations to the City were under-reported by more than five percent, the cost of such audit or inspection shall be paid by Grantee.

4. No acceptance of any payment shall be construed as an accord that the amount paid is, in fact, the correct amount, nor shall any such acceptance of payment be construed as a release of any claim the City may have for further or additional sums payable under the provisions of this Franchise. All amounts paid shall be subject to audit and recomputation by the City.

5. If a payment is not made by the due date, interest on the amount due shall accrue from such date at an annual rate of 12 percent.

10.0118 Erection, Removal and Common Use of Pole.

1. No poles or other wire-holding structures shall be erected by the Grantee without prior approval of the City Engineer with regard to locations, height, type or any other pertinent aspect. However, no locations of any pole or wire holding structure of the Grantee shall be a vested interest and such poles or structures shall be removed or modified by the Grantee at its own expense whenever the Council determines that the public convenience would be enhanced thereby.

2. There is hereby granted to the extent that the City is authorized to so do; the right and authority to Grantee to lease, rent, or in any other manner obtain the use of towers,

poles, lines, cables, and other equipment and facilities from the City any and all holders of public licenses and Franchises within the corporate limits of the City of Harrisburg, including Qwest Communications, Inc. (and any affiliates thereto), Xcel Energy and Southeastern Electric, to use such towers, poles, lines, cables and other equipment and facilities, with the exception of the City street light poles, subject to all existing and future ordinances and regulations of the City. It is the stated intention of the City that all other holders of public licenses and Franchises within the corporate limits of the City shall cooperate with Grantee to allow Grantee's joint usage of their poles and pole-line facilities whenever possible or wherever such usage does not interfere with the normal operation of said poles and pole-lines so that a number of new or additional poles constructed by Grantee within the City may be minimized.

3. Grantee hereby grants to the City, free of expense, joint use of any and all poles owned by them for any proper municipal purpose acceptable to Grantee, insofar as it may be done without interfering with the free use and enjoyment of Grantee's own wires and fixtures, and the City shall hold Grantee harmless from any and all actions, causes of action, or damages caused by the placing of the City's wires or appurtenances upon the poles of Grantee. Proper regard shall be given to all existing safety rules covering construction and maintenance in effect at the time of construction. If, in accommodating the City's joint use of their poles, Grantee is required to change or replace poles or install new poles, the City shall compensate Grantee for such additional expense.

4. Where a public utility serving the City desires to make use of poles or other wire-holding structures of the Grantee but agreements therefore with the Grantee cannot be reached, the Council may require the Grantee to permit such use for such consideration and upon such terms as the Council determines the use would enhance the public convenience and would not unduly interfere with the Grantee's operation.

5. To the extent the State of South Dakota does not regulate the rates, terms, and conditions of pole attachments pursuant to federal law, the City shall follow the FCC's rate-setting formula and pole attachment regulations and decisions to resolve any dispute concerning the use of Grantee's poles or underground conduit by a public utility. Notwithstanding the foregoing, nothing in this ordinance shall be construed to be a waiver by Grantee of its constitutional or statutory rights under federal or state law.

10.0119 Rates.

1. Grantee shall at all times maintain on file with the City Finance Director a schedule setting forth all rates and changes to be made to Subscribers for Basic Cable Service, including installation charges.

2. Grantee shall not discriminate in rates between customers of the same category except to the extent permitted by federal or state law.

3. Grantee's rates for Basic Cable Service shall be subject to regulation by the FCC and/or the City as provided for in the Cable Act and implementing regulations.

10.0120 Performance Evaluation.

1. Within 60 days of the second and fourth anniversaries of the effective date of this Franchise, the governing body of the City, as part of a regularly scheduled meeting, and upon notice to the public, may hold a hearing to evaluate the performance of the Grantee. Topics may include, but are not limited to, applications of new technology, system performance, services provided, complaints, privacy issues, and Franchise modification.

2. Grantee shall fully cooperate with the City regarding this evaluation. Grantee will at its expense provide such information, data, and documents as the City may reasonably request in connection with the evaluation.

3. If the City reasonably determines that evidence exists of inadequate Cable System performance, it may require Grantee to perform tests and analyses as necessary, directed toward the identified or suspected inadequacies. The costs of such tests and analyses shall be borne by the Grantee if said tests and analyses determine that the inadequate Cable System performance alleged by the City, in fact, exists. The Grantee shall fully cooperate with the City in the performance of any tests. Results of the tests may include, but are not limited to the following:

    a. Identification and qualifications of the Person performing the tests.

    b. The nature of the identified or suspected inadequacy which precipitated the test.

    c. What system components were tested.

    d. The equipment used and procedures employed in testing.

    e. The results, and our analyses and interpretation of the results of the tests.

    f. The method, if any, by which any identified system inadequacy has been, or will be rectified.

    g. Recommendations, if any, for additional action.

    h. Any other information pertinent to the tests and analyses which may, be required or is useful.

10.0121 Complaint Procedures.

1. The Grantee shall maintain a customer service facility which Subscribers may telephone during regular business hours to report complaints. Complaints regarding the quality of service, equipment malfunctions and similar matters shall first be directed to this service facility. Should Grantee fail to satisfy a complaint, it may then be directed to the City Finance Officer for investigation. In response to a complaint, Grantee shall be afforded a reasonable opportunity to present written statements of its position. The City Finance Officer shall attempt to resolve the complaints but, if this cannot be achieved, he shall submit a recommendation to the City Council, recommending that: (l) the complaint be dismissed, or (2) corrective action be taken by

Grantee. Appeal from the Commission's action may be made to the appropriate judicial or administrative forum.

2. As notice of the complaint procedure described in subsection 1, the following information will be distributed in printed form to all new Subscribers at the time of installation:

Pursuant to Section 76.607 FCC Rules, all Subscribers are hereby notified that Service Complaints regarding the quality of service, equipment malfunctions and similar matters shall first be directed to Grantee's Customer Service facility. If the Service Complaint is not resolved in a reasonable length of time it shall then be directed to the office of the City Finance Officer at the City , and shall be processed in accordance with Section XXI of the above-referenced ordinance.

3. Notwithstanding the foregoing, Grantee shall comply with all applicable rules of the FCC with regard to complaint procedures and customer service standards including any required modifications of the complaint procedures or notice to Subscribers, as may from time to time be needed to conform such notice and procedures to the FCC rules.

10.0122 City Police Powers. Grantee's rights under this Franchise are subject to the police powers of the City to, adopt and enforce ordinances necessary for the health, safety, and welfare of the public subject to federal and state law.

10.0123 Separability.

1. If any section, subsection**,** sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions hereof.

2. Should any provision of this Franchise be inconsistent or at variance with any rule, regulation or policy, in whole or in part, of the Federal Communications Commission or any other agency having jurisdiction, such provision shall be invalid, but the remaining provisions hereof shall not be affected thereby.

10.0124 Notice Requirements. All notices, reports, or demands required by this Franchise shall be given in writing. All notices to the City shall be to the City Finance Officer. All notices to the Grantee shall be to its general manager.

10.0125 Cost to City.

1. Grantee shall reimburse the City for all incidental expenses incurred by it in connection with the publications required for adoption of this ordinance and the rights granted to Grantee hereunder. Such payment shall be made by Grantee to City within thirty days after City shall furnish Grantee with a written statement of such expense.

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.

10.0126 Ordinances Repealed. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed. This ordinance repeals and supersedes ordinance 2004-15.

10.0127 Cost Defined. It is understood that only the Franchise Fee shall constitute the Franchise Fee. Any payments made or costs incurred in the provision of other services required by this Franchise shall not be considered part of the Franchise Fee.

10.0128 Reopeners. It being recognized that the cable television industry is undergoing significant changes in the law, communications technology, services, and competition; because these changes over the term of Grantee's Franchise are not entirely predictable at the present time, Grantee and the City agree to negotiate in good faith modifications to Grantee's Franchise to the extent necessary to allow the City and the Grantee to benefit from such changes.

10.0129 Required Services.

1. The Grantee shall provide the following services to public institutions:

    a. The Grantee shall provide Basic Cable Service to all public elementary, secondary, post high, and support locations within the City one junction terminal at each building for educational purposes upon request by the City or the school system and at no extra cost to it or to the City or the school system. This shall mean only an energized cable to such buildings. The cost of any internal wiring shall be borne by the institution.

    b. Grantee shall also provide the City, for Basic Cable Service to all City owned buildings in the City, without charge, one junction terminal to each building at a location therein to be selected by the City.

    c. Grantee shall, also provide the County, for Basic Cable Service to all County-owned buildings in the City, without charge, one junction terminal to each building at a location therein to be selected by the County.

    d. The buildings to which service shall be provided are listed in Appendix B to this ordinance, which may from time to time be amended by the City to include public buildings that are within two hundred (200) feet of Grantee’s energized cable. Buildings beyond two hundred (200) feet of Grantee’s energized cable may be served if the City agrees to pay for the cost of extending plant beyond two hundred (200) feet.

2. Grantee shall provide the following additional services to the City of Harrisburg, Lincoln County, the School District, and the Subscribers of Grantee's cable television system:

    a. Emergency Alert Services consistent with FCC regulations.

    b. Provide one dedicated Channel carrying one signal of acceptable quality, meeting all applicable FCC standards, for use by the City of Harrisburg, its departments and agencies, such Channel to be used at the discretion of the City.

c. Grantee shall at all times maintain a system with the technical capability of providing not less than 60 Channels of information and entertainment.

10.0130 Equal Protection. If the City eaters into a Franchise, permit, license, authorization, or other agreement of any kind with any other Person or entity other than the Grantee to enter into the City's Public Ways for the purpose of constructing or operating a Cable System or providing Cable Service to any part of the Service Area, the material provisions thereof shall be reasonably comparable to those contained herein, in order that one operator not be granted an unfair competitive advantage over another, and to provide all parties equal protection under the law.

10.0131 Enforcement and Termination of Franchise.

1. This Franchise may be terminated by the City upon violation of its terms by the Grantee.

2. If the City becomes aware of violations of the terms of the Franchise, it shall notify the Grantee in writing of the exact nature of the alleged violation.

3. The Grantee shall have thirty days from receipt of the notice (a) to respond to the City contesting the allegation, or (b) to cure it, or (c) if, by the nature of the violation, such violation cannot be cured within the thirty day period, initiate reasonable steps to remedy it and notify the City of the steps being taken and the projected date that they will he completed.

4. If the Grantee fails to respond to the notice, or if the alleged violation is not remedied within sixty days after the Grantee is notified of the alleged violation, or such other period as is agreed to between the Grantee and the City, the City shall schedule a public hearing to investigate the violation. Such public hearing shall be held at the next regularly scheduled meeting of the governing body of the City which is scheduled at a time which is no less than five business days there from. The City shall notify the Grantee in writing of the time and place of such meeting and provide the Grantee with an opportunity to be heard, to present and cross-examine witnesses. At such time, the City may terminate the Franchise.

5. Enforcement of the terms of this Franchise shall be under the laws of South Dakota and the United States.

6. The Grantee shall not be held in default or noncompliance with the provisions of the Franchise, nor suffer any enforcement or penalty relating thereto, where such noncompliance or alleged defaults are caused by strikes, acts of God, power outages, or other events reasonably beyond its ability to control.

10.0132 Penalty. Violation of this ordinance shall be punished under the general penalty provisions of the Revised ordinances of the City.

CHAPTER 10.02 - ELECTRICITY

10.0201 Grant of Authority. There be and hereby is granted to Northern States Power Company, a Minnesota corporation, its successors and assigns, hereinafter referred to as "Company", during the period of 20 years from the date hereof, the right and privilege of constructing, operating, repairing, and maintaining in, on, over, under, and across the streets, alleys, and public grounds of the City of Harrisburg, South Dakota, hereinafter referred to as "Municipality", an electric distribution system and electric transmission lines, including poles, pole lines, and fixtures and appurtenances, usually, conveniently, or necessarily used in connection therewith, for the purpose of transmitting and furnishing electric energy for light, heat, power, and other purposes for public and private use in and to said Municipality and the inhabitants thereof, and others, and for the purpose of transmitting into and through said Municipality such electric energy, provided that such electric distribution system and transmission lines shall be so ligated as in no way to interfere with the safety and convenience of ordinary travel along and over said streets, alleys, and public grounds, and provided that Company, in the construction, operation, repair, and maintenance of such poles, pole lines, and fixtures and appurtenances, shall be subject to such reasonable regulation as may be imposed by the City Council.

10.0202 Operation and Maintenance of Service. The rates to be charged by the Company for the electric energy sold within said Municipality shall be reasonable and shall not exceed Company's standard schedule of rates and minimum charges effective for and in communities of like size in adjoining territory which are similarly served and situated. Company shall provide reasonably efficient and adequate service to members of the public within the Municipality who apply for such service in accordance with the rules and regulations of Company. Electric service provided by Company to its customers in the Municipality is subject to interruption and disturbance due to: (a) conditions beyond its control; (b) necessary maintenance and operations of its system; (c) effect of operations of any interconnecting electric system; (d) curtailment of electric service as may be prudent to maintain service to priority loads or to maintain the operating stability of its system; and (e) temporary interruptions or disturbance of service. Neither Company nor Municipality shall be liable for any damage or loss for interruption or disturbance of service due to such causes.

10.0203 Limitations of Rights Granted.

1. There is also granted to Company, during the term hereof, permission and authority - to trim all trees and shrubs in the streets, alleys, and public grounds of said Municipality interfering with the proper construction, operation, repair, and maintenance of any poles, pole lines, and fixtures or appurtenances, installed in the pursuance of the authority hereby granted, provided that Company shall save said Municipality harmless from any liability in the premises.

2. Nothing contained in this Chapter shall be construed as giving to Company any exclusive privileges in, on, over, under, or across the streets, alleys, or public grounds of said Municipality.

3. Whenever the Municipality initiates a public improvement which requires the removal, relocation or rearrangement of Company's facilities located on public streets, alleys, or grounds, Company, upon reasonable notice by the Municipality, shall relocate its facilities without charge to the Municipality; provided, the foregoing shall not deprive Company of any right it may have under State law to be reimbursed for any relocation,

removal or rearrangement required for the improvement or construction of a Federally aided highway project; and provided further that, in the event Federal or State grants are made available for financing any of such public improvements requiring relocation of Company's facilities, Company shall be reimbursed for such relocation from the Federal or State funds available. The foregoing shall not be construed so as to require the Municipality to reimburse Company out of local funds for any such relocation costs.

4. The vacation of any street, alley, public way or ground, after the installation of electric facilities, shall not operate to deprive the Company of the right to operate and maintain such electrical facilities until the reasonable costs of relocating the same and the loss and expense resulting from such relocation are first paid to the Company, except where the vacation is for the primary benefit of the Municipality in the furtherance of a public improvement.

5. Company shall have full right and authority to assign to any person, persons, firm, or corporation all the rights conferred upon it by this Chapter, provided that the assignee of such rights, by accepting such assignment, shall become subject to the terms and provisions of this Chapter.

CHAPTER 10.03 - NATURAL GAS

10.0301 Grant of Franchise. There is hereby granted to MidAmerican Energy Company, an Iowa corporation, hereinafter called "Company," and to its successors and assigns the right and non-exclusive franchise to acquire, construct, erect, maintain and operate in the City of Harrisburg, South Dakota, hereinafter called the "City," a gas distribution system, to furnish natural gas along, under the streets, avenues, alleys and upon public places to serve customers within and without the City and to furnish and sell natural gas to the City and its inhabitants. This franchise shall be effective for a twenty (20) year period from and after the effective date of this ordinance.

10.0302 Applicable Law. The rights and privileges hereby granted are subject to the restrictions and limitations of South Dakota law, or as subsequently amended or changed.

10.0303 Facilities in Right-of-Way. Company shall have the right to excavate in any public street for the purpose of laying, relaying, repairing or extending gas pipes, mains, conduits, and other facilities provided that the same shall be so placed as not to unreasonably interfere with the construction of any water pipes, drain or sewer or the flow of water therefrom, which have been or may hereafter be located by authority of the City, with construction, repair, laying, relaying or extending of gas pipes, mains, conduits, and other facilities being in form and manner authorized by the city.

10.0304 Relocation of Facilities in Right-of-Way. The Company shall, excluding facilities located in private easements (whether titled in Company exclusively or in Company and other entities), in accordance with South Dakota law including Company's tariff on file with and made effective by the South Dakota Public Utilities Commission as may subsequently be amended ("Tariff,") at its cost and expense, locate and relocate its existing facilities or equipment in, on, over or under any public street or alley in the City in such a manner as the City may reasonably require for the purposes of facilitating the construction reconstruction,

maintenance or repair of the street or alley or any other public property owned by the city. The City shall be responsible for surveying and staking the right-of-way for City projects that require the Company to relocate Company facilities. If requested the City shall provide, for the reasonable cost to reproduction, to the Company, copies of its relocation plan and profile and cross section drawings.

10.0305 Construction in Right-of-Way. In making excavations in any streets, avenues, alleys and public places for the installation of gas pipes, conduits or apparatus, Company shall not unreasonably obstruct the use of the streets and shall replace the surface, restoring it to the condition as existed immediately prior to excavation. Company agrees any replacement of road surface shall conform to current City code regarding its depth and composition. The Company shall not be required to restore or modify public right of way, sidewalks or other areas in or adjacent to the project to a condition superior to its immediate previously existing condition or to a condition exceeding its previously existing condition to the extent any alterations are required for the City to comply with city, state or federal rules, regulations or laws.

10.0306 Vacating of Right-of-Way by City. Vacating a street, avenue, alley, public ground or public right-of-way shall not deprive the Company of its right to operate and maintain existing facilities on, below, above, or beneath the vacated property. Prior to the City abandoning or vacating any street, avenue, alley or public ground where the Company has facilities in the vicinity, the City shall provide Company with notice upon receipt of a vacate petition.

10.0307 Relocation of Facilities in Last 10 Years. The Company shall not be required to relocate, at its cost and expense, Company facilities in the public right of way that have been relocated at Company expense at the direction of the City at any time during the previous 10 years.

10.0308 Relocation for Non-Public Entity. The Company shall not be required at its expense to relocate Company facilities or equipment in order to facilitate a project of a commercial or private developer or other non-public entity.

10.0309 Insurance; Indemnification. The Company shall maintain insurance, which may be through a program of self-insurance, which will, among other things, indemnify and save harmless the City from any and all claims, suits, losses, damages, costs or expenses, on account of injury or damage to any person or property, to the extent caused or occasioned by the Company's negligence in construction, reconstruction, excavation, operation or maintenance of the natural gas facilities authorized by this franchise; provided, however, that the Company shall not be obligated to defend, indemnify and save harmless the City for any costs or damages to the extent arising from the negligence of the City, its officers, employees or agents.

10.0310 Information Requests. Upon request, the Company shall provide the City, on a project specific basis, information indicating the horizontal location, relative to boundaries of the right of way, of all equipment which it owns or over which it has control that is located in city right of way, including documents, maps and other information in paper or electronic or other forms ("Information.")

10.0311 Maintenance Pursuant to Regulations. The Company shall extend its mains and pipes and operate, and maintain the system in accordance with the applicable regulations of the South Dakota Public Utilities Commission or its successors and state law and federal law.

10.0312 Compliance with Tariff. During the term of this franchise, the Company shall furnish natural gas in the quantity and quality consistent and in accordance with the applicable regulations of the South Dakota Utilities Commission the Company's tariff made effective by the South Dakota Utilities Commission or its successors and state law and federal law.

10.0313 Policing of Facilities. All reasonable and proper police regulations shall be adopted and enforced by the City for the protection of the facilities of the Company.

10.0314 Termination. Either City or Company ("party") may terminate this franchise if the other party shall be materially in breach of its provisions. Upon the occurrence of a material breach, the non-breaching party shall provide the breaching party with notification by certified mail specifying the alleged breach. The breaching party shall have 60 days to cure the breach, unless it notifies the non-breaching party, and the parties agree upon a shorter or longer period for cure. If the breach is not cured within the cure period, the non-breaching party may terminate this franchise. A party shall not be considered to be in breach of this franchise if it has operated in compliance with state or federal law. A party shall not be considered to have breached this franchise if the alleged breach is the result of the actions of a third party or the other party.

10.0315 Savings Clause. If any section, provision, or part of this ordinance shall be adjudged to be invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

10.0316 Effective Date. This ordinance and the rights and privileges herein granted shall become effective and binding upon its approval and passage in accordance with South Dakota law and the written acceptance by the Company. The City shall provide Company with an original signed and sealed copy of this ordinance within 10-days of its final passage. The Company shall, within thirty (30) days after the City Council approval of this ordinance, file in the office of the clerk of the City, its acceptance in writing of all the terms and provisions of this ordinance. Following City Council approval, this ordinance shall be published in accordance with the Code of South Dakota. The effective date of this ordinance shall be twenty (20) days after publication of the ordinance. In the event that MidAmerican Energy Company does not file its written acceptance of this ordinance within 30 days after its approval by the City Council, this ordinance shall be void and of no effect.

10.0317 Repeal of Prior Franchise. Upon the effective date of this ordinance, all prior natural gas franchises granted to the Company to furnish natural gas to the City and its inhabitants are hereby repealed and all other ordinances or parts of ordinances in conflict herewith are also hereby repealed.

TITLE 11 - TAXATION

Chapter 11.01 - Municipal Sales Tax
Chapter 11.02 - Gross Receipts Tax
Chapter 11.03 - Retail Sales and Service Tax and Use Tax
Chapter 11.04 - Reduced Valuation for Tax Purposes
Chapter 11.05 - Urban and Rural Service Districts

CHAPTER 11.01 - MUNICIPAL SALES TAX

11.0101 Purpose. The purpose of this Chapter is to provide additional needed revenue for the Municipality of Harrisburg, Lincoln 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.

11.0102 Effective Date and Enactment of Tax. From and after the first day of January, 2004, 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 Harrisburg, Lincoln County, South Dakota, who are subject to the South Dakota Retail Occupational Sales and Service Tax, SDCL 10-45 and acts amendatory thereto.

11.0103 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.

11.0104 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.

11.0105 Interpretation. It is declared to be the intention of this ordinance and the taxes levied hereunder that the same shall be interpreted and construed in the same manner as all sections of the South Dakota Retail Occupational Sales and Service Act, SDCL 10-45 and acts amendatory thereto and the South Dakota Use Tax, SDCL 10-46 and acts amendatory thereto, and that this shall be considered a similar tax except for the rate thereof to that tax.

CHAPTER 11.02 - GROSS RECEIPTS TAX

11.0201 Purpose. The purpose of this chapter is to provide additional needed revenue for the Municipality of Harrisburg, Lincoln 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.

11.0202 Effective Date and Enactment of Tax. From and after the first day of January 2005, 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 that twenty-eight (28) consecutive days, the sale of alcoholic beverages as defined in SDCL 35-1-1, establishments where the public is invited to eat, dine or purchase and carry out prepared food for immediate consumption, and ticket sales or admissions to places of amusement, athletic and cultural events. The tax applies to the gross receipts of all persons engaged in business within the jurisdiction of the Municipality of Harrisburg, Lincoln County, South Dakota, who are subject to the South Dakota Retail Occupational Sales and Service Tax, SDCL 10-45 and acts amendatory thereto.

11.0203 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 and Regulation in accordance with the same rules and regulations applicable to the State Sales Tax and under such additional rules and regulations as the Secretary of Revenue of the State of South Dakota shall lawfully prescribe.

11.0204 Interpretation. It is declared to be the intention of this chapter 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.

11.0205 Use of Revenue. Any revenues received under this chapter may be used for the purpose of land acquisition, architectural fees, construction costs, payment for civic center, auditoriums or athletic facility buildings, including the maintenance, staffing and operations of such facilities, and the promotion and advertising of the municipality, its facilities, attractions and activities.

CHAPTER 11.03 - RETAIL SALES AND SERVICE TAX AND USE TAX

11.0301 Purpose. The purpose of this Chapter is to establish criteria for sales and tax refunds within the City of Harrisburg in order to stimulate business and commercial activity within the City of Harrisburg.

11.0302 Minimum Expenditures Required. A minimum of $750,000.00 for improvements or new construction within the boundaries of the City of Harrisburg shall be required in order to apply for sales and use tax refunds.

11.0303 Eligible Taxes. The City may agree to a refund of its local sales and use taxes paid by business or person:

A. On the purchase of material for use in remodeling, rehabilitating, or constructing a structure or;

B. On the purchase of equipment and furnishings for a structure.

11.0304 Separate Agreements Required. Any person desiring to claim a refund shall make application to the City Finance Officer at least thirty days prior to the earlier of the construction commencement or the ordering of equipment to be used in the business facility. The City Council will, by separate Agreement, consider rebating the *eligible* local sales and use tax paid for a period to be determined by the Agreement but not to exceed two (2) years.

11.0305 Documentation Required. Business or persons entitled to a refund of local sales and use tax under this Chapter shall pay the entire amount of State and local sales and use taxes at the time of purchase. A business or person entitled to a refund of sales and use tax must provide documentation necessary to support a refund claim in a form prescribed by the City's Finance Officer.

CHAPTER 11.04 - REDUCED VALUATION FOR TAX PURPOSES

11.0401 Authority. This Chapter is adopted pursuant to the authority granted to the City pursuant to SDCL 10-6-35.4.

11.0402 Taxable Value Formula. All new industrial and commercial structures or additions to existing structures having a true and full value of thirty thousand dollars or more, added to the real property shall be taxed pursuant to the following formula during the five years subsequent to the completion of their construction:

A. For the first tax year following construction, 20% of the taxable value shall be used for taxation purposes;

B. For the second tax year following construction, 40% of the taxable value shall be used for taxation purposes;

C. For the third tax year following construction, 60% of the taxable value shall be used for taxation purposes;

D. For the fourth tax year following construction, 80% of the taxable shall be used for taxation purposes; and

E. For the fifth and subsequent tax years following construction, the structures or additions shall be taxed in the same manner as all other similar industrial or commercial property within the City.

CHAPTER 11.05 - URBAN AND RURAL SERVICE DISTRICTS

11.0501 Service districts established. Pursuant to the authority granted in SDCL Ch. 9-21A, the city is hereby divided in area into an urban service district and a rural service district constituting separate taxing districts for the purpose of levying all city ad valorem property taxes, except those levied for the payment of bonds.

11.0502 Rural service district - Criteria for lands included. The rural service district shall include only such platted or unplatted lands as in the judgment of the city council are rural in character, are used or usable for agriculture, and are not developed for commercial, industrial or urban

residential purposes. The rural service district may include lands which are not contiguous to one another.

11.0503 Lands described - Rural Service District. The rural service district shall consist of those platted or unplatted lands or both platted and unplatted lands described in exhibit A, on file with the city finance officer's office, entitled "Lands Included in the Rural Service District" and made a part of this section, all of which lands are rural in character, are used or usable for agriculture, and are no developed for commercial, industrial or urban residential purposes. The rural service district shall also include lands outside the municipality, if annexed into the corporate limits, which are rural in character, are used or usable for agriculture, and are not developed for commercial, industrial or urban residential purposes.

11.0504 Lands included in urban service district. The urban service district shall include all lands within the boundaries of the city which are not included in the rural service district.

11.0505 Agricultural land annexed; limitation on mill levy and assessed value. The tax levy and assessed value on the agricultural land annexed shall not exceed the average tax levy and average assessed value on unannexed agricultural land in adjoining townships in the county so long as the annexed land remains rural property and is included in the rural service district.

11.0506 Platting or construction in rural district. Whenever any parcel of land included within the rural service district:

A. Is platted in whole or in part;

B. Is the subject of an application for a permit for the construction of a commercial, industrial or urban residential development or improvement to be situated on such parcel or any part thereof; or

C. Otherwise fails to meet the criteria as set forth in Section 11.0503 of this ordinance.

The board or officer of the city approving such plat or building permit or having knowledge of the change in circumstances shall report the change to the city council which shall make and enter an order transferring such parcel from the rural service district to the urban service district.

TITLE 12 - GENERAL PROVISIONS

Chapter 12.01 - Penalties and Repealing Clause

CHAPTER 12.01 - PENALTIES AND REPEALING CLAUSE

12.0101 Penalty in General. Except in cases where a different or additional penalty is imposed by this ordinance or by some existing provision of law, every violation of any of the provisions of this ordinance shall be punishable by a fine of five hundred dollars.

12.0102 Conflicting Ordinances Repealed. All former ordinances or parts of former ordinances in conflict with the provisions of this ordinance or relating to the subject matter 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, levy 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 any 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 Harrisburg 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.

12.0103 Unconstitutionality. 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.

12.0104 Publication and Effect. This ordinance shall take effect upon its adoption and publication of the notice of such adoption as provided by SDCL 9-19-17.