

TITLE I: GENERAL PROVISIONS

Chapter

10. CODE CONSTRUCTION AND GENERAL PENALTY

CHAPTER 10: CODE CONSTRUCTION AND GENERAL PENALTY

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' 10.01 TITLE OF CODE.

All ordinances of a permanent and general nature, as revised, codified, rearranged, renumbered, and consolidated into component codes, titles, chapters, and sections, shall be known and designated as the Acode@, for which designation Acode of ordinances@ or Acodified ordinances@ may be substituted. Code title, chapter, and section headings do not constitute any part of the law as contained in the code.

' 10.02 RULES OF INTERPRETATION.

(A) *Generally.* Unless otherwise provided herein, or by law or implication required, the same rules of construction, definition, and application shall govern the interpretation of this code as those governing the interpretation of state law.

(B) *Specific rules of interpretation.* The construction of all ordinances shall be by the following rules, unless that construction is plainly repugnant to the intent of the legislative body or of the context of the same ordinance.

(1) *Acts by assistants.* When a statute, code provisions, or ordinance requires an act to be done which, by law, an agent or deputy as well may do as the principal, that requisition shall be satisfied by the performance of the act by an authorized agent or deputy.

(2) *Gender; singular and plural; tenses.* Words denoting the masculine gender shall be deemed to include the feminine and neuter genders; words in the singular shall include the plural, and words in the plural shall include the singular; the use of a verb in the present tense shall include the future, if applicable.

(3) *General term.* A general term following specific enumeration of terms is not to be limited to the class enumerated unless expressly so limited. General terms descriptive of an officer, act, proceeding, or thing shall have reference to a municipality concerned or affected.

Statutory reference:

General terms descriptive of an officer, act, proceeding, and the like, see SDCL 9-1-1

' 10.03 CAPTIONS.

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

' 10.04 DEFINITIONS.

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

COMPUTATION OF TIME. The time in which any act provided by this code or other ordinance is to be done is computed by excluding the first day and including the last, unless the last is a holiday and then it also is excluded. Fractions of a day are to be disregarded in computations which include more than one day, and involve no questions of priority.

COUNTY. Perkins County, South Dakota.

ELECTOR(S) or ***QUALIFIED ELECTOR(S).*** Voter(s).

GOVERNING BODY. The City Council of the City of Lemmon.

LOT. Includes ***PARCEL*** or ***TRACT OF LAND.***

MONTH. A calendar month.

MUNICIPALITY or **MUNICIPAL CORPORATION**. All cities and towns organized under the laws of this state but shall not include any other political subdivisions.

ORDINANCE. A permanent legislative act within the limits of its powers of the governing body of a municipality.

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

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

RESOLUTION. Any determination that, decision, or direction of the governing body of a municipality of a temporary or special character for the purpose of initiating, effecting, or carrying out its administrative duties and functions.

SDCL. South Dakota Codified Laws.

STREET. Includes **AVENUE**.

YEAR. A calendar year.

Statutory reference:

Related provisions, see SDCL 9-1-1 and 9-19-1

' **10.05 SEVERABILITY.**

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

' **10.06 REFERENCE TO OTHER SECTIONS.**

Whenever in one section reference is made to another section hereof, that reference shall extend and apply to the section referred to as subsequently amended, revised, recodified, or renumbered unless the subject matter is changed or materially altered by the amendment or revision.

' 10.07 REFERENCES TO OFFICES.

Reference to a public office or officer shall be deemed to apply to any office, officer, or employee of this local government exercising the powers, duties, or functions contemplated in the provision, irrespective of any transfer of functions or change in the official title of the functionary.

' 10.08 ERRORS AND OMISSIONS.

If a manifest error is discovered, consisting of the misspelling of any words, the omission of any word or words necessary to express the intention of the provisions affected, the use of a word or words to which no meaning can be attached, or the use of a word or words when another word or words was clearly intended to express the intent, the spelling shall be corrected and the word or words supplied, omitted, or substituted as will conform with the manifest intention, and the provisions shall have the same effect as though the correct words were contained in the text as originally published. No alteration shall be made or permitted if any question exists regarding the nature or extent of the error.

' 10.09 POWERS TO ENACT, AMEND, OR REPEAL ORDINANCES AND RESOLUTIONS; GENERALLY.

Every municipality may enact, make, amend, revise, or repeal all such ordinances, resolutions, and regulations as may be proper and necessary to carry into effect the powers granted thereto.

' 10.10 ORDINANCES REPEALED.

This code, from and after its effective date, shall contain all of the provisions of a general nature pertaining to the subjects herein enumerated and embraced. All prior ordinances pertaining to the subjects treated by this code shall be deemed repealed from and after the effective date of this code.

' 10.11 ORDINANCES UNAFFECTED.

All ordinances of a temporary or special nature and all other ordinances pertaining to subjects not embraced in this code shall remain in full force and effect unless herein repealed expressly or by necessary implication.

' 10.12 REPEAL OR MODIFICATION OF AN ORDINANCE.

(A) No suit, proceedings, right, fine, forfeiture, or penalty instituted, created, given, secured, or accrued under any ordinance previous to its repeal shall in any way be affected, released, or discharged, but may be prosecuted, enjoined, and recovered as fully as if the ordinance had continued in force unless it is otherwise expressly provided.

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

' 10.13 ORDINANCES WHICH AMEND OR SUPPLEMENT CODE.

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

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

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

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

' 10.15 CITY LIMITS.

(A) The following are the limits and boundary of the city, as laid out and established, viz: beginning at a point 50 feet due north of the center of Section 20, in Township 23 North, Range 16, E.B.H.M.; from this point of beginning on a line running due west for a distance of 1,325 feet; thence due south on a line for a distance of 831 feet; thence due east on a line for a distance of 831 feet; thence due south on a line for a distance of 3,150 feet; thence due east on a line for a distance of 2,125 feet; thence due north on a line for a distance of 925 feet; thence due west on a line for a distance of 1,375 feet; thence due north on a line for a distance of 406 feet; thence due east on a line for a distance of 2,640 feet; thence due south on a line for a distance of 1,320 feet; thence due east on a line for a distance of 1,320 feet; thence due north on a line for a distance of 1,320 feet; thence due east on a line for a distance of 1,320 feet; thence due north on a line for a distance of 2,640 feet; thence due west on a line for a distance of 1,320 feet; thence due north on a line to the state line between the states of North Dakota and South Dakota; thence due west on said state line to the quarter section corner on said state line due

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north of the center of said Section 20, in Township 23 North, Range 16, E.B.H.M., thence due south to the point of the beginning, together with any additions which have been duly platted and recorded.

(B) The following described property shall also be included in the City of Lemmon:

(1) Great Plains Addition, Block 1, Lots 1 through 7 in ESW, Section 20, Township 23 North, Range 16, E.B.H.M.;

(2) Reno Heights (west 30' x 1827.6'), Lot 11;

(3) Tract A in ESWSW, Section 20, Township 23 North, Range 16, E.B.H.M.;

(4) Rennich Addition, Lot 1 in SWSW, Section 20, Township 23 North, Range 16, E.B.H.M.;

(5) Tract 1 of Outlot D, less S 193' of west 70'; and Tract 2 of Outlot D, Section 20, Township 23 North, Range 16, E.B.H.M.;

(6) South 193' of west 70' of Tract 1 of Outlot D in SW, Section 20, Range 23 North, Range 16, E.B.H.M.;

(7) Tract B in SESE, Section 19, Township 23 North, Range 16, E.B.H.M.; and

(8) Lot 2 of Tract A in SESE, Section 19, Township 23 North, Range 16, E.B.H.M.
(SDCL 9-4) (Prior Code, ' 1.0101)

' 10.16 WARD BOUNDARIES.

The city is hereby divided into three wards, as illustrated on the map attached to the ordinance codified herein, included as Exhibit AA@, and which is described as follows.

(A) *First ward.* The first ward shall be the area of the city bounded on the east, west, and north by the city limits and the south by Fourth Street East, west to Sixth Avenue West, thence south 25 feet along Fourth Street West from Sixth Avenue West to Seventh Avenue West, thence south to Eighth Street West, thence west to the corporate limits.

(B) *Second ward.* The second ward shall be the area of the city bounded on the west by the Seventh Avenue, on the south by Seventh Street West, east to Third Avenue East, thence north to Sixth Street East, thence east to the corporate limits.

(C) *Third ward.* The third ward shall be the area of the city bounded on the west, south, and east by the city limits on the north by Eighth Street West, thence east to Seventh Avenue West, thence north to Seventh Street West, thence east to Third Avenue East, thence north to Sixth Street East, thence east to the corporate limits.

(Prior Code, ' 1.0102) (Ord. 2012-8, passed 12-6-2012)

' 10.17 VOTING PRECINCTS.

Each ward as set out in ' 10.16 shall constitute an election precinct.
(SDCL 9-13-16) (Prior Code, ' 1.0103)

' 10.99 GENERAL PENALTY.

Whenever, in this code or in any ordinance of the city, an act is prohibited or is made or declared to be unlawful or an offense or a misdemeanor, or wherever, in the code or ordinance, the doing of any act is required or the failure to do any act is declared to be unlawful, and no specific penalty is provided therefor, any person who shall be convicted of any such violation shall be fined no more than \$500 or serve no more than 30 days in jail, or both in accordance with SDCL 9-19-3. Each day any violation of this code or other ordinance continues shall constitute a separate offense.

(Prior Code, ' 14.0201) (Ord. 2011-9, passed 12-28-2011)

Statutory reference:

Maximum penalty, see SDCL 9-19-3 and 22-6-2(2)

TITLE III: ADMINISTRATION

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- 31. CITY ORGANIZATIONS**
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CHAPTER 30: CITY POLICIES

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- 30.03 Polling hours for annual municipal election
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- 30.15 Contracts
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- 30.18 Authorization of contract

Statutory reference:

Related provisions, see SDCL 5-18A

GENERAL PROVISIONS

' 30.01 COUNTY PRE-DISASTER MITIGATION PLAN.

The city deems it prudent and in the best interest of the city to recognize and participate in the Perkins County Pre-Disaster Mitigation Plan.
(Res. 2006-10, passed 12-4-2006)

' 30.02 OPTING OUT OF WASTE REDUCTION TARGET.

The city having reviewed and documented that the cost or recycling of office paper will cost more than the true and total cost of unsubsidized landfilling of office paper, and having followed the designated opt-out procedure, will be opting out of the waste reduction target scheduled to go into effect on July 1, 1996. The city will review its determination for this specific waste reduction target at least once every two years starting with the effective date of the ordinance codified herein.
(Ord. 521, passed 6-3-1996)

' 30.03 POLLING HOURS FOR ANNUAL MUNICIPAL ELECTION.

The polls shall open at 7:00 a.m. and close at 7:00 p.m. for all elections authorized by SDCL 12-2-3. (Ord. 566, passed 2-4-2002)

' 30.04 CANVASSING BOARD.

The County Auditor is hereby authorized to appoint three officials of election and three officials of the Canvassing Board for local elections in each voting precinct. (Res. passed 3-8-1983)

PURCHASE OF SUPPLIES**' 30.15 CONTRACTS.**

No member of the City Council or any appointive officer of the city shall buy or purchase any materials, supplies, or equipment, nor enter into any contract therefor or for the construction of public improvements, at any amount exceeding the sum of \$3,000, except such contract or purchase be made by contract let to the lowest responsible bidder. The provisions of this subchapter shall not be construed to regulate or to apply to contracts of the city for the purchase of materials, supplies, or replacements for any utility owned or operated by the city, provided that such purchase shall not exceed the sum of \$3,000, nor shall this subchapter apply to any contracts of the city in time of war to acquire, establish, construct, own, control, lease, equip, improve, maintain, operate, or regulate an airport or landing field for the use of airplanes or the aircrafts of the United States Armed Forces or its employees, students, and mechanics. (Prior Code, ' 14.0101)

' 30.16 BIDS.

All bids submitted for the sale of any materials, supplies, or equipment to the city, as herein provided, shall be made in writing, sealed, and filed with the Finance Officer before the hearing set for opening the same and shall be opened and read by the City Finance Officer in the presence of the City Council, duly assembled. (Prior Code, ' 14.0102)

' 30.17 NOTICE OF TIME.

Notice of the time when sealed bids will be received and opened will be given by the City Finance Officer by advertisement printed in the official newspaper of the city prior to the time for hearing.
(Prior Code, ' 14.0103)

' 30.18 AUTHORIZATION OF CONTRACT.

Any contract shall be invalid unless authorized by vote of the City Council at a properly assembled meeting thereof and such contracts as are duly authorized shall be in writing and signed by the Mayor and countersigned by the City Finance Officer.
(Prior Code, ' 14.0104)

CHAPTER 31: CITY ORGANIZATIONS

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PETRIFIED WOOD PARK BOARD

' 31.001 ESTABLISHED.

There is hereby established a Park Board, together with advisory members, for the purpose of controlling and supervising the premises and appurtenances known as the Petrified Wood Park located in the city.

(Prior Code, ' 10.0901)

' 31.002 MEMBERS.

(A) The duly acting and qualified members of the Parks and Recreation Board shall constitute the Board and shall be known and designated as the APetrified Wood Park Board@.

(B) There shall be appointed for terms of five years, by the Mayor, subject to the approval of the Council, two member persons of the electorate of the city, who shall act in an advisory capacity without vote and without compensation.

(Prior Code, ' 10.0902)

' 31.003 POWERS.

The said Petrified Wood Park Board, together with its advisory members, shall have and exercise such powers as may by the laws of the state be provided and shall specifically carry out the terms of that certain deed wherein the grantors and the grantee, dated March 2, 1954, recorded in Book 219 of Deeds, page 395-396 in the office of the Register of Deeds in and for the county, which deed is made a part hereof by reference.

(Prior Code, ' 10.0903)

' 31.004 TERMS OF PETRIFIED WOOD PARK DEED.

(A) No monetary charge shall be made to the public for viewing the premises of the Petrified Wood Park or any part thereof.

(B) No intoxicating liquors shall be permitted to be sold on the premises of the Petrified Wood Park or in any building erected on the Petrified Wood Park premises.

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PARK AND RECREATION BOARD

' 31.015 ESTABLISHMENT OF COMBINED BOARD.

There is created a combined City Park and Recreation Board for the city to be known as Athe Lemmon Park and Recreation Board@ to establish, improve, care for, regulate, and manage a system of public parks, parkways, boulevards, and swimming pools and facilities; to operate a system of public recreation, playgrounds, and parks in and for the city.

(Prior Code, ' 10.1101) (Ord. 362, passed 10-7-1974)

' 31.016 APPOINTMENT OF BOARD MEMBERS.

(A) The Mayor, with the approval of the governing body, shall appoint five members to the City Park and Recreation Board, each of whom shall be a resident of the city.

(B) One City Council member shall be appointed for one year. Residents of the city shall be appointed, one for two years, one for three years, one for four years, and one for five years. Such appointees are to hold office until their successors are appointed and qualified.

(Prior Code, ' 10.1102) (Ord. 362, passed 10-7-1974)

' 31.017 ANNUAL APPOINTMENTS.

At the first regular meeting of the governing body in May of each year, one member shall be appointed or reappointed by the Mayor and approved by the governing body for a term of five years. One member shall be appointed from the City Council for a one-year term.

(Prior Code, ' 10.1103) (Ord. 362, passed 10-7-1974)

' 31.018 BOARD COMPENSATION.

All members appointed to serve on the City Park and Recreation Board shall serve without compensation except for the expenses accrued due to authorized travel outside the city in fulfilling the obligations of their appointed duties, said expenses shall be reimbursed on the basis of actual proof of personal expenses accrued due to and during such authorized travel.

(Prior Code, ' 10.1104) (Ord. 362, passed 10-7-1974)

' 31.019 BOARD VACANCIES.

Any vacancy on the City Park and Recreation Board shall be filled for the unexpired term of any member vacating such Board for any reason or purpose in the same manner as is required for a regular appointment and shall also qualify as provided in ' 31.017.
(Prior Code, ' 10.1106) (Ord. 362, passed 10-7-1974)

' 31.020 ELECTION OF OFFICERS.

At the first regular meeting of the Park and Recreation Board after the final adoption and publication of the ordinance codified herein, the Board shall elect from its number a President, a Vice President, and a Secretary, each of whom shall serve until the first meeting of the Board in June of each year. Thereafter, the Board shall hold an annual election of officers at the first meeting in June of each year. The Vice President shall act in the absence or disability of the President. In case of death or retirement of an officer, a successor shall be elected immediately.
(Prior Code, ' 10.1107) (Ord. 362, passed 10-7-1974)

' 31.021 OFFICIAL MEETINGS, QUORUM.

The Board shall hold meetings at the call of the President to conduct the official business affairs of the Park and Recreation Department. Three members constitute a quorum for the transaction of business, but an affirmative vote of at least three members shall be necessary to authorize any official action of the Board.
(Prior Code, ' 10.1108) (Ord. 362, passed 10-7-1974)

' 31.022 OFFICIAL RECORDS AND REPORTS.

The Secretary of the Board shall keep a record of its proceedings and make such reports as may be required by the Board. In his or her absence, or inability to act, the Board may appoint a Secretary pro tem to perform his or her duties. The records of such Board, kept by its Secretary, or copies of any such records when duly certified by the Secretary shall be competent evidence of the proceedings of the Board. Copies of any and all such records and/or reports shall be filed with the Finance Officer.
(Prior Code, ' 10.1109) (Ord. 362, passed 10-7-1974)

' 31.023 BOARD RULES AND REGULATIONS.

The members of the City Park and Recreation Board subject to the approval of the governing body may establish bylaws, rules, and regulations for the orderly transaction and conduct of its business and operation of the Park and Recreation Department facilities. Any amendment to " 31.015 to 31.035 desired by the Board shall be requested by resolution as outlined in ' 31.026.
(Prior Code, ' 10.1110) (Ord. 362, passed 10-7-1974)

' 31.024 BOARD AUTHORITY AND DUTIES.

The President, and in his or her absence or disability the Vice-President, shall have authority to sign, execute, and acknowledge in the name of the Park and Recreation Board all contracts or documents of any character as authorized by and to carry out the normal business and functions of the Park and Recreation Department, and to sign requisitions upon the City Finance Officer for warrants upon the Finance Officer for funds under control of and authorized to be expended by the Park and Recreation Board. All such warrants with the permission of the duly appointed City Park and Recreation Board shall be drawn by the City Finance Officer=s office and facsimile signed by the Finance Officer=s office and facsimile signed by the Mayor. Any warrants so drawn shall be recorded in the official financial ledgers of the city and drawn on the park and recreation cash funds.

(Prior Code, ' 10.1111) (Ord. 362, passed 10-7-1974)

' 31.025 POWERS, LIMITATIONS, AND IMMUNITIES.

The City Park and Recreation Board shall have all of those powers and be subject to the limitations and enjoy those privileges and immunities all as provided for by SDCL 9-38 as now or hereafter amended. Whenever the prior approval of the governing body is required before the City Park and Recreation Board can act, such prior approval shall be first obtained. Otherwise, the Board shall be charged with the supervision and management of all city park and recreation facilities and functions.

(Prior Code, ' 10.1112) (Ord. 362, passed 10-7-1974)

' 31.026 BOARD REGULATIONS.

Any recommendation by the City Park and Recreation Board to the governing body shall be by resolution. When any ordinance of the governing body is passed upon the recommendation of the Park and Recreation Board, it is not necessary for such ordinance to recite at length the resolution of the Park and Recreation Board recommending the same, but it is sufficient to recite the fact of such recommendation by such Park and Recreation Board, which recital shall be conclusive of the making and regularity of such resolution in all proceedings thereafter.

(Prior Code, ' 10.1113) (Ord. 362, passed 10-7-1974)

' 31.027 RECORDS OPEN TO INSPECTION.

The Park and Recreation Board shall make an annual report to the governing body of its acts and all its expenditures, showing the condition of all affairs under its control. The governing body may require a report from the Park and Recreation Board at any time, and the records, books, papers, and accounts of the Board shall at all times be subject to inspection by the Mayor, Finance Officer, or any committee appointed by the governing body for that purpose or by any citizen.

(Prior Code, ' 10.1115) (Ord. 362, passed 10-7-1974)

' 31.028 DEPARTMENT EMPLOYEES.

The Park and Recreation Board recommends employees to the Council who vote to hire and also set wages. The Park and Recreation Board does not have this authority.

' 31.029 CITY ATTORNEY=S DUTIES.

The City Attorney, as a part of his or her duties, shall conduct all court proceedings under this subchapter and shall be the legal adviser of the Board. When in its judgment the interests of the city demand, the Board may employ special counsel to assist the City Attorney at the City Attorney=s request. (Prior Code, ' 10.1118) (Ord. 362, passed 10-7-1974)

' 31.030 ACQUISITION OF LAND.

(A) Upon recommendation of the Park and Recreation Board, the governing body may provide by ordinance for the purchase, condemnation, or otherwise acquisition of land within or without the city limits as authorized by SDCL 9-38.

(B) Payment for any such land so selected and acquired may be made by cash, by purchase by installment payments with or without a mortgage, by entering into lease-purchase agreements, or by lease with option to purchase, out of the General Fund, Park Fund, or by the issue and sale of bonds of the city after authorization as and in the manner provided by this title. No mortgage given hereunder shall provide as security property other than the specific land acquired pursuant to the provisions hereof. (Prior Code, ' 10.1120) (Ord. 362, passed 10-7-1974)

' 31.031 GIFTS, BEQUESTS, AND DEVISES.

Real or personal property or the income thereof may be granted, bequeathed, devised, or conveyed to the city for park or recreational purposes authorized by SDCL 9-38 and upon such conditions as may be prescribed by the grantors, donors, or devisors thereof and agreed to by the governing body and the Park and Recreation Board. (Prior Code, ' 10.1121) (Ord. 362, passed 10-7-1974)

' 31.032 CONTRACTS FOR CONSTRUCTION AND IMPROVEMENTS.

Contracts for any construction or improvements incidental to the operation of a system of public parks, recreation, and playgrounds for which special assessments are not to be levied shall be let by the Park and Recreation Board to the lowest and best bidder in the same manner and subject to the same provisions as similar work not under control of the Park and Recreation Board is let by the governing body. All such work shall be done under the control of the City Superintendent. (Prior Code, ' 10.1122) (Ord. 362, passed 10-7-1974)

' 31.033 ANNUAL BUDGET.

The Park and Recreation Board, on or before the tenth day of July of each year, shall make an estimate of the moneys necessary for the operation of the city=s system of public parks, recreation and as authorized by SDCL 9-38. Such estimate shall be certified by the Secretary of the Park and Recreation Board to the City Finance Officer.

(Prior Code, ' 10.1123) (Ord. 362, passed 10-7-1974)

' 31.034 DESIGNATION OF PARK AND RECREATIONAL AREAS.

The maintenance and improvement of any land acquired by the Park and Recreation Board for public parks, and recreation and playground purposes shall be the responsibility of the Board; and, when possible, public parks, or designated areas thereof, in the city shall also be used for the operation of a system of public recreation and playgrounds. The designation or the use of any public park, or designated area thereof, for recreational purposes shall be designated by the Park and Recreation Board, subject to review and approval by the governing body in the event of disagreement as to such use by any other factions.

(Prior Code, ' 10.1125) (Ord. 362, passed 10-7-1974)

' 31.035 REGULATING PARK AND RECREATIONAL FEES.

(A) The City Park and Recreation Board is authorized to set such fees as are necessary for the use of facilities under the supervision of such Board. Such fees shall be posted at the entrance to the recreational facility and shall be collected at that place. Individuals desiring to use such facilities are required to enter and exit at the designated place and use only designated areas. The City Park and Recreation Board shall authorize use of the municipal golf course by students actually participating in a golf or physical education program sanctioned by any school operated in the city without payment of fees for use of the golf course during the period of such golf or physical education program and subject to such rules and regulations as the Park and Recreation Board may adopt.

(B) No person shall go upon the municipal golf course for purpose of golf play nor utilize the facilities of the municipal swimming pool without first paying the required fee.

(Prior Code, ' 10.1126) (Ord. 440, passed 6-3-1985) Penalty, see ' 31.999

PLANNING AND ZONING BOARD

' 31.055 COMPOSITION.

(A) The Planning and Zoning Board shall consist of five members appointed by the Mayor and confirmed by the City Council, composed of one representative of the City Council and four residents appointed by the Mayor and confirmed by the City Council. The Council representative shall serve for a one-year term.

(B) The remaining four shall have three-year terms with the initial appointment of two two-year terms and two three-year terms. To be qualified to be a member and remain a member of the Planning and Zoning Board, the individual shall meet the following qualifications:

(1) He or she shall be a resident of the city and a qualified voter; and

(2) He or she shall not be a declared candidate for any political office, except this condition shall not apply to a Council representative appointed to the Planning and Zoning Board.

(Ord. 2013-9, passed 11-4-2013)

' 31.056 OFFICERS.

The Planning and Zoning Board shall elect from its numbers a Chairperson, Vice Chairperson, and Secretary. The Secretary of the Planning and Zoning Board shall keep a record of all proceedings to be made available to any member of the City Council. In April of each year, the Finance Officer shall determine which member=s terms of office expire and solicit nominations from the Mayor.

(Ord. 2013-9, passed 11-4-2013)

' 31.057 FILLING VACANT POSITIONS.

(A) The Mayor shall fill any vacancy in the membership of the Planning and Zoning Board for the unexpired terms in the same manner as the initial appointment and may remove any member for nonperformance of duty or misconduct upon a public hearing.

(B) The City Council shall also have the power to appoint a resident from outside the city limits, pursuant to SDCL 11-6-4.1, if the City Council determines a temporary Planning Commissioner as a resident of an effected area outside of the city to provide assistance to the regular Planning and Zoning Board.

(Ord. 2013-9, passed 11-4-2013)

' 31.058 COMPENSATION.

All members of the Planning and Zoning Board shall be volunteers and receive no compensation except for office material (i.e. office supplies, and the like), unless compensation is deemed necessary by the City Council with majority vote.

(Ord. 2013-9, passed 11-4-2013)

' 31.059 MEETINGS AND PROCEDURES.

(A) The Planning and Zoning Board shall meet quarterly and three members of the Planning and Zoning Board constitutes a quorum for the transaction of ordinary business of said Board. The Chairperson may call a meeting if deemed necessary and shall provide at least 24 hours= notice. All decisions made at the meetings shall be determined by a vote of the majority.

(B) The Planning and Zoning Board shall adopt rules for the transaction of business and shall keep a record of its resolutions, transactions, findings, and determinations, which shall be a public record.

(Ord. 2013-9, passed 11-4-2013)

' 31.060 POWERS AND DUTIES.

(A) The Planning and Zoning Board duties shall include, but are not limited to, preparing a guide for long range development with physical and fiscal plans for such development, programing of capital improvements, street plan, and coordination of all related plans of departments or subdivisions of the city.

(B) The Planning and Zoning Board shall have authority to apply for and receive grants from any government agency, federal government, and state agency, and to receive donations from private citizens, with the approval of the City Council.

(C) The Planning and Zoning Board may act as a Board of Adjustment and fulfill all obligations of a Board of Adjustment.

(Ord. 2013-9, passed 11-4-2013)

' 31.061 CITY COUNCIL TO PRESCRIBE RULES.

(A) The City Council may from time to time prescribe any rules, regulations, and responsibilities to the Planning and Zoning Board either by amendment to this subchapter, adoption of other relevant ordinances, or by resolution.

(B) All existing bylaws and policies and procedures of the Planning and Zoning Board shall remain in effect until the appointed City Council directs otherwise.

(Ord. 2013-9, passed 11-4-2013)

' 31.062 APPROVAL, RATIFICATION, AND RECONFIRMATION.

All official actions taken by the Planning and Zoning Board under this subchapter, adopted by the city are hereby approved, ratified, and reconfirmed. This subchapter shall be in full force and effect from and after its passage and publication.
(Ord. 2013-9, passed 11-4-2013)

PUBLIC LIBRARY BOARD

' 31.075 LIBRARY ESTABLISHED.

The City Council finds that the city's public library has been in existence since 1919 and pursuant to SDCL 14-2-28 is considered to be established under SDCL 14-2 and the governing body must make changes necessary to effect compliance with the terms of that chapter.
(Ord. 517, passed 8-7-1995)

' 31.076 APPOINTMENT OF TRUSTEES.

(A) The Mayor, with the approval of the City Council, shall appoint, as vacancies occur, trustees for the city's public library; such Board of Trustees shall consist of five competent citizens broadly representative of the population of the city. One of the citizens shall be appointed for one year, two for two years, and two for three years and annually thereafter reappointments or new appointments shall be for a term of three years or to complete an unexpired term.

(B) In addition to the five appointees, the governing body may appoint one of its own members to serve as a full voting member of the Public Library Board of Trustees during that member's term of office.
(Ord. 517, passed 8-7-1995)

' 31.077 ORGANIZATION OF BOARD.

In July of each year, said library trustees shall organize by electing from among their members, a President, a Vice President, a Secretary, and a Treasurer on each of whom shall devolve the duties usually pertaining to such office.
(Ord. 517, passed 8-7-1995)

' 31.078 DUTIES OF TRUSTEES.

It shall be the duty of the public library=s trustees to:

(A) Appoint a librarian to serve at the pleasure of the Board;

(B) Adopt bylaws for the conduct of their business and adopt policies for the selection of public library materials, the governance of the library, and the use of public library services and materials;

(C) Prepare and submit an annual budget request to its governing body;

(D) Adopt a final annual budget within those funds certified to it as being appropriated in the annual budget of its governing body;

(E) Hold quarterly meetings for the consideration of matters relating to the library; and

(F) Prepare and submit an annual report to its governing body and to the South Dakota State Library on such forms as may be provided by the State Library.

(Ord. 517, passed 8-7-1995)

' 31.079 POWERS OF TRUSTEES.

The Board of Trustees may:

(A) Accept any gift, grant, devise, or bequest made or offered by any person, private agency, agency of state government, and the federal government or any of its agencies, for library purposes. Each donation shall be administered in accordance with its terms;

(B) Establish a special public library gift fund. The moneys in such fund shall be derived from all or any part of any gift, bequest, or devise, including the interest thereon. Such gift fund shall be a separate and continuing fund and no moneys in such fund shall revert to the general fund of any local governmental unit;

(C) Enter into an interstate library agreement pursuant to 14-7-12, Article VI;

(D) Establish a collection of public library materials to be loaned on a pay basis and make reasonable charge for use thereof;

(E) Enter into any contracts for the provision of or for the improvement of public library services; and

(F) To oversee and approve the discarding of library materials.

(Ord. 517, passed 8-7-1995)

City Organizations¹⁹

AIRPORT BOARD

' 31.090 AIRPORT BOARD ESTABLISHED.

An Airport Board of five members for the city, at no salary, shall be appointed by the Mayor. One member for a one-year term, one for a two-year term, one for a three-year term, one for a four-year term, and one for a five-year term. The Board shall have power to establish, improve, care for, regulate, and manage the municipal airport and erect buildings and structures thereon, and, with approval of governing body, acquire land for airport purposes. This Board is established as provided by Chapter 213 of 1947 South Dakota Laws, being SDCL 50-7-2. The Mayor may nominate, with the approval of the governing body, one ex officio member of the Board with no voting rights; this member shall be a member of the City Council

(SDCL 9-14-23) (Prior Code, ' 10.0701) (Ord. 2012-7, passed 9-4-2012)

ADDITIONAL OFFICERS

' 31.105 OFFICES.

The following offices of the city as heretofore created are continued: City Finance Officer; City Attorney; City Superintendent; Building Inspector; Code Enforcement Officer; police officers; and Chief of Police.

(SDCL 9-14-3) (Prior Code, ' 1.0401)

' 31.106 SALARIES.

The several appointive officers of the city shall receive such compensation as the City Council shall designate.

(Prior Code, ' 1.0402) (Ord. 398, passed 7-3-1978)

' 31.107 BONDS.

All appointive officers, before entering upon the discharge of their duties, shall take and subscribe an oath or assumption of office in the form required by the Constitution and furnish an undertaking to the city, to be approved by the City Council, in such sum as said City Council shall prescribe where the amount is not fixed by state law, conditioned for the faithful discharge of the duties of their offices and to account, pay over, and deliver all money coming into their hands by virtue of their office, according to law. All such undertakings, after approved, shall be filed with the Finance Officer.

(Prior Code, ' 1.0405)

' 31.108 SALARY OF MAYOR.

The salary of Mayor shall be set by resolution.
(Prior Code, ' 1.0201)

' 31.109 SALARY OF COUNCIL MEMBERS.

The salary of Council shall be set by resolution.
(Prior Code, ' 1.0202)

CITY COUNCIL MEETINGS**' 31.120 REGULAR MEETINGS.**

The regular meetings of the City Council shall be held on the first Monday of each month, in the Council rooms in the City Hall, in said city, at the hour of 6:00 p.m. If a regular meeting day falls upon a holiday observed by the city or a federal holiday, the regular meeting shall be held on the day following.
(Prior Code, ' 1.0301) (Ord. 2010-1, passed 6-7-2010)

' 31.121 SPECIAL MEETINGS.

Special meetings of the City Council may be held at any time on call of the Mayor, and in case of his or her absence or inability to act, then by the President of Council, or by four of the aldermen in case of the inability, absence, or refusal to act of the Mayor or President of Council.
(Prior Code, ' 1.0302)

' 31.122 CONSENT CALENDAR.

(A) *Consent calendar recommendations by standing committees.* Each standing committee may report an uncontested resolution out of committee with the recommendation that it be placed on the consent calendar. As used in this rule, an ***UNCONTESTED ORDINANCE OR RESOLUTION*** is any ordinance or resolution which receives a do-pass or do-pass-as-amended recommendation from the committee to which it is referred, by unanimous vote of the members present.

(B) *Consent calendar placement, objections.* Any ordinance or resolution certified by the committee chair as having received no dissenting votes in the committee shall be placed on the consent calendar.

Upon objection of any member of the City Council to the placement or retention of any matter on the consent calendar, it shall be removed from the consent calendar and be placed on the agenda.

(C) *Continued items consent calendar.* If, after compilation of the agenda and before the regular meeting of the Council, it is known that items will need to be continued, those items shall be placed together under an item bearing the heading Acontinued items consent calendar@. Upon objection of any member of the City Council to the placement or retention of any matter on the consent calendar, it shall be removed from the consent calendar for discussion purposes.

(D) *Consent calendar.* A matter requiring a two-thirds vote of the members-elect may not be voted on the consent calendar.

(E) *Consent calendar items; questions, voting.* Items on the consent calendar are not debatable. The presiding officer shall allow a reasonable time for questions from the Council. Immediately before voting on the first item on the consent calendar, the presiding officer shall call to the attention of the members the fact that the next roll call will be the roll call on the items on the consent calendar. Approval of the consent calendar by a majority of the members-elect of the Council is considered final disposition of all matters on the consent calendar.

(Ord. 2010-3, passed 8-2-2010)

' 31.999 PENALTY.

Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to ' 10.99 of this code of ordinances.

CHAPTER 32: FIRE DEPARTMENT

Section

- 32.01 Volunteer Fire Department
- 32.02 Memberships
- 32.03 Board of Fire Officers
- 32.04 Board meetings
- 32.05 Bylaws
- 32.06 Inspections
- 32.07 Records
- 32.08 Election of officers
- 32.09 Chief supervision
- 32.10 Chief powers
- 32.11 Absence of Chief and Assistant
- 32.12 Police powers
- 32.13 Fire equipment and pump testing
- 32.14 Fire hydrant reports
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- 32.16 Fire apparatus drivers
- 32.17 Repair authorization
- 32.18 Repair and supply requests
- 32.19 Neglect or disobedience of orders by officer or member
- 32.20 Equipment restriction
- 32.21 Movement of equipment
- 32.22 Loan or rental of equipment
- 32.23 Member expulsion or suspension
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- 32.25 Practice drills
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- 32.28 Retrial decision conclusive
- 32.29 Driving vehicle over fire hose
- 32.30 Parking restrictions
- 32.31 False alarm
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- 32.37 Compensation
- 32.38 Fire officer=s salaries
- 32.39 Deferred Compensation Plan
- 32.40 Funding of deferred compensation
- 32.41 Management of Fund
- 32.42 Requirements for participants
- 32.43 Program termination
- 32.44 Adoption of Fire Code

- 32.99 Penalty

' 32.01 VOLUNTEER FIRE DEPARTMENT.

There is hereby established a Voluntary Fire Department of and for the city as follows.
(Prior Code, ' 5.0301)

' 32.02 MEMBERSHIPS.

The Fire Department shall consist of a Chief, one Assistant, and 33 firefighters, with five reserve slots of the age of 21 years, as are or may be elected and be approved by the City Council.
(Prior Code, ' 5.0302)

' 32.03 BOARD OF FIRE OFFICERS.

(A) The names of all persons elected to membership and proposed as members of the Department shall be presented, through a Board of Fire Officers previous to being presented, and no name not so approved shall be presented to the membership and the City Council for confirmation.

(B) All resignations from the Department shall take the same course as elections and propositions to membership as above provided for.
(Prior Code, ' 5.0303)

' 32.04 BOARD MEETINGS.

The Chief, Assistant Chief, and Executive Committee shall constitute a Board of Fire Officers, who shall meet monthly or more frequently for the transaction of all business of the Department, which Board shall have entire and absolute control over and management of the Department and its government, when such Department is not upon active duty, subject to the approval of the membership and the City

Council, to which approval the acts of said Board of Fire Officers shall only be subject as herein particularly and specifically provided.

(Prior Code, ' 5.0304)

' 32.05 BYLAWS.

The Board of Fire Officers is hereby authorized, empowered, and required from time to time to adopt a code of bylaws and rules for the regulation of the proceedings and business of the said Board, which code or codes of bylaws and rules after adoption by such Board shall not become effective and operative until presented to and approved by membership of the Department and not inconsistent with law and order of the city.

(Prior Code, ' 5.0306)

' 32.06 INSPECTIONS.

The Board of Fire Officers is hereby authorized, empowered, and required to inspect from time to time all buildings and premises where accumulations of combustible materials or other hazardous conditions are liable to exist, and to order such changes or removals as in their opinion are necessary to safety from fire. For purposes of inspection, they are hereby empowered to enter any and all buildings and premises and at any reasonable time.

(Prior Code, ' 5.0307)

' 32.07 RECORDS.

The Board of Officers is required to devise forms or methods of keeping records and shall see that records are kept of all alarms of fire, fire losses, methods of extinguishment, drills, hose, apparatus, minor equipment, and condition of hydrants.

(Prior Code, ' 5.0308)

' 32.08 ELECTION OF OFFICERS.

The Chief and Assistant Chief shall be elected by the membership of the Department annually. They shall be removable only for cause after hearing before the membership. Chief officers shall be elected from the membership of the Department.

(Prior Code, ' 5.0309)

' 32.09 CHIEF SUPERVISION.

The Chief shall have the general supervision of the Department which supervision shall be subject to and not conflict with such rules and bylaws for the government and management of the Department as may from time to time be adopted by the Board of Fire Officers as herein provided.
(Prior Code, ' 5.0311)

' 32.10 CHIEF POWERS.

In all cases of fire the Chief or, in his or her absence, an Assistant shall have full power and absolute control and command, and cause the several pieces of apparatus to be worked in the most advantageous manner.
(Prior Code, ' 5.0312)

' 32.11 ABSENCE OF CHIEF AND ASSISTANT.

Should the Chief and the Assistant Chief be absent from a fire, the person having charge of the apparatus first arriving at the fire shall assume the duties of the Chief until the arrival of his or her superior officers.
(Prior Code, ' 5.0313)

' 32.12 POLICE POWERS.

The Chief and his or her Assistant or officers in command at any fire are hereby vested with full and complete police authority, and are hereby authorized and directed to require and secure the removal of any and all obstructions from in front of and around fire hydrants, and for the purpose are hereby authorized to call upon the head of any of the municipal departments for aid and assistance in securing such removal of obstructions.
(Prior Code, ' 5.0314)

' 32.13 FIRE EQUIPMENT AND PUMP TESTING.

It shall be the duty of the Chief to see that all new hose is subjected to test of 200 pounds hydrostatic pressure and that all hose is tested annually at an appropriate test pressure.
(Prior Code, ' 5.0318)

' 32.14 FIRE HYDRANT REPORTS.

It shall be the duty of the Chief to make a permanent record of all reports of defective, inoperative, or improperly set fire hydrants, and he or she shall submit a report to the Mayor and City Council giving the location of the hydrant, name of the maker, with a specification of the troubles.
(Prior Code, ' 5.0320)

' 32.15 SECRETARY=S DUTIES.

It shall be the duty of the Secretary to keep a permanent record of the fire and drill service of each member of his or her company. A copy of this record shall be submitted to the Board of Officers at the close of each year.
(Prior Code, ' 5.0321)

' 32.16 FIRE APPARATUS DRIVERS.

It shall be the duty of the Board of Officers to train or instruct drivers for the apparatus, who shall be thoroughly instructed in the operation of the apparatus to which they are assigned.
(Prior Code, ' 5.0322)

' 32.17 REPAIR AUTHORIZATION.

No member of any company shall be permitted to tamper with, fix, or repair any of the apparatus unless so directed by the Chief or, in his or her absence, the Assistant Chief.
(Prior Code, ' 5.0323) Penalty, see ' 32.99

' 32.18 REPAIR AND SUPPLY REQUESTS.

(A) All requests for repairs or supplies for the various companies of the Department shall be presented to the Board of Fire Officers for the approval or recommendation of said Board.

(B) In case any apparatus shall become so disabled that immediate repairs are necessary, shall immediately report the condition of the same to the Chief who is hereby empowered to have the same repaired at once.
(Prior Code, ' 5.0327)

' 32.19 NEGLECT OR DISOBEDIENCE OF ORDERS BY OFFICER OR MEMBER.

Any officer or member of the Department or any company or companies of the Department who shall refuse or voluntarily neglect to obey or execute any orders from the officer in charge of any fire,

or who shall violate or willfully neglect or refuse to be controlled, governed, or managed by any of the rules and bylaws of the Board of Fire Officers, that may be adopted from time to time as herein provided, shall be subject to suspension or expulsion upon such hearing or trial as may be prescribed or provided by the bylaws and rules of the Board of Fire Officers; the suspension or expulsion of any company being subject to the approval of the membership of the Department.

(Prior Code, ' 5.0329)

' 32.20 EQUIPMENT RESTRICTION.

No person shall be allowed to enter any firehouse or handle any apparatus or implements belonging to the Department unless accompanied by an active member of the Department.

(Prior Code, ' 5.0330) Penalty, see ' 32.99

' 32.21 MOVEMENT OF EQUIPMENT.

No fire apparatus during any fire or the report of any fire shall be taken or moved out of its house unless the Foreman or Captain or at least one member of the department to which the same shall belong shall be present and assent thereto.

(Prior Code, ' 5.0331)

' 32.22 LOAN OR RENTAL OF EQUIPMENT.

No apparatus shall be let out of hire, or let in any case, except upon consent of the Mayor and of the Chief.

(Prior Code, ' 5.0332) Penalty, see ' 32.99

' 32.23 MEMBER EXPULSION OR SUSPENSION.

If any of the members shall vote for expulsion or suspension of any of its members, the result of such vote shall be reported to the Board of Fire Officers at its next meeting.

(Prior Code, ' 5.0333)

' 32.24 MEMBER APPEAL.

The expelled or suspended member shall have the right to appear before the said Board of Fire Officers and membership and state cause, if any, why such penalty should not be confirmed, and in case of the non-appearance, or in case his or her appeal is not sustained, the Chief shall report his or her name to the City Council as expelled or suspended, as the case may be.

(Prior Code, ' 5.0334)

' 32.25 PRACTICE DRILLS.

(A) It shall be the duty of the Chief and Training Officer to call out for practice drill, the Department, and the said Chief may, whenever he or she deems it necessary, the Department shall be drilled and trained not less than once each month.

(B) Any officer or member being reported to the Board of Fire Officers for refusal or failure to respond to any such order, such officer or member shall be liable to suspension or expulsion as provided for by the rules and regulations of the Board of Fire Officers.

(Prior Code, ' 5.0335)

' 32.26 TRAINING CURRICULUM.

It shall be the duty of the Chief and Training Officer to arrange the drills and training so that they will include the proper and efficient use of all appliances and apparatus, the quick handling, laying and raising of hose, handling of streams, use of shut-off nozzles, forcible entry tools, salvage work, ladder work, life saving, and modern methods of extinguishment.

(Prior Code, ' 5.0336)

' 32.27 TRIAL OF OFFENSES.

All charges for offenses or neglect of duty or insubordination while on duty at a fire that may be proffered against any officer or member of the Department shall be tried and determined by the Board of Fire Officers, subject, however, to an appeal from such decision to the City Council, which shall either confirm the action of the Board of Fire Officers or refer the same back to them for retrial.

(Prior Code, ' 5.0337)

' 32.28 RETRIAL DECISION CONCLUSIVE.

In the event of a retrial being ordered by the Council, the decision arrived at by the Board of Fire Officers at such retrial shall be final, conclusive, and not subject to appeal.

(Prior Code, ' 5.0338)

' 32.29 DRIVING VEHICLE OVER FIRE HOSE.

No person shall drive any vehicle over a fire hose except upon specific orders from the Chief of the Department, and then only with due caution.

(Prior Code, ' 5.0339) Penalty, see ' 32.99

' 32.30 PARKING RESTRICTIONS.

No person shall park any vehicle of any description or place any material or obstruction within 20 feet of the entrance to any fire station, or within 15 feet of any fire hydrant or fire cistern, nor park any vehicle within 400 feet of a fire.

(Prior Code, ' 5.0341) Penalty, see ' 32.99

' 32.31 FALSE ALARM.

No person shall maliciously report a false fire alarm.

(Prior Code, ' 5.0342) Penalty, see ' 32.99

' 32.32 FOLLOWING FIRE APPARATUS.

No unauthorized person shall ride upon, race with, trail, or follow within 600 feet, any apparatus belonging to the Fire Department when actively responding to a fire alarm.

(Prior Code, ' 5.0343) Penalty, see ' 32.99

' 32.33 SPECIAL POLICE POWERS.

All regularly appointed members of the Fire Department are hereby given the necessary special police powers for the purpose of enforcing the provision of this chapter.

(Prior Code, ' 5.0344)

' 32.34 POLICE DUTIES.

It is hereby made the special duty of the Chief of Police, police officers, and such other peace officers as are on duty at the time, to respond to all fire alarms and assist the Fire Department in the protection of life and property of the citizens, and property of the Fire Department, and in controlling and regulating traffic and maintaining order.

(Prior Code, ' 5.0345)

' 32.35 INTERFERING WITH DEPARTMENT.

Any person who shall willfully hinder or interfere with any city officer or firefighter in the performance of his or her duty, at, going, or returning from any fire or while attending to his or her duty as a member of the Fire Department, or willfully or negligently drive any dray, automobile, automobile truck, or any other vehicle across, along, or upon any hose, or shall willfully cut, deface, destroy, or

injure any fire apparatus or property belonging to said city or said Volunteer Fire Department shall, upon conviction thereof, shall be set by law and be liable for all damage done to any such property.
(Prior Code, ' 5.0346) Penalty, see ' 32.99

' 32.36 INTERFERING WITH FIREFIGHTERS.

Any person who shall, without authority, ride upon or attempt to ride upon any of the fire trucks in going to or coming from any fire shall, upon conviction thereof, be subject to a fine set by law.
(Prior Code, ' 5.0347) Penalty, see ' 32.99

' 32.37 COMPENSATION.

The Fire Department shall be paid attending each fire in said city upon the report of the Chief to the City Council that such Fire Department attended said fire, which sum shall be set by resolution.
(Prior Code, ' 5.0349)

' 32.38 FIRE OFFICER=S SALARIES.

The amount of salary paid each Fire Department officer shall be set by resolution.
(Prior Code, ' 5.0350)

' 32.39 DEFERRED COMPENSATION PLAN.

The city does hereby establish a Deferred Compensation Plan for the members of the Volunteer Fire Department.
(Prior Code, ' 5.0352) (Ord. 509, passed 10-3-1994)

' 32.40 FUNDING OF DEFERRED COMPENSATION.

The Deferred Compensation Plan shall be funded by the members of the Volunteer Fire Department.
(Prior Code, ' 5.0353) (Ord. 509, passed 10-3-1994)

' 32.41 MANAGEMENT OF FUND.

The Deferred Compensation Plan shall be managed and administered by the Deferred Compensation Committee of the Volunteer Fire Department in accordance with all applicable state and federal laws and regulations. The Committee shall be appointed by the Fire Department=s Fire Chief.
(Prior Code, ' 5.0354) (Ord. 509, passed 10-3-1994)

' 32.42 REQUIREMENTS FOR PARTICIPANTS.

The program of the Deferred Compensation Plan and the requirements for participation therein shall be established by majority vote of the membership of the Volunteer Fire Department at a regularly scheduled meeting. The Deferred Compensation Plan and the requirements for participation therein may be amended by majority vote of the membership of the Fire Department at a regularly scheduled meeting. (Prior Code, ' 5.0355) (Ord. 509, passed 10-3-1994)

' 32.43 PROGRAM TERMINATION.

If for any reason this program is terminated, all appropriated funds that have accrued shall revert to the Volunteer Fire Department. (Prior Code, ' 5.0356) (Ord. 509, passed 10-3-1994)

' 32.44 ADOPTION OF FIRE CODE.

There is hereby adopted that certain fire prevention code known as the AFire Prevention Code@ then currently in effect as recommended by the National Board of Fire Underwriters, and the whole thereof, of which not less than one copy thereof has been and now is filed in the office of the Finance Officer in the city, and the same is hereby adopted and incorporated as fully as if set out in this place. (Prior Code, ' 5.0401)

' 32.99 PENALTY.

Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to ' 10.99 of this code of ordinances.

CHAPTER 33: POLICE DEPARTMENT

Section

- 33.01 Establishment
- 33.02 Term of office
- 33.03 Extra police
- 33.04 Chief of Police
- 33.05 Police officers
- 33.06 City and county jail established
- 33.07 Sentence of offenders
- 33.08 Law enforcement agreement

' 33.01 ESTABLISHMENT.

The city's Police Department shall consist of a Chief of Police and such number of police officers as from time to time may be designated by the City Council, same to be appointed by the Mayor, subject to the approval of the City Council.

(Prior Code, ' 1.0501)

' 33.02 TERM OF OFFICE.

(A) The Chief and each police officer shall hold office for the term of his or her appointment, not exceeding one year and until their successors are appointed and qualified.

(B) Before entering upon the duties of their offices, they shall subscribe an oath of office and give bond in such sum as may be fixed by the City Council.

(Prior Code, ' 1.0502)

' 33.03 EXTRA POLICE.

The Mayor shall have the power, in case of emergency, to appoint extra police officers during the term of the emergency, such appointment to be in writing and filed with the Finance Officer.

(Prior Code, ' 1.0503)

' 33.04 CHIEF OF POLICE.

The Chief of Police shall see that the ordinances of the city are strictly enforced. He or she shall report to the City Council any violation of the ordinances or anything occurring within the city, which, in his or her opinion, is detrimental to the health, safety, or good order of said city. He or she shall at all times be subject to the orders of the Mayor and perform such additional duties as the City Council may prescribe.

(Prior Code, ' 1.0504)

Statutory reference:

Related provisions, see SDCL 9-29-18

' 33.05 POLICE OFFICERS.

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

(Prior Code, ' 1.0505)

' 33.06 CITY AND COUNTY JAIL ESTABLISHED.

The city and county jail located in the city is hereby established as the jail for the city.

(Prior Code, ' 1.0506)

Statutory reference:

Related provisions, see SDCL 9-29-24 and 9-29-25

' 33.07 SENTENCE OF OFFENDERS.

Any offender, convicted in any court for any offense subjecting such person to imprisonment under the ordinances of said city, may be allowed work release for such labor as his or her strength will permit during the term of such imprisonment and all offenders convicted before said court of any offense, under said ordinances and committed for the nonpayment of any fine imposed, by said court, may be allowed work release for such labor as his or her strength will permit during the time he or she shall be imprisoned.

(Prior Code, ' 1.0507)

' 33.08 LAW ENFORCEMENT AGREEMENT.

The city may enter into an agreement with Perkins County Sheriff=s office to provide police protection for the city. Any reference to AChief of Police@ in the city ordinances shall refer to either the Sheriff, Code Enforcement Officer or any designee of the Mayor, Sheriff or Code Enforcement Officer in the instance the city has agreed to have law enforcement provided by Perkins County.

CHAPTER 34: CEMETERY REGULATIONS

Section

- 34.01 Name and establishment of cemetery
- 34.02 Board of Trustees, appointment
- 34.03 Power of Board of Trustees
- 34.04 Superintendent and employees
- 34.05 The Sexton or Superintendent
- 34.06 Price and size of graves
- 34.07 Board=s care
- 34.08 Free burial ground
- 34.09 Power to take property
- 34.10 The Cemetery Fund
- 34.11 Perpetual care defined
- 34.12 Amounts set aside
- 34.13 Amount assessed against every grave
- 34.14 Assessments unpaid
- 34.15 Caring for lots
- 34.16 Structure height
- 34.17 Approved markers or tombstones
- 34.18 Erected monuments
- 34.19 Waste material in cemetery
- 34.20 Wilted flowers
- 34.21 Destroying monuments and flowers

- 34.99 Penalty

Statutory reference:

Related provisions, see SDCL 9-32-13 and 9-32-14

' 34.01 NAME AND ESTABLISHMENT OF CEMETERY.

There is hereby established a departmental activity in the city organization to be known as Greenhill Cemetery, to be managed by the Board of Cemetery Trustees hereby created, subject to the directions and ordinances of the city.

(Prior Code, ' 3.0101) (Ord. 232, passed 6-24-1957)

' 34.02 BOARD OF TRUSTEES, APPOINTMENT.

(A) There is hereby created a Board of Cemetery Trustees consisting of five trustees who shall be electors in the city, to be appointed by the Mayor and with the consent of the Council. Said trustees shall hold office for the term of five years, except that at the first appointment one shall be appointed for a term of one year, one for a term of two years, one for a term of three years, one for a term of four years, and one for a term of five years, from the first Monday in May of the year when appointed and annually thereafter one trustee shall be appointed; provided that the first year of his or her terms shall end on the first Monday in May following his or her appointment.

(B) Any trustee so appointed may be removed for inattention of his or her duties, want of proper judgement, skill, or taste for the proper discharge of the duties required of him or her, or other good cause. Said trustees shall serve without compensation.
(Prior Code, ' 3.0201) (Ord. 232, passed 6-24-1957)

' 34.03 POWER OF BOARD OF TRUSTEES.

The Board of Cemetery Trustees shall elect one of their number as Chairperson. A Secretary shall be hired, whose duties shall be defined by the Board.
(Prior Code, ' 3.0202) (Ord. 232, passed 6-24-1957)

' 34.04 SUPERINTENDENT AND EMPLOYEES.

The said Board of Trustees shall appoint, with the approval of the Council, a Sexton or Superintendent and such other employees as may be necessary for the care and maintenance of said cemetery and shall direct all the improvements and embellishments of the grounds, and shall enforce the ordinances of the city made for the management and care thereof.
(Prior Code, ' 3.0203) (Ord. 232, passed 6-24-1957)

' 34.05 THE SEXTON OR SUPERINTENDENT.

The Sexton or Superintendent shall have police authority in enforcing all regulations of the Board of Trustees and the ordinances of the city in preserving order and proper conduct within such cemetery and grounds.
(Prior Code, ' 3.0204) (Ord. 232, passed 6-24-1957)

' 34.06 PRICE AND SIZE OF GRAVES.

Said Board of Trustees shall fix the price and size of graves and make sales thereof. The conveyances of such cemetery lots, half-lots, or grave spaces shall be for burial rights of human bodies

only and shall be issued and executed on behalf of the city, and shall be in such form as the said Board of Trustees, with the approval of the Council, shall prescribe.

(Prior Code, ' 3.0205) (Ord. 232, passed 6-24-1957)

' 34.07 BOARD=S CARE.

The said Board of Trustees shall make in writing such rules and regulations necessary to the Board=s care, operation, management, and protection of said cemetery, not inconsistent with the provisions of this chapter as said Board may deem advisable subject to the approval of the Council.

(Prior Code, ' 3.0206) (Ord. 232, passed 6-24-1957)

' 34.08 FREE BURIAL GROUND.

The said Board of Trustees may set off so much of said cemetery as in its judgement may be necessary for a free burial ground.

(Prior Code, ' 3.0207) (Ord. 232, passed 6-24-1957)

' 34.09 POWER TO TAKE PROPERTY.

The said Board of Trustees shall also have power in its discretion to take, receive, and hold any property, real or personal, by devise or otherwise, which may be granted, transferred, or devised to such Board in trust for the purpose of caring for the keeping in good order and repair any lot or lots or portions thereof specified in any such trust.

(Prior Code, ' 3.0208) (Ord. 232, passed 6-24-1957)

' 34.10 THE CEMETERY FUND.

All moneys raised for such cemetery authorized by this chapter and all moneys received from the sale of lot, half-lots, or grave spaces therein shall be paid into the city treasury and shall constitute a fund to be denominated the ACemetery Fund@. Said Fund shall not be devoted or applied to any other purpose except the purpose of such cemetery.

(Prior Code, ' 3.0209) (Ord. 232, passed 6-24-1957)

' 34.11 PERPETUAL CARE DEFINED.

PERPETUAL CARE shall mean the perpetual care of the cemetery and the beautifying thereof and the maintaining of lots and spaces in perpetuity.

(Prior Code, ' 3.0210) (Ord. 232, passed 6-24-1957)

' 34.12 AMOUNTS SET ASIDE.

(A) There shall be set aside and deposited in the Perpetual Care Fund, from the sale of burial spaced or plots, not less than the following amounts for lots of interment space sold or disposed of:

(1) A minimum of 20% of the gross selling price, with a minimum of \$20, for each adult burial space, whichever is the greater; and

(2) A minimum of 20% of the gross selling price for each child=s space, with minimum of \$5, for each space up to 42 inches in length or \$10 for each space up to 60 inches in length, whichever is the greater.

(B) The interest from such Fund and the balance of moneys received shall be exclusively used, appropriated, and expended in improving said cemetery, lots, avenues, streets, lanes, alleys, and walks, and in preserving the property, public and private, therein, building and repairing enclosures, employing a Sexton or Superintendent of said funds, or as much thereof as necessary may be appropriated and expended for the purchase of more land for cemetery purposes.

(SDCL 9-32-14) (Prior Code, ' 3.0211) (Ord. 232, passed 6-24-1957)

' 34.13 AMOUNT ASSESSED AGAINST EVERY GRAVE.

The Board of Trustees shall assess against every grave (burial rights for which have been sold, but not in perpetual care) such sum as the Board may determine for perpetual care.

(Prior Code, ' 3.0212) (Ord. 232, passed 6-24-1957)

' 34.14 ASSESSMENTS UNPAID.

Whenever assessments for care of any lot or part of lot shall remain unpaid for a period of five years, then the Board of Trustees shall, after notice by registered letter and publication in a newspaper circulating in the county, have the right to cancel burial rights in the unused portion of said lots and to resell the same.

(Prior Code, ' 3.0213) (Ord. 232, passed 6-24-1957)

' 34.15 CARING FOR LOTS.

Nothing herein contained shall be construed to prohibit individuals from caring for lots or burial spaces, but no such care shall be considered in lieu of assessments thereon, and provided that such care by individuals shall not be inconsistent with the regulations of the said Board of Trustees.

(Prior Code, ' 3.0214) (Ord. 232, passed 6-24-1957)

' 34.16 STRUCTURE HEIGHT.

No person, firm, or corporation may cause to be buried any human body in any structure which is higher than the ground level or any part thereof.

(Prior Code, ' 3.0216) (Ord. 232, passed 6-24-1957) Penalty, see ' 34.99

' 34.17 APPROVED MARKERS OR TOMBSTONES.

No curbing, fences, stakes, stone, or other items other than Board approved markers or tombstones shall be permitted on or about any burial space or family plot except that the corner of each lot may be marked with suitable markers that do not extend above the ground so as to interfere with the mowing of the grass around or upon the graves.

(Prior Code, ' 3.0217) (Ord. 232, passed 6-24-1957)

' 34.18 ERECTED MONUMENTS.

(A) All monuments hereafter erected in the Greenhill Cemetery shall be set upon a concrete base not less than two and one-half inches thick, the said base to be constructed with a footing extending beyond the base stone of the monument at all points at least six inches; such footing shall be level with grade level of the lot or burial space so that a mowing machine may be run over it.

(B) All monument builders and other persons, after erecting monuments, headstones, shall remove from the cemetery grounds any trash and material placed thereon and not used, and shall leave the grounds and lots in as good condition as same were found.

(Prior Code, ' 3.0218) (Ord. 232, passed 6-24-1957)

' 34.19 WASTE MATERIAL IN CEMETERY.

It shall be unlawful for anyone to dump, deposit, or leave any waste material, rubbish, or trash within the cemetery grounds

(Prior Code, ' 3.0219) (Ord. 232, passed 6-24-1957) Penalty, see ' 34.99

' 34.20 WILTED FLOWERS.

The Superintendent or his or her assistants may remove all wilted flowers, decorations or other unsightly material from the cemetery grounds.

(Prior Code, ' 3.0220) (Ord. 232, passed 6-24-1957)

' 34.21 DESTROYING MONUMENTS AND FLOWERS.

It shall be unlawful for any person to destroy, mutilate, deface, injure, or remove any tomb, monument, gravestone, receptacle for flowers or shrubs, or other structure or thing lawfully placed in any cemetery of the city, or to willfully destroy, cut, break, remove, or injure any tree, shrub, plant, or flower, or commit any other depredation within the limits of any cemetery of the city.

(Prior Code, ' 3.0221) (Ord. 232, passed 6-24-1957) Penalty, see ' 34.99

' 34.99 PENALTY.

Any person violating any of the provisions of this chapter for which no specific penalty is prescribed shall be subject to ' 10.99 of this code of ordinances.

CHAPTER 35: TAXATION

Section

Municipal Sales and Service Tax

- 35.01 Purpose
- 35.02 Effective date and enactment of tax
- 35.03 Use tax
- 35.04 Collections
- 35.05 Interpretation

Gross Receipts Tax

- 35.20 Purpose
- 35.21 Effective date and enactment of tax
- 35.22 Collection
- 35.23 Interpretation
- 35.24 Advisory Board
- 35.25 Use of revenue

- 35.99 Penalty

MUNICIPAL SALES AND SERVICE TAX

' 35.01 PURPOSE.

The purpose of this subchapter is to provide additional needed revenue for the city by imposing a municipal retail sales and use tax pursuant to the powers granted to the municipality by the state by SDCL 10-52, entitled Uniform Municipal Non-Ad Valorem Tax Law, and acts amendatory thereto. (Prior Code, ' 14.0307) (Ord. 574, passed 8-4-2003)

' 35.02 EFFECTIVE DATE AND ENACTMENT OF TAX.

From and after January 1, 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 2% on the gross receipts of all

persons engaged in business within the jurisdiction of the city, who are subject to the state retail occupational sales and service tax, SDCL 10-45 and acts amendatory thereto. Tax will not be applied to items specifically exempt under SDCL 10-52-2 and 10-52-13. Items exempted from municipal tax include: farm machinery and irrigation equipment; parts or repairs for farm machinery; agricultural animal health products and medicine; transportation service; collection and disposal of solid waste; veterinarian and animal specialty services; and air transportation.

(Prior Code, ' 14.0307) (Ord. 574, passed 8-4-2003; Ord. 580, passed 1-5-2004)

' 35.03 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 1, 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 state=s Use Tax Act, SDCL 10-46, and acts amendatory thereto.

(Prior Code, ' 14.0307) (Ord. 574, passed 8-4-2003)

' 35.04 COLLECTIONS.

Such tax is levied pursuant to authorization granted by SDCL 10-52 and acts amendatory thereto, and shall be collected by the state=s 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 state=s Secretary of Revenue and Regulation shall lawfully prescribe.

(Prior Code, ' 14.0307) (Ord. 574, passed 8-4-2003)

' 35.05 INTERPRETATION.

It is declared to be the intention of this subchapter and the taxes levied hereunder that the same shall be interpreted and construed in the same manner as all sections of the state=s Retail Occupational Sales and Service Act, SDCL 10-45 and acts amendatory thereto, and the state=s use tax, SDCL 10-46 and acts amendatory hereto, and that this shall be considered a similar tax except for the rate thereof to that tax.

(Prior Code, ' 14.0307) (Ord. 574, passed 8-4-2003)

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GROSS RECEIPTS TAX

' 35.20 PURPOSE.

The purpose of this subchapter is to provide additional needed revenue for the city by imposing a municipal gross receipts tax pursuant to the powers granted to the municipality by the state, by SDCL 10-52A, and acts amendatory thereto.
(Ord. 2013-10, passed 12-2-2013)

' 35.21 EFFECTIVE DATE AND ENACTMENT OF TAX.

From and after the first day of July, 2014, there is hereby imposed a municipal gross receipts tax of 1% upon the gross receipts from the sale of leases or rental of hotel, motel, campsites, or other lodging accommodations within the municipality for periods of less than 28 consecutive days, the sale of alcoholic beverages as defined in SDCL 35-1-1, and establishments where the public is invited to eat, dine, or purchase and carry out prepared food for immediate consumption. The tax applies to the gross receipts of all persons engaged in business within the jurisdiction of the city who are subject to the state=s retail occupational sales and service tax, SDCL 10-45 and acts amendatory thereto.
(Ord. 2013-10, passed 12-2-2013)

' 35.22 COLLECTION.

Such tax is levied pursuant to authorization granted by SDCL 10-52A and acts amendatory thereto, and shall be collected by the state=s Department of Revenue in accordance with the same rules and regulations applicable to the state sales tax and under such additional rules and regulations as the state=s Secretary of Revenue shall lawfully prescribe.
(Ord. 2013-10, passed 12-2-2013)

' 35.23 INTERPRETATION.

It is declared to be the intention of this subchapter and the taxes levied hereunder that the same shall be interpreted and construed in the same manner as all sections of the state=s retail occupational sales and service tax, SDCL 10-45 and acts amendatory thereto, and that this shall be considered a similar tax except for the rate thereof to that tax.
(Ord. 2013-10, passed 12-2-2013)

' 35.24 ADVISORY BOARD.

An Advisory Board is hereby established to advise the City Council concerning the use of the funds collected by this subchapter. The Board shall consist of a representative from the city=s Chamber of

Commerce, the city=s Area Charitable and Economic Development Corporation, two members appointed by the Mayor with the consent of the City Council, and a City Council representative to be appointed by the Mayor with the consent of the City Council. Each member shall serve a one-year term commencing at the City Council=s meeting in May of each year.

(Ord. 2013-10, passed 12-2-2013)

' 35.25 USE OF REVENUE.

Any revenues received under this subchapter may be used only for the purpose of land acquisition, architectural fees, construction costs, payment for civic center, auditoriums, or athletic facility buildings, including the maintenance, staffing, and operations of such facilities, and the promotion and advertising of the municipality, its facilities, attractions, and activities or any other uses as authorized by state law.

(Ord. 2013-10, passed 12-2-2013)

' 35.99 PENALTY.

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

(B) In addition, all such collection remedies authorized by SDCL 10-45 and acts amendatory thereto, and SDCL 10-46 and acts amendatory thereto are hereby authorized for the collection of these excise taxes by the Department of Revenue and Regulation.

(Prior Code, ' 14.0307)

(Ord. 574, passed 8-4-2003; Ord. 2013-10, passed 12-2-2013)

TITLE IX: GENERAL REGULATIONS

Chapter

- 90. ANIMALS**
- 91. NUISANCES**
- 92. STREET AND SIDEWALK REGULATIONS**
- 93. FIRE REGULATIONS**

CHAPTER 90: ANIMALS

Section

Dogs

- 90.01 Definitions
- 90.02 License and vaccination required
- 90.03 License application and renewal
- 90.04 Tag
- 90.05 Public nuisance
- 90.06 Impounding
- 90.07 Captured dogs - how kept
- 90.08 Destruction of animals
- 90.09 Pound
- 90.10 License expiration
- 90.11 Muzzling
- 90.12 Prohibited dogs
- 90.13 Rabies control
- 90.14 Inciting dogs to fight

Birds

- 90.25 Protection of birds
- 90.26 Birds and nests

- 90.99 Penalty

Statutory reference:

Related provisions, see SDCL 9-29-11, 9-29-12

DOGS

' 90.01 DEFINITIONS.

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

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ANIMAL. Every living animal except the human race.

AT LARGE. Off the premises of the owner and not under the control of the owner, a member of their immediate family, or caretaker either by leash, cord, or chain.

CAT. Both male and female members of the Feline family.

CRUELTY or TORTURE. Every act, omission, or neglect whereby unnecessary or unjustifiable pain, suffering, or death shall be caused or permitted.

DOG. Male and female members of the Canine family.

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

OWNER. Any person owning, keeping, or harboring a dog or cat.

VICIOUS ANIMAL. Any animal, cat, or dog that has bitten, scratched, or attacked any person or another animal on one or more occasions and displays dangerous propensities and tendencies.
(Prior Code, ' 7.1300) (Ord. 2006-5, passed 11-6-2006)

' 90.02 LICENSE AND VACCINATION REQUIRED.

It is unlawful for any person within the city to keep, maintain, or have in custody or under control any dog or cat over the age of six months which is not licensed and inoculated against rabies.
(Prior Code, ' 7.1301) (Ord. 467, passed - -) Penalty, see ' 90.99

' 90.03 LICENSE APPLICATION AND RENEWAL.

(A) Any person desiring to keep, maintain, or have in custody or control any dog or cat over the age of six months shall make application to the Finance Officer for a license. The application must be in writing stating the name, sex, color, and other distinguishing characteristics of the animal and the name and address of the applicant. The license must be renewed annually for so long as the animal is kept within the city by payment of the annual fee established in this chapter.

(B) Before any license may be issued, the applicant shall furnish a certificate of vaccination issued by a licensed veterinarian evidencing that the dog or cat for which the license is desired has been vaccinated will be good for the license year.
(Prior Code, ' 7.1302) (Ord. 467, passed - -)

' 90.04 TAG.

(A) A license fee set by resolution of the City Council must be paid at the time any dog or cat is first licensed. The license is valid for the remainder of the calendar year in which it is obtained. Licenses must be renewed annually, for so long as the animal is kept within the city. The fee for transferring the license, if the animal is sold or given to another, shall be set by resolution of the City Council.

(B) A refund may not be made on any license fees because of the death of an animal or because the owner of the animal leaves the city before expiration of the license period.

(C) (1) It is the duty of the owner of the animal licensed to place a collar around the neck of the animal, on which collar must be securely fastened the tag furnished by the Finance Officer.

(2) In the event of the loss of any tag issued under the provisions of this section, the Finance Officer is hereby authorized to issue a duplicate tag upon payment of the sum set by resolution of the City Council, upon application being made thereof and upon satisfactory proof that such tag has been lost.

(3) A license tag may not be transferred from one animal to another.
(Prior Code, ' 7.1303) (Ord. 467, passed - -)

' 90.05 PUBLIC NUISANCE.

Every dog or cat that has committed any of the following acts is deemed to be a public nuisance:

(A) Habitually at large;

(B) Habitually disturbs the peace by barking, howling, or fighting;

(C) Habitually annoys, barks at, or chases any person or vehicle;

(D) Bites any person off the premises of the owner or any person lawfully on the premises of the owner; and/or

(E) Habitually attacks and injures, without provocation, any domestic animal or bird or other animal protected by law.

(Prior Code, ' 7.1304) (Ord. 467, passed - -) Penalty, see ' 90.99

' 90.06 IMPOUNDING.

(A) Any dog or cat found at large may be seized and impounded by any police officer or animal warden. Impoundment may be in any animal shelter designated by the Chief of Police.

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(B) The owner of any dog or cat impounded, if the owner's identity and location can be obtained by reasonable means, shall, within 24 hours, be notified that the dog or cat has been impounded. The notice must be in writing and shall inform the owner that if the dog or cat is not redeemed within three days following notice, the dog or cat will be put up for adoption or disposed of.

(C) A fee of \$35 must be assessed whenever any dog or cat is impounded under the provisions of this chapter. If a cat or dog is currently licensed, the \$35 fee will be waived once for the first offense but shall be assessable to the owner for all subsequent offenses.

(D) The owner of any impounded dog or cat which has not been vaccinated in accordance with this chapter, upon satisfactory proof of ownership, may redeem the dog or cat upon payment of all fees and expenses and be allowed 24 hours to get such dog or cat vaccinated. If the owner fails to procure a certificate of vaccination within 24 hours, the dog or cat shall again be seized and impounded.

(E) If the owner of any dog or cat impounded fails to redeem the dog or cat within three days after notice to the owner, if the owner can't be located through reasonable means, any other person may, upon complying with the provisions of this chapter, redeem the dog or cat from the pound and be the lawful owner of the dog or cat thereafter.

(F) Dogs or cats impounded for which an owner cannot be located through reasonable means or which have not been redeemed or purchased as authorized by this chapter within three days of such impoundment, may be disposed of in a humane manner.

(G) Owners of impounded dogs or cats kept beyond the mandatory three-day waiting period will be assessed a daily fee set by resolution of the City Council.

(Prior Code, ' 7.1305) (Ord. 467, passed - -; Ord. 528, passed 12-2-1996)

' 90.07 CAPTURED DOGS - HOW KEPT.

All dogs kept and conveyed to the dog pound shall be kept with humane treatment and supplied with sufficient food and water for a period of at least three days unless sooner reclaimed by the owner or keeper thereof, as herein provided. When the owner or claimant of any dog so impounded shall desire to reclaim such dog from the dog pound, such dog may be released upon the payment of the sum of expenses and fees.

(Ord. 340, passed 7-9-1973)

' 90.08 DESTRUCTION OF ANIMALS.

At the expiration of three days from the date of impounding, if any dog or cat shall still be unclaimed or if the owner or claimant thereof shall fail or refuse to comply with the provisions of this subchapter for the releasing of same, it shall be the duty of the person in charge of such impound to cause such dog or cat to be destroyed and the body thereof to be destroyed and the body removed and properly buried. The Police Department may destroy any sick or injured animal which has been

impounded without holding it for 72 hours if its condition is such that immediate destruction is necessary or desirable. All animals shall be destroyed in a humane manner.

(Ord. 2006-6, passed 11-6-2006)

' 90.09 POUND.

The Chief of Police shall be in charge of the dog pound and provide a suitable place for the keeping of any such dogs so impounded.

(Prior Code, ' 7.1308)

' 90.10 LICENSE EXPIRATION.

All licenses shall expire upon lapse of rabies vaccination.

(Prior Code, ' 7.1309)

' 90.11 MUZZLING.

Whenever the governing body of the city shall be of the opinion that any danger or hydrophobia exists, it shall cause to be issued a proclamation requiring all persons owning or keeping or having charge of any dog to securely muzzle the same for such time as it may designate therein, and during such time all dogs in the city shall be muzzled in such manner as to make it impossible for said dogs to bite any person, dog, or other animal. The Chief of Police shall then, or upon complaint, cause to be made an investigation by a competent person and any dog that shall prove in fact to be infected with rabies or hydrophobia, may be killed as provided in ' 90.08 and a charge of \$2.50 shall be made against the owner thereof.

(Prior Code, ' 7.1310) (Ord. 467, passed - -) Penalty, see ' 90.99

' 90.12 PROHIBITED DOGS.

(A) As used in this section, **PROHIBITED DOG** means any breed of dog or animal of the Canine or Canidae family or species that has not been licensed by the city and covered by insurance against damage to persons or property, which insurance coverage must be specifically acknowledged by the owner=s insurance carrier of homeowners or renters liability insurance by way of a letter specifying the breed of dog covered to be filed with the city=s Finance Office at time of licensing.

(B) Any offspring of the dog must be properly licensed or removed from the city within 12 weeks of birth.

(C) Whenever the dog is outdoors and not securely confined within a kennel or fenced enclosure, the dog must be effectively restrained with an unbreakable harness and unbreakable chain, leash, or cord.

(Prior Code, ' 7.1312) (Ord. 546, passed 1-3-2000) Penalty, see ' 90.99

' 90.13 RABIES CONTROL.

(A) *Report of bites.* Every person having knowledge that an animal has bitten or is suspected of biting a human being shall forthwith report the same to the Police Department for disposition of such animal under the provisions of this subchapter. Every person bitten by an animal shall promptly report it to the Police Department. The animal shall thereupon be securely quarantined at the discretion of the Police Department for a period of not less than ten days.

(B) *Quarantine of animal.*

(1) The animal ordered to be quarantined shall not be released from such quarantine except by written permission of the Police Department. Such quarantine may be at the owner=s option, in a veterinary hospital of his or her choice. The expenses of quarantine shall be paid by the owner, in the case of stray animals or in the cases of animals whose ownership is not known, such quarantine shall be at the shelter designated as the city animal shelter.

(2) The owner, upon demand made by the Police Department, shall forthwith place in the custody of a licensed veterinarian any animal which has bitten a human, or which is suspected as having been exposed to rabies, for supervised quarantine. The expense of such quarantine shall be borne by the owner. The animal may be reclaimed by the owner if found to be free of rabies.

(C) *Diagnoses.* 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 observation, the Police Department shall immediately send the head of such animal to a competent laboratory for pathological examination. The Police Department shall notify the proper health officers of reports of human contacts with such animal and the diagnosis made on the animal.

(D) *Area quarantine.*

(1) When one or both reports give a positive diagnosis of rabies, the Police Department may recommend the animal be area quarantined for a period of 30 days. Upon the invocation of such quarantine, no animal shall be taken into such area during such period of quarantine.

(2) Every unvaccinated animal bitten by an animal showing positive symptoms of rabies shall be forthwith destroyed or shall be held under quarantine not less than six weeks at the owner=s option and expense.

(E) *Extension.* If there are additional positive cases of rabies occurring during the period of the quarantine, such period of quarantine may be extended for an additional six months.

(F) *Destruction of animals.* No person shall kill or cause to be killed any rabid animal, any animal biting a human, except as herein provided, or remove such animal from the city limits without written permission from the Police Department. The carcass of any dead animal exposed to rabies shall, upon demand, be surrendered to the Police Department. The Police Department shall direct the disposition

of any animal found to be infected with rabies. No person shall fail or refuse to surrender any animal quarantined or fail or refuse to destroy an animal as required herein when such demand is made by the Police Department.

(G) *Dangerous or vicious dogs or cats at large prohibited.*

(1) No dog or cat of dangerous, vicious, or fierce propensities or tendencies may be at large at any time within the limits of the city. It shall be unlawful for the owner or other person having any such dog or cat in his or her possession or under his or her control, or in any manner keeping or harboring any such dog or cat within the limits of the city, to cause or permit any such dog or cat to be at large in the city.

(2) If any dog bites or attempts to bite any person while such dog or cat is at large, then such dog or cat shall be conclusively presumed to be a dangerous dog or cat and dog or cat of dangerous propensities and tendencies.

(3) If any dog or cat attacks or attempts to attack any animal or chases or otherwise attempts to catch a person, such dog or cat shall be conclusively presumed to be vicious and to have vicious propensities and tendencies.

(H) *Destruction of biting, scratching, dangerous, and vicious dogs and cats.*

(1) Any dog or cat having bitten, scratched, or attacked any person or animal on two or more occasions, which offenses were off the premises of the owner, shall be removed from the city limits or destroyed by the Police Department as directed in ' 90.08.

(2) Any dangerous or vicious dog or cat or a dog or cat having dangerous or vicious propensities and tendencies found at large, after the owner has previous knowledge or notice that such dog or cat is dangerous or vicious or has dangerous or vicious propensities and tendencies, may be killed by any police officer of the city without such officer having to catch or impound such dog or cat only if the capture and/or impoundment is a greater risk to life and limb of the officer or others. Captured and impounded animals shall be dealt with pursuant to ' 90.08.

(I) *Cruelty to and poisoning animals.* It shall be unlawful for any person to cruelly or immoderately beat any animal, or wantonly or maliciously torture or injure any animal. It shall be unlawful for any person to willfully administer poison to any animal, the property of another, or to expose any poisonous substance with intent that the same shall be taken by such animal.

(J) *Animal attacks.* Any animal that has committed a severe or fatal attack upon any human being shall be permanently and securely confined or humanely euthanized after complying with this section. This section will also apply to any severe or fatal attack on any animal while the offending animal is at large. **SEVERE INJURY** shall mean any physical injury that results in broken bones or disfiguring lacerations requiring multiple sutures or cosmetic surgery. **SECURELY CONFINED** shall mean confined in a locked pen or enclosure suitable to prevent the entry of young children and designed to prevent the animal from escaping. Such pen must have secure sides and a secure top, the sides must be embedded into the ground no less than two feet if the floor is not concrete, and the enclosure shall

provide protection from the elements. Anytime the animal is out of the pen it will be with a responsible adult and on a leash at all times. Failure to comply with these guidelines will result in the animal being impounded and euthanized.

(K) *Right of entry of Police Department.*

(1) The Police Department may enter upon the premises where any animal is kept in a reportedly cruel or inhumane manner and demand to examine such animal, and to take possession of such animal if there is probable cause to believe the same has been treated inhumanely.

(2) The Police Department is hereby authorized and empowered to enter upon any enclosure or lot within the city limits in quest of any animal suspected of being affected by rabies, and to apprehend any animal which has been observed to be running at large.

(Prior Code, ' 7.1313) (Ord. 2006-8, passed 11-6-2006) Penalty, see ' 90.99

Statutory reference:

Related provisions, see SDCL 9-29-11, 40-12, and 40-20

' 90.14 INCITING DOGS TO FIGHT.

It shall be unlawful for any person in the city, by words, signs, or otherwise, to set any dog or dogs to fighting or to cause any dog or dogs to attack any other dog or dogs or to aid or abet or encourage any dog fights.

(Prior Code, ' 7.1314) (Ord. 2006-9, passed 11-6-2006) Penalty, see ' 90.99

BIRDS

' 90.25 PROTECTION OF BIRDS.

It shall be unlawful for any person or persons at any time or place, within the city, to catch, take, kill, molest, or injure or in any manner interfere with any songbird of any kind.

(Prior Code, ' 8.1101) Penalty, see ' 90.99

' 90.26 BIRDS AND NESTS.

No person shall rob, injure, or destroy a songbird=s nest or in any manner interfere with same within the limits of said city nor aim or discharge any air gun, sling shot, or other weapon, throw any stone or other missile at any bird or bird=s nest, nor in any manner capture or kill any songbird in said city.

(Prior Code, ' 8.1102) Penalty, see ' 90.99

' 90.99 PENALTY.

Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to ' 10.99 of this code of ordinances.

CHAPTER 91: NUISANCES

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GENERAL PROVISIONS

' 91.01 OFFENSIVE SEWERAGE.

No person shall suffer or commit any house, barn, cellar, vault, private drain, cesspool, privy, or sewer upon any premises belonging to or occupied by him or her, within the limits of the city, to become nauseous, offensive, or injurious to the public health.

(SDCL 9-29-13 and 9-32-6) (Prior Code, ' 6.0703) Penalty, see ' 91.99

' 91.02 DEAD ANIMALS AND OTHER FILTH.

No owner or possessor of any animal which shall have died, shall suffer the same to lie on any public street, alley, public grounds, or private lot or place within the city, nor shall any person throw or leave such animal, or any vegetable or decayed animal matter, or any slops or filth whatever, solid or fluid, into any pool of water in said city, and no owner or occupant of any lot or tenement shall cause or permit such substance to be, remain in or upon any lot or tenement, or between the same and the center of the street or alley adjoining.

(SDCL 9-32-1 and 9-32-10) (Prior Code, ' 6.0704) Penalty, see ' 91.99

' 91.03 OFFENSIVE MATTER ON PREMISES.

It shall be unlawful for any person or persons, within the limits of the city, on the premises owned or occupied by him, her, or them, to permit or suffer any nuisance, whether by exercising any unwholesome trade, calling, or business, or by having or suffering any unwholesome or offensive substance whatever to remain on his, her, or their premises until, by offensive or foul odors or stench or otherwise, said premises shall become offensive, hurtful, or dangerous to the neighborhood, and it shall be the duty of the Chief of Police to give notice to such person or persons to remove such nuisance forthwith; and if such person or persons neglect or refuse so to do for the space of 24 hours after such notice, he, she, or they, upon conviction thereof, shall be liable to the penalty hereinafter prescribed,

together with the expense of removing the nuisance, and the costs of prosecution, and it is hereby made the duty of the Chief of Police to remove or abate any such nuisance immediately upon the expiration of the 24 hours after the notice aforesaid.

(SDCL 9-32-1 and 34-1-17) (Prior Code, ' 6.0705) Penalty, see ' 91.99

' 91.04 USE OF PREMISES AS A NUISANCE.

(A) It shall be unlawful for any person, firm, or corporation owning any lot or parcel of land within the city to maintain or keep such lot or parcel of land in such a condition, either by the digging of excavations thereon or the leaving buildings thereon, to become in such an unsafe condition through lack of repair or otherwise, that such lot or parcel of land or the buildings thereon, are or may become dangerous to the public health, peace, or safety of the citizens of said city. Any lot or parcel of land and the buildings thereon are hereby declared to be a public nuisance and may be abated by the filling of such excavations or the tearing down of such buildings by the Chief of Police of the city, upon the order of the City Council of said city.

(B) Unless such lot or parcel of land or the buildings thereon are imminently dangerous to the public health, peace, or safety of the citizens of said city, before an order of abatement is made by the City Council, a written notice, signed by the Mayor, shall be served upon the owner of such lot or parcel of land, if such owner is within the city, to appear before the City Council at a time specified therein and show cause why such lot or parcel of land or the buildings thereon should not be declared to be a nuisance and abated as such. The owner of such property so abated shall pay the cost of such abatement.

(SDCL 9-29-13 and 9-32-1) (Prior Code, ' 6.0706) Penalty, see ' 91.99

' 91.05 NAUSEOUS SUBSTANCES.

It shall be unlawful for any person to pile or deposit any manure, offal, sewerage, slops, dead animals, or garbage of any kind, character, or description, that is or may become nauseous or offensive or that may be or become dangerous to health or comfort, in or upon any private or public property or upon or along any line of railroad, street, or highway within the city.

(SDCL 9-32-1 and 9-32-10) (Prior Code, ' 6.0708) Penalty, see ' 91.99

' 91.06 CLEANING LOTS, SIDEWALKS, AND ALLEYS.

It shall be the duty of the occupant or the owner of any lot or parcel of land in the city abutting on any street or sidewalk to keep such alley to the center thereof free from all filth, unwholesome substance or matter, straw, weeds, or rubbish of any sort. And if any such occupant or owner, as the case may be, shall permit any filth, unwholesome substance or matter, straw, weeds, or rubbish of any sort to be or remain upon any lot, sidewalk, or boulevard adjacent to the lot or parcel of land by him or her occupied or owned, or between the line of such lot or parcel of land and the center of the alley adjacent thereto

for more than 24 hours after receiving notice from the Chief of Police to remove the same, he or she shall be liable to a fine of not less than \$5 nor more than \$200.

(SDCL 9-32-1 and 9-32-12) (Prior Code, ' 6.0710)

' 91.07 DUTY TO CUT GRASS AND WEEDS.

(A) It shall be the duty of the owner or occupant of any lot or lots within the city to keep all grass, weeds, thistles, or other foul matter or overhanging limbs of trees cut down and removed on all lots owned or occupied by them and not to permit the same to mature or grow to such height to be dangerous to the health or safety of the citizens of the city.

(B) Grasses, weeds, or thistles exceeding six inches in height shall be deemed to be such height that is dangerous to the health or safety of the citizens.

(C) Such height restriction shall include areas around buildings, trees, posts, poles, fences, yard ornaments, or other protrusions or obstructions located on the property.

(D) Notice shall be given once and thereafter if the condition is not immediately remedied and continually monitored by the owner or occupant, the city shall eliminate the condition at the expense of the property owner pursuant to appropriate ordinance.

(SDCL 9-32-12) (Prior Code, ' 6.0711) (Ord. 2017-3, passed 2-5-2018)

' 91.08 CITY MAY CUT GRASS AND WEEDS.

(A) Whenever the owner or occupant of any lot or lots within the city fails to cut down and remove such grass, weeds, thistles, and other foul matter and overhanging limbs from the lot owned or occupied by them, as provided in ' 91.07, it shall be the duty of the Code Enforcement Officer or designee to notify such persons, if residents of the city, to cut down and remove the same and if they fail or neglect to do so for a period of two days after they have been notified, then such grass, weeds, thistles, and other foul matter and overhanging limbs may be cut down and removed by order of the Code Enforcement Officer or designee and expense of so doing shall be reported to the Finance Officer and by him or her taxed against the lot or lots from which said grass, weeds, thistles, or other foul matter or overhanging limbs of trees has been cut or removed, at minimum rate of \$200 per lot together with costs of mailing, postage, city employee time, and machine rental, or it may be collected from the owner of such lot or lots by legal action on the part of the city.

(B) Whenever any lot or lots within said city are not occupied and the owner thereof is not a resident of the city, the notice and order to cut and remove grass, weeds, thistles, or other foul matter and overhanging trees shall be given in writing and mailed to him or her by certified mail at his or her last known place of residence. Notice and order to cut weeds and grass may be given at the beginning of or during the growing season and shall require the owner or person(s) responsible for the property, within seven days after the mailing thereof and at all times subsequent during the growing season as may be necessary, to cut and remove all weeds and grass as described. If the notice is returned showing that

the letter was not delivered, a copy thereof shall be posted in a conspicuous place on or about the property where the violation is occurring.

(C) If he or she shall fail to have said grass, weeds, thistles, or other foul matter and overhanging limbs cut down and removed for a period of ten days after the mailing of such notice, or within seven days of the signature on the returned receipt notice, or the posting of the notice, then said grass, weeds, thistles, and other foul matter and overhanging limbs or trees may be cut down by order of the Code Enforcement Officer or designee and expense for doing so shall be reported to the Finance Officer and by him or her taxed against the lot or lots from which said grass, weeds, thistles, or other foul matter or overhanging limbs of trees have been cut or removed at the minimum rate to be set by resolution of the City Council at its regular meeting in May or at any time the Council deems appropriate. The minimum rate of \$200 per lot together with costs of mailing, postage, city employee time, and machine rental, or it may be collected from the owner of such lot or lots by legal action on the part of the city. (SDCL 9-29-13 and 9-32-12) (Prior Code, ' 6.0712) (Ord. 2010-5, passed 10-4-2010)

' 91.09 LOUD, DISTURBING, AND UNNECESSARY NOISES.

(A) The making, creating, or maintenance of loud, unnatural, or unusual and disturbing noises are a detriment to public health, comfort, convenience, safety, and welfare, and are hereby declared to be unlawful and public nuisance.

(B) The following acts, among others, are declared to be prohibited noises in violation of this section, but such enumeration is not exclusive:

(1) *Use of horns.* The sounding of horns or signaling devices on any motor vehicle or motorcycle on any street or public place, except as a danger warning, or their sounding for an unnecessary and unreasonable period of time;

(2) *Radios, stereos, and the like.* The using, operating, or permitting to be played, used, or operated, any radio receiving set, musical instrument, phonograph, or other machine or device for the reproducing of sound, or at any time with louder volume than is necessary for convenient hearing for the person or persons who are in the room, vehicle, or chamber in which such machine or device is operated, and who are voluntary listeners thereto. The machine or device in such a manner as to be plainly audible at a distance of 50 feet from the building, structure, or vehicle in which it is located shall be prima facie evidence of a violation of this section;

(3) *Loudspeakers, amplifiers for advertising.* The use, operating, or permitting to be played, used, or operated of any radio receiving set, musical instrument, stereo, loudspeaker, amplifier, or other machine or device for the producing or reproducing of sound which is cast upon the public streets for the purpose of commercial advertising or attracting the attention of the public to any building or structure; and

(4) *Schools, courts, churches, and hospitals.* The creation of any excessive noise on any street adjacent to any school, institution of learning, church, or court while the same are in use, or adjacent

to any hospital, which unreasonably interferes with the workings of such institution, or which disturbs or unduly annoys patients in the hospital, provided conspicuous signs are displayed in such streets indicating that the same is a school, hospital, or court street.

(SDCL 9-29-13 and 9-32-12) (Prior Code, ' 6.0714) Penalty, see ' 91.99

' 91.10 BARBED WIRE FENCE.

No person shall erect or maintain any barbed wire fence or electric fence in the city.

(SDCL 9-29-14 and 9-32-1) (Prior Code, ' 6.0715) (Ord. 547, passed 2-7-2000) Penalty, see ' 91.99

' 91.11 SUITABLE DUMPING GROUNDS.

(A) The City Council shall select and establish as dumping grounds suitable lots or parcels of land, without the city limits, and until otherwise ordered, all straw, manure, leaves, ashes, and other rubbish which may be removed from public or private premises shall be drawn to and deposited upon the dumping grounds so established; provided, however, that no dead carcass, carrion, filth from any privy box or vault, or from any cesspool or offensive garbage, shall be deposited on such dumping grounds; and provided further, that nothing in this section shall be deemed to prohibit the deposit of ordinary stable manure on any private lot or parcel of land for fertilizing purposes only.

(B) The City Superintendent may take such other measures as to the spreading, burning, and covering of the rubbish deposited as above provided, as he or she may deem necessary.

(Prior Code, ' 6.0201)

PUBLIC NUISANCES

' 91.25 NUISANCES PROHIBITED.

(A) No person or persons, owner, occupant, or person in charge of any house, building, lot, or premises, shall create, maintain, or commit, or permit to be created, maintained, or committed, any public nuisance as defined in division (B) below, or as enumerated in division (C) below.

(B) Within the meaning of this section, a ***PUBLIC NUISANCE*** consists in doing an act without lawful authority, or omitting to perform a duty, within the corporate limits of the city or within one mile of the corporate limits of the city, or in any public grounds or parks belonging to the city, which act or omission either:

- (1) Annoys, injures, or endangers the comfort, repose, health, or safety of others;
- (2) Offends contemporary community moral standards;

(3) Unlawfully interferes with, obstructs, or tends to obstruct, or renders dangerous for passage any public park, street, right-of-way, or highway; 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.

(C) Nuisances shall include, but are not limited to, the following enumerations, which are deemed and declared nuisances:

(1) Waste, including, but not limited to, items such as paper, rags, trash, garbage, discarded clothing, shoes, curtains, linen and other apparel, tin cans, aluminum cans, boxes, bales or baled items, plastic containers, glass containers, plastic wrap, cleaning utensils, cooking utensils, and discarded household fixtures, when the items are stored, collected, piled, or kept on private or public property, and in view of adjacent properties or public rights-of-way;

(2) Used building materials and waste, including, but not limited to, such items as lumber, lath, gypsum board, pallets, plaster, old iron or other metal, concrete, brick and tile, piles of rock, sand, dirt or gravel when not used for landscaping purposes, doors, windows, and scrap or salvage building materials, when such items are stored, collected, piled or kept and are not stored inside a building; except for building materials that are temporarily stored for work on the premises authorized by a valid building permit obtained for the premises; provided that, the used or waste building materials shall not remain on the premises more than 30 days after the expiration of the building permit;

(3) Appliances, fixtures, and furniture, including, but not limited to, items such as stoves, refrigerators, freezers, sinks, cabinets and other kitchen appliances, bedroom furniture, mattresses, tables, chairs, clothes washing and drying machines, bathroom appliances and fixtures, light fixtures, wash tubs, lawn mowers, tillers, chainsaws, snow blowers, and garden equipment when such items are stored, collected, piled, or kept and are not stored inside a building; except that patio furniture and other furniture designed for outdoor use shall not constitute a nuisance when kept in any district and in view of adjacent properties or public rights-of-way;

(4) Dismantled motor vehicles, motor vehicle bodies and disassembled parts thereof, disassembled bicycles and bicycle parts, and other mechanical machines or motors or parts thereof when the items are stored, collected, piled, or kept and are not stored inside a building;

(5) All carcasses of animals remaining exposed one hour after death, excepting legally caught and tagged game, which shall be 24 hours; and all green or salted hides left deposited in any open place;

(6) All slop, foul or chemically polluted water, liquor or beer washings, all filth, refuse, or offal, grease, and lard discharged through drains or spouts or otherwise thrown or deposited in or upon any street, alley, sidewalk, public way, lot, park, public square, public enclosure, or any pond or pool of water;

(7) All vegetables, vegetable matters, or other articles that emit or cause an offensive, noxious or disagreeable smell or odor; and any compost pile which is of such a nature as to spread or harbor disease, emit unpleasant odors or harmful gas, or attract 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; and

(8) Any other condition the City Council shall deem and declare to be a nuisance.
(Ord. 2011-6, passed 10-3-2011) Penalty, see ' 91.99

' 91.26 REMEDIES.

The remedies against a public nuisance, in addition to those prescribed herein, shall be those prescribed by state law.
(Ord. 2011-6, passed 10-3-2011)

' 91.27 ABATEMENT.

(A) A public nuisance may be abated without civil action by the city or officer authorized thereto by law. Any private person may likewise abate a public nuisance which is specially injurious to him or her or any private nuisance injurious to him or her in any manner by removing or, if necessary, destroying that which constitutes the nuisance, without committing a breach of the peace or doing unnecessary injury.

(B) If a private nuisance results from a mere omission of the wrongdoer, and cannot be abated without entering upon his or her land, reasonable notice shall be given to him or her before entering to abate it. The city may defray the cost of abating a public nuisance by taxing the cost thereof by special assessment against the real property on which the nuisance occurred.
(Ord. 2011-6, passed 10-3-2011)

' 91.28 NOTICE.

(A) *Initial notice.* The Code Enforcement Officer or designee or his or her designee is authorized and empowered to notify, in writing, the owner of any lot, place, or area within the city, or the agent of the owner, or the occupant of the premises, to remedy or abate a public nuisance on the property and to prevent future violation of this chapter. The notice may be hand delivered or sent by first-class mail addressed to the owner of record, agent, or occupant at his or her last known address, and said notice shall notify the owner, agent, or occupant to remedy or abate a public nuisance within 14 days of the date the notice was delivered or mailed.

(B) *Subsequent notices.* Upon any subsequent violation of this chapter in the same calendar year after notice has been given as provided above, notice of a second or subsequent violation of the same or

similar nature as the first violation, shall require the owner to remedy the nuisance within three days of delivery or mailing.

(Ord. 2011-6, passed 10-3-2011)

' 91.29 APPEALS.

Any order issued by the Chief of Police, pursuant to the terms of " 91.25 to 91.28, may be appealed to the Legal and Ordinance Committee of the City Council, in writing and within 15 days of the issuance of the order. Such written notice of appeals shall be submitted to the Ordinance Committee in care of the City Finance Officer at City Hall. Appeals shall be reviewed by the Ordinance Committee and the determination of the Committee shall be provided in writing to the person making the appeal. All appeals shall be heard and decided by the Ordinance Committee of the City Council.

(Ord. 2011-6, passed 10-3-2011)

ABANDONED VEHICLES

' 91.40 DEFINITIONS.

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

ABANDONED MOTOR VEHICLE. Any motor vehicle which is left unattended on any public street or alley, in any public parking lot, or in any other public place for more than seven consecutive days.

JUNK MOTOR VEHICLE. Any motor vehicle which does not have lawfully affixed thereto unexpired license plates or which is wrecked, dismantled, partially dismantled, inoperable, or discarded.

MOTOR VEHICLE. Any self-propelled vehicle including, but not limited to, automobiles, motorcycles, motor scooters, trucks, tractors, go-carts, golf carts, and campers.

(Ord. 2011-7, passed 10-3-2011)

' 91.41 NUISANCE DECLARED.

The presence of an abandoned, wrecked, dismantled, inoperative, junk, or partially dismantled motor vehicle or parts thereof, on private or public property, is declared a public nuisance pursuant to SDCL 9-29-13. This section shall not apply to any motor vehicle enclosed within a building on private property or to any motor vehicle held in connection with a business enterprise, properly operated in the appropriate zoning district, or to any motor vehicle in operable condition specifically adapted or designed

for operation on drag strips or raceways and covered with an appropriate cover to screen it from view, which vehicle remains on private property.

(Ord. 2011-7, passed 10-3-2011) Penalty, see ' 91.99

' 91.42 STORING, PARKING, OR LEAVING VEHICLES ON PUBLIC PROPERTY.

No person shall park, store, leave, or permit the parking, storing, or leaving of any abandoned or junk motor vehicle of any kind, whether attended or not, upon any public property in the city.

(Ord. 2011-7, passed 10-3-2011) Penalty, see ' 91.99

' 91.43 REMOVAL OF VEHICLES FROM PUBLIC PROPERTY.

Whenever any police officer or Code Enforcement Officer finds an abandoned motor vehicle or junk motor vehicle on public property, he or she shall place written notice on the vehicle that it will be removed to a garage or place of safety unless the owner removes the vehicle from public property within 24 hours of the giving of the notice. After the expiration of the 24-hour period, the vehicle may be removed by the removal agency to a garage or place of safety. Nothing in this section precludes the Police Department from immediately removing a motor vehicle which causes an obstruction or hazard to traffic.

(Ord. 2011-7, passed 10-3-2011)

' 91.44 VEHICLES ON PRIVATE PROPERTY.

No person owning, in charge of, or in control of any real property within the city, whether as owner, tenant, occupant, lessee, or otherwise, shall allow any abandoned or junk motor vehicle of any kind to remain on the property longer than 15 days.

(Ord. 2011-7, passed 10-3-2011) Penalty, see ' 91.99

' 91.45 NOTICE TO REMOVE.

(A) Whenever it comes to the attention of the Police Department or ordinance enforcement that any person has an abandoned or junk motor vehicle on his or her property, a notice in writing shall be served by first class mail to the record owner of the property and such other of the persons referenced in ' 91.44 as can be ascertained, ordering the removal of such motor vehicle in the time specified in this chapter. The notice shall be deemed complete upon mailing to the last known address of the record owner.

(B) The notice shall contain the request for removal within 15 days after the mailing of such notice, and the notice shall state that failure to comply with the notice to remove shall be a violation of this chapter. The recipient of such notice shall have ten days from the date of mailing to file a notice of

appeal of the determination contained therein. The notice of appeal must be in writing and filed with the Finance Officer. All appeals shall be heard and decided by the Ordinance Committee or its successor. (Ord. 2011-7, passed 10-3-2011)

' 91.46 APPEALS.

Any order issued by the Code Enforcement Officer or designee may be appealed to the Ordinance Committee of the City Council, in writing, and within 15 days of the issuance of the order. Such written notice of appeal shall be submitted to the Committee at City Hall. Appeals shall be reviewed by the Committee and the determination of the Committee shall be provided in writing to the person making the appeal. (Ord. 2011-7, passed 10-3-2011)

' 91.47 RACING OR ANTIQUE VEHICLES.

No owner or occupant of private property shall have an uncovered motor vehicle in operable condition specifically adopted or designed for operation on drag strips or raceways or an uncovered motor vehicle retained on private property for antique collection purposes. (Ord. 2011-7, passed 10-3-2011) Penalty, see ' 91.99

' 91.48 REMOVAL BY CITY.

(A) *Towing by removal agency.* The Police Department or ordinance enforcement personnel may abate the nuisance by causing the motor vehicle to be towed from the property by a removal agency. The Police Department or ordinance enforcement personnel shall then notify, by first class mail, the registered owner, and if encumbered, the lienholder, of the removal, storage, and present location of any motor vehicle removed under the provisions of this chapter and that the vehicle can be recovered by payment of costs incident to its removal and storage.

(B) *Disposal.* Additionally, the Police Department or duly authorized ordinance enforcement personnel may abate the nuisance by removing the junk motor vehicle or parts thereof and disposing of them.

(C) *Cost.* The city may defray the cost of abating the public nuisance by taxing the cost thereof by special assessment against the real property on which the nuisance occurred. (Ord. 2011-7, passed 10-3-2011)

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RADIO INTERFERENCE

' 91.60 OPERATION OF ELECTRIC APPARATUS.

It shall be unlawful for any person, firm, or corporation to operate or cause to be operated in the city, any machines, device, apparatus, or instrument of any kind whatsoever causing preventable or avoidable interference with radio broadcasting receiving apparatus between the hours of 7:00 a.m. and 11:00 p.m. of any day; provided, however, that X-ray pictures, examinations, or treatments may be made at any time if the machines or apparatus used therefor are properly equipped to avoid all unnecessary or reasonably preventable interference with radio reception and which are not negligently and carelessly operated. (Prior Code, ' 8.1001) Penalty, see ' 91.99

' 91.61 EXCEPTION.

This subchapter shall not be held or construed to embrace or cover the regulation of any transmitting, broadcasting, or receiving instrument, apparatus, or device used or useful in interstate commerce or the operation of which instrument, apparatus, or device is licensed or authorized by or under the provisions of any act of the Congress of United States. (Prior Code, ' 8.1002)

' 91.62 INSPECTION.

The Chief of Police or any police officer of the city or any other person duly authorized by the City Council shall have the right to enter upon any premises upon the application and granting of a search warrant by a court of competent jurisdiction at all reasonable hours for the purpose of inspecting the installation and working of all apparatus coming within the terms of this subchapter, and it shall be unlawful for any person, firm, or corporation to interfere with the said Chief of Police, police officer, or any other person authorized, as hereinafter provided, in making said inspection or to refuse to permit the said Chief of Police, police officer, or other person duly authorized as herein provided, to enter the premises, as hereinbefore set out. (Prior Code, ' 8.1003) Penalty, see ' 91.99

' 91.63 INSPECTION CONTINUED.

An inspection and test shall have been made by a duly authorized person as hereinbefore set out and if it is found that equipment or apparatus coming within the terms of this subchapter is being operated in violation of this subchapter, the person or persons responsible for the operation of such equipment shall be notified in writing to discontinue the use of such machine or to make additions, repairs, or modifications thereof so that the same may be operated in a manner which complies with the provisions of this subchapter. The mailing of a registered letter addressed to the owner or operator of the machine

at the premises where the machine or apparatus is located shall constitute a sufficient notice for the purpose of this subchapter. In the event that the owner or operator of such machine or apparatus does not within seven days after the receipt of notice to repair or discontinue the use of such machine, either entirely discontinue the use of such machine during the hours the use of which is prohibited by the use of this subchapter or repair the same so that it complies with the provisions of this subchapter, such owner shall be deemed to be operating such machine or apparatus in violation of the provisions of this subchapter and such person or persons shall be subject to the penalties provided hereafter for such violation.

(Prior Code, ' 8.1004)

' 91.99 PENALTY.

Any person violating any provisions of this chapter for which no specific penalty is prescribed shall be subject to ' 10.99 of this code of ordinances.

CHAPTER 92: STREET AND SIDEWALK REGULATIONS

Section

General Regulations

- 92.01 Obstruction on streets
- 92.02 Materials in street; permits
- 92.03 Excavations under sidewalks
- 92.04 Excavation near street
- 92.05 Awnings
- 92.06 Signs
- 92.07 Openings in sidewalks
- 92.08 Depositing goods on sidewalks
- 92.09 Stair railings and grates
- 92.10 Eave pipes
- 92.11 Hindering street improvements
- 92.12 Snow and ice on sidewalks
- 92.13 Vehicles on sidewalks
- 92.14 Animals running at large
- 92.15 Crowds on streets
- 92.16 Trees and grass flats
- 92.17 Use of dust proof streets

Trees

- 92.30 Definitions
- 92.31 Establishment of Tree Board
- 92.32 Appointment of Board members
- 92.33 Public property and street trees
- 92.34 Trees on private property
- 92.35 Storage of dead or cut trees with any contagious disease or pest infestation
- 92.36 Interference with city employees and Tree Board members and volunteers
- 92.37 Review by City Council

- 92.99 Penalty

Statutory reference:

Related provisions, see SDCL 9-30-2

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GENERAL REGULATIONS

' 92.01 OBSTRUCTION ON STREETS.

(A) No person shall place, leave, or keep on any public street, road, alley, sidewalk, or other public ground in the city, any article, substance, or material which may obstruct the free use of said street, road, alley, sidewalk, or other public ground, as hereinafter provided.

(B) It shall be unlawful for any person, firm, or corporation to pile or deposit snow in or upon any public street, road, alley, or public ground in the city without the consent of the City Council.

(C) Any car, pick-up truck, or any other vehicle left unattended on any public street or alley in the city for longer than 30 days shall be considered an abandoned vehicle. If subject vehicle is not removed within five days of written or verbal notice by a law enforcement representative of the city, said vehicle shall be removed and owner of said vehicle shall be responsible for costs of removing and any additional fines imposed in violation of this subchapter.

(SDCL 32-30-12 and 32-30-12.1) (Prior Code, ' 10.0301) (Ord. 337, passed 2-5-1973; Ord. 552, passed 6-5-2000) Penalty, see ' 92.99

' 92.02 MATERIALS IN STREET; PERMITS.

The City Council is authorized to grant permission in writing to any person to deposit and keep lumber, stone, brick, or other material for building in any public street, road, or alley adjacent to the building to be erected or repaired, for a space of time not exceeding three consecutive months; but such permission shall not excuse the obstruction or occupancy with such material of more than one-third in width of any sidewalk or more than one-third in width of any driving line of any street or road.

(Prior Code, ' 10.0302)

' 92.03 EXCAVATIONS UNDER SIDEWALKS.

Any person, company, or corporation having or erecting any building abutting upon any street, avenue, or alley in the city, may excavate under the sidewalk to the curb for the purpose of constructing a cellar or basement under the sidewalk in front of or adjoining said building; provided, that said excavation shall be surrounded upon the outer side and ends thereof with a substantial brick, concrete, or stone wall to be approved by the City Superintendent, sufficient to maintain a sidewalk; and provided further, that permission to make such excavation and construct said sidewalk shall be first obtained from the City Council, and said excavation shall be securely guarded by suitable barriers at all times and by one or more warning lights and signals during the night, so long as the same shall remain open.

(SDCL 9-30-1) (Prior Code, ' 10.0304)

' 92.04 EXCAVATION NEAR STREET.

It shall be unlawful for any person, owner, or occupant of any lot or parcel of land within the city, to make or cause to be made any excavation to remain open except the land or permit any such excavation to remain open except the same be securely guarded so as to prevent the injury or any person or persons or animals passing upon or along said streets, alleys, or public grounds or traveled path or roadways. (Prior Code, ' 10.0305) Penalty, see ' 92.99

' 92.05 AWNINGS.

No person shall erect or construct wooden awnings or sheds in or over any street, alley, or sidewalk in said city; nor drop any awning or any material or suffer the same to approach nearer the surface of the sidewalk than seven feet, without obtaining permission of the City Council. (Prior Code, ' 10.0306) Penalty, see ' 92.99

' 92.06 SIGNS.

(A) No person, firm, or corporation shall hang, maintain, or suspend upon or from any building, any sign which extends more than six feet over any sidewalk or approaches nearer the surface of said sidewalk than eight feet, and said sign shall not exceed ten feet in height; provided, that no sign shall be suspended from or attached to any building unless same is firmly and securely from or fastened to such building. It is further provided that the City Council of said city, upon proper application in writing being made therefor, may grant a permit to any person, firm, or corporation to erect electric signs and suspend them from any building, which sign may be of larger dimensions than above specified.

(B) The City Superintendent shall have the power to examine all signs heretofore or hereafter erected, and if he or she finds that any such signs are not securely fastened or are unsafe or a menace to the safety, health, or welfare of the public, he or she shall immediately notify the owner or occupant of such building to which sign is suspended, or to the owner of the sign, to put same in a safe condition, and in case such person, firm, or corporation shall fail or refuse to make necessary changes within 24 hours after such notice, the City Superintendent shall have such sign removed. (Prior Code, ' 10.0307) Penalty, see ' 92.99

' 92.07 OPENINGS IN SIDEWALKS.

No permanent openings shall hereafter be made in any sidewalk in any of the public streets of the city for the purpose of constructing stairways leading to any basement or cellar or for admitting light or for any purpose, provided that openings in sidewalks for the admission of coal, light, air, or other purposes, if covered with suitable iron covers, iron gratings, or glass set in iron or cement, set level with

the surface of the sidewalk and of such construction as not to be dangerous to pedestrians passing over the same, may be constructed upon the approval of the City Council.

(SDCL 9-30-1) (Prior Code, ' 10.0308) Penalty, see ' 92.99

' 92.08 DEPOSITING GOODS ON SIDEWALKS.

No person shall place any goods or merchandise for sale or exhibition upon any sidewalk or suspend any goods over the same for show or deposit thereon or cause or suffer to be deposited thereon any cask, barrel, case, box, or other package except as provided in the following sections.

(Prior Code, ' 10.0309) Penalty, see ' 92.99

' 92.09 STAIR RAILINGS AND GRATES.

The owner of any building in said city, having a stairway leading from an adjoining sidewalk to the cellar or basement of such building, shall guard such stairway with a substantial railing not less than three feet high; and any person who shall make or cause to be made any permanent opening in any sidewalk for the purpose of letting light into any basement or cellar, or for any other purpose, shall guard the same with a substantial rail, not less than three feet high, or with a substantial iron grate or other strong and substantial cover, but no such railing shall occupy more than two feet of the sidewalk, measuring from the inner side thereof.

(Prior Code, ' 10.0310)

' 92.10 EAVE PIPES.

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

(Prior Code, ' 10.0311) Penalty, see ' 92.99

' 92.11 HINDERING STREET IMPROVEMENTS.

(A) No person shall hinder or obstruct any employee of the city in lawfully making any improvements in any public street, road, or alley or on any public ground of said city.

(B) Nor shall any person without proper authority tear up, break, or injure any pavement, crosswalk, sidewalk, or other improvement in any public street, road, alley, or public ground in said city.

(Prior Code, ' 10.0312) Penalty, see ' 92.99

' 92.12 SNOW AND ICE ON SIDEWALKS.

It shall be the duty of the occupant or the owner of any lot or parcel of land in the city abutting on any street to keep the sidewalk in front of such lot or parcel of land free and clear of snow, ice, and mud without notice from any source whatever.

(Prior Code, ' 10.0313)

' 92.13 VEHICLES ON SIDEWALKS.

Any motor vehicles upon any sidewalk in said city, except that the same may be driven or operated, across any sidewalk in entering or leaving the premises of any person if there shall be constructed a driveway across said sidewalk and said premises.

(Prior Code, ' 10.0314)

' 92.14 ANIMALS RUNNING AT LARGE.

It shall be unlawful for any person, company, or corporation to keep or allow to run at large any horse, cattle, swine, sheep, goat, poultry or fowl, or other animals within the city limits.

(Prior Code, ' 10.0316) Penalty, see ' 92.99

' 92.15 CROWDS ON STREETS.

It shall be unlawful for persons to gather in crowds or groups, or for any person to stand on any street or sidewalk in the city, in such manner as to obstruct free passage thereon or to annoy other persons passing along the same, and the Chief of Police or any police officer is hereby authorized to disperse any crowd or group, or to cause the removal of any person violating the provisions of this section, and to summarily arrest any person or persons in case of refusal on the part of such person or persons to obey any reasonable direction given by such officer, for the purpose of clearing the way, or preventing annoyance to passers-by on any public street or sidewalk; but the officer making such arrest shall, within 24 hours after the arrest is made, enter the proper complaint in the proper court against the person so arrested.

(Prior Code, ' 10.0317) Penalty, see ' 92.99

' 92.16 TREES AND GRASS FLATS.

(A) It shall be lawful for persons owning or occupying lots or parcels of land within the city to embellish the same by planting shade trees within the limits of the street adjoining such premises; provided that such shade trees are planted between the sidewalks and the gutter, and not more than ten feet from the lot line (being boundary of the lot or parcel of land and the street).

(B) Also to make and keep in order lawns and grass plats between the sidewalk and curbing or gutter; and any person who shall injure such trees or any of them, or any grass plat or lawn which may have been planted or made in conformity with this section or any shade trees, shrub, flower, or plant growing in any public or private grounds within said city, or cause the same to be injured by grading, breaking, tearing, cutting, picking, tying animals thereto, or in any manner, shall be subject to the penalties described in this chapter.

(C) No provision of this section to change anything as to now planted or growing trees or grass plats.

(Prior Code, ' 10.0318) Penalty, see ' 92.99

' 92.17 USE OF DUST PROOF STREETS.

No person shall drive or operate any motor vehicle upon any street or avenue of the city which is of temporary bituminous material construction, more commonly designated as Adust proof@, of a gross weight which exceeds 22,500 pounds.

(Prior Code, ' 10.0319) Penalty, see ' 92.99

TREES

' 92.30 DEFINITIONS.

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

BOULEVARD. The area between street and property line. Generally between the sidewalk and street or eight feet from curb when there is no sidewalk.

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

PARK TREES. Trees, shrubs, bushes, and all other woody vegetation in any public park or in areas owned by the city.

PERSON. Any firm, partnership, association, corporation, company, or organization.

PEST. Any organism, insect, rodent, fungus, virus, bacteria, or other agent which causes any damage, abnormal growth, or mortality to any tree, shrub, bush, or woody vegetation.

(Prior Code, ' 18.0101) (Ord. 461, passed 10-3-1988)

' 92.31 ESTABLISHMENT OF TREE BOARD.

There is created a board to be known as the ALemmon Tree Board@ to improve and regulate the trimming, removal, planting, and maintenance of trees, bushes, shrubs, and other woody vegetation growing on public and private property within the city.
(Prior Code, ' 18.0102)

' 92.32 APPOINTMENT OF BOARD MEMBERS.

The Mayor shall appoint one City Council member for a one-year term and the balance to be freeholders of the city, one to be appointed for two years, one to be appointed for three years, one to be appointed for four years, one to be appointed for five years, and thereafter each City Council member appointment shall be for four years.
(Prior Code, ' 18.0103)

' 92.33 PUBLIC PROPERTY AND STREET TREES.

(A) No boulevard trees shall be planted unless and until the Tree Board shall have first approved the kind, size, variety, and location thereof and granted permission for planting.

(B) Maintenance of boulevard trees shall include keeping trees trimmed a minimum of eight feet over any sidewalk and 16 feet over residential streets, designated truck routes, and alleys.

(C) Maintenance of boulevard trees shall be the responsibility of the owner of the abutting property.

(D) It shall be unlawful for any person to top any boulevard tree or other tree on public property. **TOPPING** is defined as the severe cutting back of limbs to stubs to such a degree so as to remove the normal canopy and thus disfigure the tree. Storm damaged trees, trees interfering with utility wires or causing other obstruction may be pruned as deemed necessary.

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

(F) No tree shall be planted within 20 feet of any street corner or ten feet of any fire hydrant.

(G) No seed bearing cottonwood or American elm shall be planted within city limits.
(Prior Code, ' 18.0104) (Ord. 461, passed 10-3-1988; Ord. 2011-3, passed 8-1-2011; Ord. 2017-3A, passed 2-5-2018) Penalty, see ' 92.99

' 92.34 TREES ON PRIVATE PROPERTY.

The Tree Board shall have the right to cause the removal of any dead or diseased trees on private property within the city, when such trees constitute a hazard to life and property, or harbors insects or disease which constitutes a potential threat to other trees within the city. The Tree Board will notify in writing the owners of such trees. Removal shall be completed by said owners at their own expense within 60 days after the date of service of notice. In the event of failure of owners to comply with such provisions, the Tree Board shall have the authority to remove such trees and to charge the cost of removal on the owner=s property tax notice. Any person claiming an interest in any tree ordered to be removed under the above requirements may appeal such order to the Tree Board within seven days of the date of the order.

(Prior Code, ' 18.0105) (Ord. 461, passed 10-3-1988)

' 92.35 STORAGE OF DEAD OR CUT TREES WITH ANY CONTAGIOUS DISEASE OR PEST INFESTATION.

No person shall store any tree or part thereof declared to harbor or contain any pest infestation, as defined under ' 92.30.

(Prior Code, ' 18.0106) (Ord. 461, passed 10-3-1988)

' 92.36 INTERFERENCE WITH CITY EMPLOYEES AND TREE BOARD MEMBERS AND VOLUNTEERS.

It shall be unlawful for any person to prevent, delay, or interfere with any city employees, Tree Board members, or volunteers or any of their agents engaged in planting, cultivating, mulching, pruning, spraying, inspecting, or removing of any street trees, park trees, or trees on private grounds, as authorized in these rules and regulations.

(Prior Code, ' 18.0107) (Ord. 461, passed 10-3-1988) Penalty, see ' 92.99

' 92.37 REVIEW BY CITY COUNCIL.

Any decision of the Tree Board may be appealed to the City Council at the next regular City Council meeting.

(Prior Code, ' 18.0108) (Ord. 461, passed 10-3-1988)

' 92.99 PENALTY.

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

(B) Any person, firm, or corporation violating ' 92.01 shall, in addition to any fine that may be levied as hereinafter provided in this chapter, pay as additional costs of the action any costs incurred in removing the snow.

(Ord. 337, passed 2-5-1973; Ord. 461, passed 10-3-1988)

CHAPTER 93: FIRE REGULATIONS

Section

General Provisions

- 93.01 Fire limits established
- 93.02 Permit to erect, alter, or remove buildings
- 93.03 Construction of buildings
- 93.04 Definition of wooden buildings
- 93.05 Manner of determining the amount of damage or decay
- 93.06 Buildings declared public nuisances
- 93.07 Abating nuisances; continued violation
- 93.08 Furnaces, stoves, and the like
- 93.09 Exits in public halls
- 93.10 Open fires
- 93.11 Hay or straw
- 93.12 Hay or straw brought within city limits

Explosives

- 93.30 Storing explosives
- 93.31 Use of explosives
- 93.32 Application
- 93.33 Permit
- 93.34 Cancellation
- 93.35 Damages
- 93.36 Use of explosives
- 93.37 Fire Department

Fireworks

- 93.50 Sale of and discharge of fireworks
- 93.51 Throwing or placing of fireworks

- 93.99 Penalty

Statutory reference:

Related provisions, see SDCL 9-33-1

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GENERAL PROVISIONS

' 93.01 FIRE LIMITS ESTABLISHED.

The fire limits are as established under ' 150.003.
(Prior Code, ' 5.0101)

' 93.02 PERMIT TO ERECT, ALTER, OR REMOVE BUILDINGS.

Any persons desiring to erect, alter, repair, or remove any building within the fire limits shall apply to the Department of Building Inspection or Code Enforcement Officer for a permit for such purpose as hereinbefore provided, and furnish a plan and specifications sufficient for the Department of Building Inspection or Code Enforcement Officer to determine whether such building, alteration, repair, or removal is in compliance with the provisions of this chapter, and if granted, such permit must be signed by the Building Inspector or Code Enforcement Officer.
(SDCL 9-32-2) (Prior Code, ' 5.0201)

' 93.03 CONSTRUCTION OF BUILDINGS.

No person shall erect, cause to be erected, or placed within the fire limits of the city (for fire limits refer to ' 150.003) any building unless the building has a minimum of a one hour fire rating. The entire outside walls must be construction of stone, brick, cement, hollow tile, steel, or other hard and non-combustible material of the size and thickness specified in the chapter on building inspection, and roofed with slate, tin, zinc, iron, steel, cement, magnesia, or other fire proofing, nor shall any person rebuild or repair any wooden building which becomes damaged by fire, or otherwise decayed to the extent of 50% or more of the value thereof, and no building shall be repaired so as to be increased in height, or to occupy greater space than before.
(SDCL 9-33-2) (Prior Code, ' 5.0202) Penalty, see 93.99

' 93.04 DEFINITION OF WOODEN BUILDINGS.

A frame or wooden building of which the external or division walls are constructed in whole or in part of wood, and having more wood on the exterior than is required for the door and window frames, doors, sash, shutter, verandas, and steps, and all frame buildings and sheds, although the sides and ends are proposed to be covered with corrugated iron or other metal, or veneered with bricks, or tile, shall be deemed a wooden building under this subchapter.
(SDCL 9-32-2) (Prior Code, ' 5.0203)

' 93.05 MANNER OF DETERMINING THE AMOUNT OF DAMAGE OR DECAY.

The amount or extent of damage or decay or deterioration which may be done to any building, when in doubt, may be determined by three disinterested persons, residents of the city, one of whom shall be appointed by the Mayor, one by the owner of the building or his or her agent, and the two thus chosen shall select a third. If the owner or his or her agent refuses to make a selection, the City Council shall select for him or her, and the decision of the persons thus chosen will be final and conclusive, and shall be reported to the City Council.

(SDCL 9-32-2) (Prior Code, ' 5.0204)

' 93.06 BUILDINGS DECLARED PUBLIC NUISANCES.

Any building or addition to buildings hereafter erected or constructed within the fire limits, in violation of the terms hereof, are hereby declared to be public nuisances, and it shall be the duty of the Chief of Police to forthwith abate the same. Any person violating the provisions of this subchapter by building or aiding and abetting in building any such structures herein prohibited shall be subject to a fine not exceeding \$200.

(SDCL 9-29-13) (Prior Code, ' 5.0205)

' 93.07 ABATING NUISANCES; CONTINUED VIOLATION.

The cost of abating such nuisance shall be collectible from the owner of the property and may be established as a lien on said real estate, building, or material thereof. Each day's violation of any of the provisions of this subchapter shall constitute a separate offense.

(Prior Code, ' 5.0206)

' 93.08 FURNACES, STOVES, AND THE LIKE.

All furnaces and smoke flues shall be kept at least 12 inches from the woodwork. All furnaces shall be placed upon non-combustible foundation, which shall extend two feet in front of the ash pit. Some not combustible covering shall protect floors under stoves. The wood in boiler houses shall be at least six feet from the boiler, unless sufficiently protected by non-combustible material and all floors for boiler houses or rooms shall be of non-combustible material and shall extend not less than eight feet from the boiler.

(SDCL 9-33-9) (Prior Code, ' 5.0208)

' 93.09 EXITS IN PUBLIC HALLS.

Every public hall designed to accommodate 50 people or more shall have at least two exits. Every public hall designed to accommodate up to 500 people shall have at least three exits. Every public hall designed to accommodate up to 1,000 people shall have at least four exits. Each exit shall be at least five

feet wide, and the doors to such exits shall open outward and no chairs or seats shall be allowed in the aisles when the audience is present.

(SDCL 9-33-7 and 9-33-9) (Prior Code, ' 5.0209)

' 93.10 OPEN FIRES.

It shall be unlawful for any person, persons, firm, or corporation, for the purpose of destroying refuse or rubbish, to set or cause to be set, upon their premises, any fire.

(Prior Code, ' 5.0211) Penalty, see ' 93.99

' 93.11 HAY OR STRAW.

No persons shall stack hay or straw in the open air within the corporate limits of this city

(Prior Code, ' 5.0212) Penalty, see ' 93.99

' 93.12 HAY OR STRAW BROUGHT WITHIN CITY LIMITS.

All hay and straw brought within the corporate limits of this city and remaining or to remain therein for more than 48 hours, shall be placed in barns, stables, or sheds, and in such manner that the same shall not be scattered outside or become exposed to fire.

(SDCL 9-33-1) (Prior Code, ' 5.0213)

EXPLOSIVES

' 93.30 STORING EXPLOSIVES.

No person, company, or corporation shall keep in store any blasting powder, or other like explosive substance, in any house, shop, or other place within the city, except in such place or magazine as shall have been approved by the City Council for that purpose; provided, that any person, company, or corporation engaged in retailing powder may keep for purpose of retail only, a quantity of gun powder not to exceed 100 pounds at any one time at his, her, or their place of business; provided further, that all powder so kept for sale shall be kept in fire proof boxes or canisters, remote from fires, lighted lamps, candles, or gas jets, and so situated that it can readily be removed in case of fire; and it shall be the duty of the Chief of Police to see that the dealers comply with this section.

(Prior Code, ' 6.0101)

' 93.31 USE OF EXPLOSIVES.

It shall be unlawful for any person, firm, or corporation to blast or discharge any explosives or cause any explosives to be discharged in the city for any purpose whatsoever without the first having obtained permission to do so in compliance with the provisions of this subchapter.

(Prior Code, ' 6.0104) Penalty, see ' 93.99

' 93.32 APPLICATION.

Anyone desiring to blast or discharge explosives within the city shall first apply in writing for permission so to do to the Mayor, stating the name of the applicant, the purpose for which said blasting will be used, the character of explosive to be used, the maximum quantity of said explosives intended to be used in each blast on explosion, description of the property where said blasting will be carried on, and the name and address of the person or persons to have charge or direction of such blasting and furnish proof of liability insurance.

(Prior Code, ' 6.0105)

' 93.33 PERMIT.

Whenever the Mayor shall determine from an examination of such application and of the premises where said blasting will be carried on that the same may be done without injury to persons or property, he or she shall thereupon issue a permit in writing to such applicant. A single permit may cover and allow blasting over a fixed period of time.

(Prior Code, ' 6.0106)

' 93.34 CANCELLATION.

Whenever the Mayor shall determine that blasts or explosives are being carelessly discharged by a holder of such permit so as to endanger life or property, said Mayor may immediately cancel said permit by serving written notice of such cancellation upon the holder thereof or upon any person in charge of said work.

(Prior Code, ' 6.0107)

' 93.35 DAMAGES.

Any person receiving such permit shall be liable to the owners of any property or to any persons injured on account of the use of such explosives.

(Prior Code, ' 6.0108)

' 93.36 USE OF EXPLOSIVES.

It shall be unlawful for any person, firm, or corporation to blast or discharge any explosives, or cause same to be discharged in the city, for any purpose without sufficiently confining the explosive substance and the material upon which said explosive substance will operate, so as to absolutely prevent pieces or fragments of any substance impelled by such explosive or blast from being thrown into the air.
(Prior Code, ' 6.0109) Penalty, see ' 93.99

' 93.37 FIRE DEPARTMENT.

Nothing contained in this subchapter shall be construed to prevent members of the Fire Department of said city from using explosives of any character in the necessary prevention or control of fire.
(Prior Code, ' 6.0110)

FIREWORKS**' 93.50 SALE OF AND DISCHARGE OF FIREWORKS.**

(A) It shall be unlawful for any individual, firm, partnership, or corporation in the city to sell at retail, possess for sale at retail, use, discharge, or cause to be discharged any pyrotechnics (commonly know as fireworks) of any description whatsoever except those fireworks classified as consumer fireworks: fireworks designed primarily to produce visible effects by combustion; that comply with the construction, chemical composition, and labeling regulations promulgated by the U.S. Consumer Product Safety Commission, 16 C.F.R. Part 1507, effective January 1, 2019, and that are classified as 1.4G, UN0336 under the American Pyrotechnics Association Standard 87-1, 2001 edition.
(SDCL 34-37-10)

(B) The safe and sane fireworks as set out in this subchapter shall be sold only from June 27 of each year up to and including the day of July 5 of each year, except that toy cap pistols and toy caps may be sold and used at any time.

(C) No individual, firm, partnership, or corporation shall use, discharge, or cause to be discharged the safe and same fireworks set out in this subchapter except from June 27 of each year through July 5 thereof, inclusive.

(D) Nothing in this subchapter shall prohibit the use of a public display of fireworks provided that any individual, firm, partnership, or corporation, prior to making such public display of fireworks, shall first secure permission from the City Council.

(E) Nothing in this subchapter shall prohibit any manufacturer, distributor, or jobber in the city from making or selling any kind of fireworks for direct shipment to points outside of the state; provided

further that nothing in this subchapter shall prohibit the use of torpedoes, flares, or fuses by railroad or other transportation agencies for signal purposes or illumination; provided further that nothing in this subchapter shall prohibit the sale or use of blank cartridges for ceremonial purposes, athletic or sporting events.

(Prior Code, ' 8.0601) Penalty, see ' 93.99

' 93.51 THROWING OR PLACING OF FIREWORKS.

(A) It shall be unlawful for any person to throw or drop any fireworks or firecrackers from a moving vehicle or to throw, drop, or place any fireworks or firecrackers in such a manner that the fireworks or firecrackers can cause injury to persons or damage to public or private property within the city limits of the city.

(B) The use of fireworks between June 27 and July 5, excepting July 4, of any year shall be restricted to the hours of 10:00 a.m. to 10:00 p.m. weekdays and 10:00 a.m. to 12:00 a.m. weekends (Friday through Saturday).

(Prior Code, ' 8.0602) (Ord. 545, passed 1-3-2000) Penalty, see ' 93.99

' 93.99 PENALTY.

Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to ' 10.99 of this code of ordinances.

TITLE XI: BUSINESS REGULATIONS

Chapter

- 110. TRANSIENT MERCHANTS**
- 111. TATTOOING AND BODY PIERCING ESTABLISHMENT**
- 112. VIDEO LOTTERY LICENSES**
- 113. ALCOHOL**
- 114. AIRCRAFT**
- 115. CABLE TELEVISION**

CHAPTER 110: TRANSIENT MERCHANTS

Section

- 110.01 Peddler defined
- 110.02 Resident defined
- 110.03 Exceptions
- 110.04 Refusal to leave
- 110.05 Entrance to posted premises restricted
- 110.06 Misrepresentation
- 110.07 Hours of operation
- 110.08 Permit required
- 110.09 Permit application
- 110.10 False information on permit unlawful
- 110.11 Fingerprints and photographs for permit
- 110.12 Permit issuance restricted
- 110.13 Display of permit
- 110.14 Permit revocation

- 110.99 Penalty

' 110.01 PEDDLER DEFINED.

The word **PEDDLER**, as used in this chapter, means any person, other than a resident of this city, 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 food products, other than agricultural products produced or processed locally; and also means and includes any person transacting a temporary business within the city at an established place of business, property of a business, or city-owned property. The word **PEDDLER** includes the terms **SOLICITOR, TRANSIENT OR ITINERANT MERCHANT OR VENDOR**, or **TRANSIENT OR ITINERANT PHOTOGRAPHER**.

(Prior Code, ' 7.0501) (Ord. 550, passed 5-1-2000)

' 110.02 RESIDENT DEFINED.

A **RESIDENT** must reside within the city limits in a permanently affixed structure or have a permanent business within the city limits.

(Prior Code, ' 7.0502) (Ord. 550, passed 5-1-2000)

' 110.03 EXCEPTIONS.

The provisions of this chapter shall not apply to solicitations, sales, or distributions made by charitable, educational, or religious organizations, or activities sponsored by the city's Chamber of Commerce which have registered with the Finance Officer on forms provided by that office. Political solicitations are also exempt from the provisions of this chapter.

(Prior Code, ' 7.0503) (Ord. 550, passed 5-1-2000)

' 110.04 REFUSAL TO LEAVE.

Any peddler who enters upon premises or property owned by another and refuses to leave said premises or property after having been notified verbally or by written notice by the owner or possessor of said premises or property, or his or her agent, to leave the same, shall be deemed guilty of trespassing, a Class 1 misdemeanor under SDCL 22-35-6.

(Prior Code, ' 7.0504) (Ord. 550, passed 5-1-2000) Penalty, see ' 110.99

' 110.05 ENTRANCE TO POSTED PREMISES RESTRICTED.

It shall be unlawful for any peddler to enter upon any private premises when the same are posted with a sign stating ANo Peddlers Allowed@.

(Prior Code, ' 7.0505) (Ord. 550, passed 5-1-2000) Penalty, see ' 110.99

' 110.06 MISREPRESENTATION.

It shall be unlawful for any peddler to make false or fraudulent statements concerning the quality or nature of his or her goods, wares, merchandise, or services for the purpose of inducing another to purchase the same.

(Prior Code, ' 7.0506) (Ord. 550, passed 5-1-2000) Penalty, see ' 110.99

' 110.07 HOURS OF OPERATION.

It shall be unlawful for any peddler to engage in the business of peddling between the hours of 8:00 p.m. and 9:00 a.m. the following morning, or at any time on Sundays, except by specific appointment with or invitation from the perspective customer.

(Prior Code, ' 7.0507) (Ord. 550, passed 5-1-2000) Penalty, see ' 110.99

' 110.08 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.

(Prior Code, ' 7.0508) (Ord. 550, passed 5-1-2000) Penalty, see ' 110.99

' 110.09 PERMIT APPLICATION.

The application for a permit required by the provisions of this chapter shall:

(A) Contain a statement as to whether or not the applicant has been convicted of any crime, misdemeanor, or violation of any state or federal law or municipal ordinance or code; the nature of the offense; the punishment or penalty assessed therefor, if previously convicted; and the place of conviction;

(B) Applicant must produce a current state sales tax license or use tax license as required by state law;

(C) Applicant must produce a current state= Department of Health inspection certificate or permit to operate as required by state law if in the food vending business;

(D) Whether the applicant, upon any sale or order, shall demand, accept, or receive payment, or deposit of money in advance of final delivery;

(E) The period of time the applicant wishes to engage in such business within the city;

(F) The local and permanent address of the applicant;

(G) The local and permanent address and name of the person, if any that the applicant represents;

(H) The kind of goods, merchandise, or services the applicant wishes to engage in such business within the city;

(I) The last five cities or towns wherein the applicant has worked before coming to this city;

(J) Such other relevant information as the Chief of Police or his or her representative may require for the investigation of the applicant; and

(K) Any applicant applying for a permit to sell fireworks must also show proof of complying with SDCL 34-37-2.

(Prior Code, ' 7.0509) (Ord. 550, passed 5-1-2000)

' 110.10 FALSE INFORMATION ON PERMIT UNLAWFUL.

It shall be unlawful for any person to give false or misleading information in connection with his or her application for a permit required by this chapter.

(Prior Code, ' 7.0510) (Ord. 550, passed 5-1-2000) Penalty, see ' 110.99

' 110.11 FINGERPRINTS AND PHOTOGRAPHS FOR PERMIT.

At the request of the City Finance Officer, the applicant for a permit required by this chapter shall submit to fingerprinting and photographing by the Chief of Police or his or her representative.

(Prior Code, ' 7.0511) (Ord. 550, passed 5-1-2000)

' 110.12 PERMIT ISSUANCE RESTRICTED.

No peddler=s permit shall be issued to a corporation, partnership, or other impersonal legal entity, but each individual person engaging in the business of peddling within the city shall be required to have a permit whether acting for himself or herself or as an agent or representative of another.

(Prior Code, ' 7.0513) (Ord. 550, passed 5-1-2000)

' 110.13 DISPLAY OF PERMIT.

Every peddler having a permit issued under the provisions of this chapter and doing business within the city shall display his or her permit upon the request of any person. Failure to do so shall be deemed a Class 2 misdemeanor. Each violation shall be treated as a separate offense.

(Prior Code, ' 7.0514) (Ord. 550, passed 5-1-2000)

' 110.14 PERMIT REVOCATION.

Any permit issued under the provisions of this chapter may be revoked for the violation of any provision of this code, state law, or city ordinance by the issuer of the permit. Upon such revocation, such permit shall immediately be surrendered to the Chief of Police or his or her representative without reimbursement of any fees. Failure to do so shall be deemed a Class 2 misdemeanor.

(Prior Code, ' 7.0515) (Ord. 550, passed 5-1-2000)

' 110.99 PENALTY.

Any person violating any provisions of this chapter for which no specific penalty is prescribed shall be subject to ' 10.99 of this code of ordinances.

CHAPTER 111: TATTOOING AND BODY PIERCING ESTABLISHMENT

Section

- 111.01 Definitions
- 111.02 License required
- 111.03 Application for license
- 111.04 Inspection
- 111.05 Minimum sanitation standards
- 111.06 Granting of license
- 111.07 Denial of license
- 111.08 Renewal of license
- 111.09 Change of location of establishment
- 111.10 Revocation of license
- 111.11 Patrons restricted

- 111.99 Penalty

' 111.01 DEFINITIONS.

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

BODY PIERCING. The placing of a permanent or temporary foreign object in a person's body, such as ears, nose, lips, genitals, nipples, or parts thereof, for a decorative or other non-medical purpose by a person not directly under the supervision of a licensed physician, as defined by SDCL 36-4-11, the site or location on the patron of the body piercing.

BODY PIERCING AREA. Within a body piercing establishment, the immediate vicinity where body piercing is performed.

BODY PIERCING ARTIST. A person engaged in the practice of body piercing.

BODY PIERCING ESTABLISHMENT. The building or structure where body piercing is practiced.

COMMUNICABLE DISEASE. A disease which is capable of being transmitted from person to person.

MINOR. A person who is under the age of 18 years.

PATRON. A person who receives a tattoo.

PERMANENT BODY PIERCING ESTABLISHMENT. A building where body piercing is practiced on a year-round basis.

PERMANENT TATTOO ESTABLISHMENT. A building where tattooing is practiced on a year-round basis.

TATTOO ARTIST. A person engaged in the practice of tattooing.

TATTOO ESTABLISHMENT. The building or structure where tattooing is practiced.

TATTOOING. To puncture the skin of a person with a needle and insert indelible permanent colors through the puncture to leave permanent marks or designs.

TATTOOING AREA. Within a tattoo establishment, the immediate vicinity where tattooing is performed.

TEMPORARY BODY PIERCING ESTABLISHMENT. A building or structure where body piercing is practiced for not more than 30 consecutive days.

TEMPORARY TATTOO ESTABLISHMENT. A building or structure where tattooing is practiced for not more than 30 days.
(Prior Code, ' 7.1801)

' 111.02 LICENSE REQUIRED.

No person shall engage in, conduct, or carry on, or permit to be engaged in, conducted, or carried on, in or upon any premises within the city, a tattoo establishment or body piercing establishment unless a license has been issued by the city which remains in effect in conformity with the provisions of this chapter.

(Prior Code, ' 7.1802) Penalty, see ' 111.99

' 111.03 APPLICATION FOR LICENSE.

Each application for a license shall be upon a form provided by the city and shall be submitted to the city along with a check in the amount of \$100 for application fee and shall contain the following information:

(A) A definition of service to be provided;

(B) The location and mailing address of the proposed establishment;

(C) The name and residence address of the applicant. If the applicant is a corporation, the name and address of the registered agent and of the officers. If the applicant is a partnership, the names and residence addresses of each of the partners, including limited partners, and the address of the partnership itself, if different from the address of the tattoo establishment;

(D) The last two previous addresses (if any) during the past three years immediately prior to the present address of the applicant;

(E) Written proof that the applicant is over the age of 18 years;

(F) Individual or partnership applicant=s height, weight, color of eyes and hair, and sex;

(G) Copy of identification such as driver=s license and Social Security card;

(H) The history of the applicant in the operation of a tattoo establishment or similar business or occupation, including, but not limited to, whether or not such person has previously had a similar license revoked or suspended and the reason therefor;

(I) The name and address of each tattoo or body piercing artist who is or will be employed in the establishment; and

(J) Any other information or identification necessary to substantiated these provisions.
(Prior Code, ' 7.1803)

' 111.04 INSPECTION.

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

(Prior Code, ' 7.1804)

' 111.05 MINIMUM SANITATION STANDARDS.

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

(Prior Code, ' 7.1805)

' 111.06 GRANTING OF LICENSE.

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

(Prior Code, ' 7.1806)

' 111.07 DENIAL OF LICENSE.

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

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

(Prior Code, ' 7.1807)

' 111.08 RENEWAL OF LICENSE.

An application to renew a license shall be made no later than 30 days before the expiration of the current license along with payment of \$100 for renewal fee. After an inspection is completed by the Department of Health, which shows proof of compliance, the city shall renew the license for an additional year.

(Prior Code, ' 7.1808)

' 111.09 CHANGE OF LOCATION OF ESTABLISHMENT.

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

(Prior Code, ' 7.1809)

' 111.10 REVOCATION OF LICENSE.

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

(Prior Code, ' 7.1810)

' 111.11 PATRONS RESTRICTED.

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

(B) Minors may not be tattooed or body pierced unless the minor=s parents have signed a consent form authorizing the tattoo or body piercing in the presence of an employee at the license establishment. No establishment may tattoo or body pierce a patron who is under the influence of alcohol or mind-altering drugs.

(C) The establishment shall conspicuously post a notice stating that it is illegal to tattoo or body pierce any person under the age of 18 without the parents= signed consent.
(Prior Code, ' 7.1811) Penalty, see ' 111.99

' 111.99 PENALTY.

Any person violating any provisions of this chapter for which no specific penalty is prescribed shall be subject to ' 10.99 of this code of ordinances.

CHAPTER 112: VIDEO LOTTERY LICENSES

Section

- 112.01 License fee
- 112.02 Payment of fees
- 112.03 Deposit of fees

- 112.99 Penalty

' 112.01 LICENSE FEE.

There is hereby imposed on any person licensed pursuant to SDCL 35-4-2(4), (6), (11), (12), (13), or (16) and who is issued a video lottery establishment license pursuant to SDCL 42-7A-41, an annual additional license fee of \$50 for each video lottery machine located on the licensed premises. (Prior Code, ' 7.1702) (Ord. 513, passed 2-6-1995)

' 112.02 PAYMENT OF FEES.

License fees shall be in addition to the fees imposed under SDCL 35-4-2 and 42-7A-41, with the fees collected each November, prorated to the annual renewal date and subsequent license fees are to be paid at the same time and in the same manner as the fees paid in SDCL 35-4-2. (Prior Code, ' 7.1703) (Ord. 513, passed 2-6-1995)

' 112.03 DEPOSIT OF FEES.

All fees so received shall be deposited into the General Fund and designated for the Ambulance Fund. (Prior Code, ' 7.1704) (Ord. 513, passed 2-6-1995)

' 112.99 PENALTY.

Any person violating any provisions of this chapter for which no specific penalty is prescribed shall be subject to ' 10.99 of this code of ordinances.

CHAPTER 113: ALCOHOL

Section

- 113.01 Construction and definition of terms
- 113.02 Entering licensed premises
- 113.03 Manufacturing or dealing
- 113.04 Possession of alcohol
- 113.05 Medicines, toilet articles, and extracts
- 113.06 Intoxication
- 113.07 Malt beverage and liquor sales and purchases

113.99 Penalty

Statutory reference:

Related provisions, see SDCL 9-29-6 and 7-35-1 et seq.

' 113.01 CONSTRUCTION AND DEFINITION OF TERMS.

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

HIGH POINT BEER. All beer or malted beverages having an alcohol content in excess of 3.2% by weight, but not in excess of 6% by weight.

INTOXICATING LIQUOR, LIQUOR, INTOXICATING BEVERAGE, and ALCOHOLIC BEVERAGE. Shall be considered to be synonymous and interchangeable and shall mean all distilled, fermented, spirituous, vinous, and malt beverages, concoctions, and combinations containing in excess of 3.2% alcohol by weight.

ON-SALE DEALER, OFF-SALE DEALER, and PACKAGE DEALER. Any dealers licensed and defined by the laws of the state to sell intoxicating liquors.

SALE and SELL. Include the transfer of title of any intoxicating liquor or high point beer, as defined above, for a consideration or by barter, trade, exchange, or gift.

(B) The City Council shall determine within what boundaries within said city an alcoholic beverage license shall be granted. Notwithstanding the foregoing sentence, any on-sale licensee shall have the right

to sell, serve, or allow to be consumed on the premises covered by the license, alcoholic beverages between the hours of 1:00 p.m. and 12:00 midnight on Sunday with the serving of prepared meals from a fixed restaurant with the simultaneous sitting capacity of at least 35 patrons upon payment of an additional fee of not more than \$200.

(C) It shall be unlawful for any on-sale or off-sale licensee to sell any intoxicating liquor or high point beer to any person under the age of 21 years, to any intoxicated person, to any habitual drunkard, or to any person whom he or she has been requested not to sell as provided by the laws of the state.

(D) It shall be unlawful for any licensee to allow any intoxicated person to remain on his or her premises.

(E) It shall be unlawful for any on-sale dealer to sell intoxicating liquor in any manner other than by the drink and shall not sell any original package.

(F) It shall be unlawful for any off-sale dealer to sell any intoxicating liquor in any other manner than by the original packages.

(G) It shall be unlawful for any person to have in his or her possession in a public place within the city, any intoxicating liquor except that contained in a sealed original package and with the state tax stamp thereon provided, however, this section shall not apply to an on-sale dealer, hospitals, or sanitariums, or any other persons exempted by the laws of the state.

(H) It shall be unlawful for any licensee to sell, serve, or allow to be consumed on the premises covered by the license any intoxicating liquor, high point beer, and malt beverages between the hours of 2:00 a.m. and 7:00 a.m. or on Sunday after 2:00 a.m. with the exception of those establishments that meet the requirements of division (B) of this section or at any time on Christmas Day.

(SDCL 35-4-81) (Prior Code, ' 8.0501) (Ord. 389, passed 6-6-1977; Ord. 423, passed 9-12-1983) Penalty, see ' 113.99

' 113.02 ENTERING LICENSED PREMISES.

(A) It is unlawful for a person under the age of 21 years to enter an establishment licensed for the sale of alcoholic beverages for the purpose of purchasing or having served or delivered any alcoholic beverage, to remain in or to loiter therein or consume liquor or malt beverages, nor shall any licensee of either such place, or any person in charge thereof, or on duty while employed by the licensee therein, permit or allow any person under the age specified with respect thereto to remain in or loiter about such place.

(B) Notwithstanding division (A) above, a person 18, 19, or 20 years old may enter an establishment licensed under this chapter to:

(1) Perform work for the establishment, including the serving of alcoholic beverages, unless otherwise prohibited;

(2) Consume meals; or

(3) Attend social functions that are held in a portion of the establishment where liquor is not sold.

(SDCL 35-4-79) (Prior Code, ' 8.0502) Penalty, see ' 113.99

' 113.03 MANUFACTURING OR DEALING.

It shall be unlawful for any person, either by himself or herself, clerk, servant, employee, or agent, or for any firm, copartners, club, lodge, society, fraternity, combination of individuals, associations, or corporations, by its officers, members, stockholders, clerks, servants, agents, or employees within the city to make, brew, distill, or manufacture, or to aid in making, brewing, distilling, or manufacturing for sale, barter, trade, gift, or beverage purposes, or upon any pretense or device whatever to import or aid in importing into the city for sale, barter, trade, or gift, or for beverage purposes, or to sell, offer for sale, barter or trade, or to give away or furnish, or to keep for sale, barter, trade, or gift, any whisky, alcohol, brandy, gin, rum, wine, ale, beer, absinthe, cordials, hard or fermented cider, or any distilled, spirituous, vinous, malt brewed, or fermented liquors, or any other liquid, liquid mixture, or compound containing alcohol, and which mixture or compound is capable of being used as a beverage whether or not the same is proprietary, medicated, or patented except as otherwise provided.

(Prior Code, ' 8.0504) Penalty, see ' 113.99

' 113.04 POSSESSION OF ALCOHOL.

It shall be unlawful for any person to keep or have for any personal use or otherwise, or to use or permit another to have, keep, or use intoxicating liquors in any restaurant, store, drugstore, pharmacy, lunchroom, office, or office building place where any business is carried on, factory, fruit stand, livery stable, garage, railroad depot, freight house, express office, blacksmith shop, warehouse, elevator, park, road, street, alley, or other public place within the city, provided that nothing herein shall be construed to prohibit the keeping of and the use of spirituous and vinous liquors by drugstores, hospitals, or educational institutions, for the purpose and in the manner specified by the statutes of the state relating to intoxicating liquors.

(SDCL 9-30-2) (Prior Code, ' 8.0505) (Ord. 424, passed 9-12-1983) Penalty, see ' 113.99

' 113.05 MEDICINES, TOILET ARTICLES, AND EXTRACTS.

Nothing in this chapter shall be construed or shall operate to prohibit or regulate the manufacture, importation, sale, or keeping for sale for other than beverage purposes, by any person of any bona fide medicines, toilet articles, extracts, tincture, preparations, or similar compounds containing alcohol, provided, such medicines, toilet articles, extracts, tincture, preparations, or similar compounds are unsuitable for use as a beverage.

(Prior Code, ' 8.0508)

' 113.06 INTOXICATION.

It shall be unlawful for any person in the city to be found in a state of intoxication or drunkenness upon the streets or alleys or in any public place in said city.

(SDCL 9-29-3) (Prior Code, ' 8.0509) Penalty, see ' 113.99

' 113.07 MALT BEVERAGE AND LIQUOR SALES AND PURCHASES.

(A) All licensees holding package and on/off-sale malt beverages and liquor licenses and located within the city shall purchase the malt beverages and liquors they sell under the municipality=s off-sale license. Such licensees shall be charged a markup of 10% of the cost for malt beverages and liquors, excluding freight charges. Such charge for malt beverages and liquors shall be uniform and the same for all such licensees.

(B) Such percentage shall be paid on a monthly basis to the City Finance Officer after the closing of the licensee=s books and before the fifth day of the following month. Licensees shall be required to furnish the City Finance office with copies of all malt beverage and liquor purchase invoices from all distributors. If the 10% is not paid by the fifth working day of the month, a \$25 fine shall be assessed up to ten days, and if not paid within ten days, an additional \$100 shall be assessed and paid at the time the 10% is paid. The total fines for each infraction could be \$125 total. The amounts for these fines can be amended at any time by a resolution by the City Council.

(C) All malt beverage and liquor licensees shall authorize their distributors to furnish to the City Finance Officer copies of monthly invoices of all sales made to malt beverage and liquor licensees within the city. Failure to comply shall constitute grounds for revocation of such license.

(Prior Code, ' 8.0512) (Ord. 459, passed - -; Ord. 2010-7, passed 12-29-2010)

' 113.99 PENALTY.

Any person violating any provisions of this chapter for which no specific penalty is prescribed shall be subject to ' 10.99 of this code of ordinances.

CHAPTER 114: AIRCRAFT

Section

- 114.01 Definitions
- 114.02 Use restrictions
- 114.03 Nonconforming uses
- 114.04 Variances
- 114.05 Permits
- 114.06 Markers and lights required
- 114.07 City regulations
- 114.08 Compliance with federal laws required
- 114.09 Unnecessary noise prohibited
- 114.10 Parking areas for vehicles
- 114.11 Permit required
- 114.12 Permit fee
- 114.13 City Council authority
- 114.14 Flammable materials
- 114.15 Inspection of hangars
- 114.16 Permit to modify buildings
- 114.17 Effect of use

- 114.99 Penalty

' 114.01 DEFINITIONS.

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

AIRCRAFT. Any aeroplane, airplane, gas bag, flying machine, balloon, or any contrivance now known or hereafter invented, used, or designed for navigation or flight in the air.

AIRPORT. The Lemmon Municipal Airport.

AIRPORT HAZARD. Any structure or tree or use of land which obstructs the air space required for the flight of aircraft in landing or taking off at the airport or is otherwise hazardous to such landing or taking off of aircraft.

COMMERCIAL AERONAUTICAL ACTIVITY. The use of any aircraft for hire, aerial photography, rental of space for aircraft storage, for crop spraying or dusting, flight training activity, aircraft charter and taxi, air ambulance service, aircraft engine and accessory maintenance, including sale of parts for engines and airframes and sale of accessories, aircraft rental and sales, and aircraft storage, gasoline, and lubricant sales.

INSPECTOR. The building and zoning inspector or agent who performs under any zoning or building ordinances of the city.

LANDING AREA. The area of airport used for the landing, taking-off, or taxiing of aircraft.

NONCONFORMING USE. Any structure, tree, or use of land which does not conform to regulations prescribed in this chapter or an amendment thereto, as of the effective date of such regulations.

PERMIT. A permit issued under the authority of the city.

PERSON. Any individual, firm, co-partnership, corporation, company, association, joint stock association, or body politic, and includes any trustee, receiver, assignee, or other similar representative thereof.

STRUCTURE. Any objects constructed or installed by people, including, but without limitation, buildings, towers, smoke stacks, and overhead transmission lines and radio antennas.

TREE. Any object of natural growth.
(Ord. 480, passed - -)

' 114.02 USE RESTRICTIONS.

Notwithstanding any other provisions of this chapter, no use may be made of land within any airport approach zone, airport turning zone, or airport transition zone in such a manner as to create electrical interference with radio communication between the airport and aircraft, make it difficult for flyers to distinguish between airport lights and others, result in glare in the eye of flyers using the airport, impair visibility in the vicinity of the airport, or otherwise endanger the landing, taking-off, or maneuvering of aircraft.

(Ord. 480, passed - -) Penalty, see ' 114.99

' 114.03 NONCONFORMING USES.

(A) The regulation herein prescribed in this chapter shall not be construed to require the removal, lowering, or other change or alteration of any structure or tree not conforming to the regulations as of the effective date hereof, or otherwise interfere with the continuance of any nonconforming use.

(B) Nothing herein contained shall require any change in the construction, alteration, or intended use of any structure, the construction or alteration of which was begun prior to the effective date of this chapter, and is diligently prosecuted and completed within two years thereof.

(Ord. 480, passed - -)

' 114.04 VARIANCES.

(A) Any person desiring to erect any structure or increase the heights of any structure, or permit the growth of any tree, or use his or her property not in accordance with the regulations prescribed in this chapter may apply for a variance therefrom.

(B) Such variance shall be allowed where a literal application or enforcement of the regulations would result in practical difficulty or unnecessary hardship and the relief granted would not be contrary to the public interest but do substantial justice and be in accordance with the spirit of this chapter.

(Ord. 480, passed - -)

' 114.05 PERMITS.

No material change shall be made in the use of land, and no structure or tree shall be erected, altered, planted, or otherwise established, in any structure, or tree to be made or become higher, or become a greater hazard to air navigation, than it was at the effective date of this chapter or than it is when the application for a permit is made except as indicated, all applications for a permit for replacement, change, or repair of existing use, structure, or tree shall be granted.

(Ord. 480, passed - -)

' 114.06 MARKERS AND LIGHTS REQUIRED.

Any permit of variance made under " 114.04 and 114.05 may, if such action is deemed advisable to effectuate the purposes of this chapter and reasonable in the circumstances, be so conditioned as to allow the owner of the structure or tree in question to permit the owner, at its own expense, to install, operate, and maintain thereof such markers and lights as may be necessary to indicate to flyers the presence of an airport hazard.

(Ord. 480, passed - -)

' 114.07 CITY REGULATIONS.

All of the regulations and controls as set forth in this chapter and permits issued hereunder shall be under the control of the city and all permits granted and appeals therefrom and any and all related procedures in relation thereto shall be done in conformance to the procedures set forth by the City Council as the same are amended from time to time.

(Ord. 480, passed - -)

' 114.08 COMPLIANCE WITH FEDERAL LAWS REQUIRED.

No aircraft shall be permitted to operate over the corporate limits of the city, nor upon or from the municipal airport, nor within any control zone thereof unless the operation thereof is done within strict compliance of all federal rules and regulations.

(Ord. 480, passed - -) Penalty, see ' 114.99

' 114.09 UNNECESSARY NOISE PROHIBITED.

Unnecessary noise by operator of an aircraft within or over the corporate limits of the city and over or on the municipal airport is hereby prohibited.

(Ord. 480, passed - -) Penalty, see ' 114.99

' 114.10 PARKING AREAS FOR VEHICLES.

No vehicle or truck of any kind or type shall be allowed upon any area of the airport except in designated parking or unloading areas.

(Ord. 480, passed - -) Penalty, see ' 114.99

' 114.11 PERMIT REQUIRED.

No person, firm, or corporation shall hereafter operate or conduct any commercial aeronautical activity upon or from the municipal airport for any commercial purpose or any purpose whatsoever for hire by such person, firm, or corporation without first obtaining a permit for such operation or activity from the city. No permit for any commercial aeronautical activity will be issued until the person seeking such permit shall have submitted to said city an application stating the applicant's name, business name, address, complete description of the commercial activity, and of the equipment to be used in connection therewith, and, if the applicant be a nonresident of the city, the person or persons he or she has designated to accept notice, services of process, and summons on his or her behalf, which designation shall continue during the time any permit is in force. All permits and leases issued by the city shall be done so as to comply with minimum federal and state rules and regulations so far as the same shall apply.

(Ord. 480, passed - -) Penalty, see ' 114.99

' 114.12 PERMIT FEE.

The city shall, upon receipt of the fees in such sums as the City Council shall from time to time by resolution determine, issue to the applicant a permit to conduct commercial aeronautical activity or activities.

(Ord. 480, passed - -)

' 114.13 AIRPORT BOARD AUTHORITY.

The Airport Board shall have the power and authority to manage, supervise, regulate, and care for the municipal airport and the buildings and structures thereon; to employ such supervisory or other personnel as may be found necessary; to fix their duties and compensations; and may require a bond for the faithful performance of their duties in such amount as shall be fixed, to be filed with the City Finance Officer. The Airport Board shall make an annual report to the City Council of its accounts and all the expenditures, and the City Council may require a report from such Board at any time and the books, records, papers, and accounts of the Board shall at all times be subject to inspection by the City Council or its officers or agents.

(Ord. 480, passed - -) (Ord. 2012-7, passed 9-4-2012)

' 114.14 FLAMMABLE MATERIALS.

The storage of any gasoline or highly inflammable material in any hangar located on the municipal airport must be in an approved flammable cabinet. All paints, doping agents, varnishes, and solvents shall be stored and kept in accordance with appropriate fire and safety rules and regulations. No gasoline may be sold or disposed except through a state approved stationary gasoline pump and no trucks used to carry or disburse gasoline are allowed upon the airport except to deliver gasoline to approved gasoline tanks, except that a person may refuel his or her own aircraft from a gasoline fueling truck but this must be done within those areas as designated by the City Council or a self-service dispenser approved by the Airport Board.

(Ord. 480, passed - -)

' 114.15 INSPECTION OF HANGARS.

The city, through its designated officials, reserves the right to enter and inspect any hangar or building located on the municipal airport at the city's discretion and any and all leases shall have in their provisions an agreement permitting such entry and inspection.

(Ord. 480, passed - -)

' 114.16 PERMIT TO MODIFY BUILDINGS.

No construction, building, alteration, and the like in any manner or form or any structure upon the municipal airport shall be done or performed unless a building permit shall have been obtained therefor from the said Inspector. The regulations and controls concerning any such building alteration and construction so occurring shall be adopted by the said City Council and copies of said regulations be kept on file and available upon request to any person interested therein in the office of the City Auditor and shall contain the minimum requirements necessary which shall be not less than the requirement that the construction be made from fire-proof material upon the outer surface, namely, metal, brick, and concrete, and shall be of generally uniform design, architecture, and color and any variation in the design, architecture, or color of said buildings thereafter must be first approved by said Inspector in

accordance with said regulations. The places where construction shall be allowed shall be as designated by the said City Council. A permit must be likewise obtained for the location of any facility such as, but not necessarily limited to, gasoline pumps, advertising signs, and similar facilities from said Inspector in the same manner and form as building permits.

(Ord. 480, passed - -)

' 114.17 EFFECT OF USE.

The exercise of the privilege of use of any of the facilities of the airport shall constitute an acknowledgment that the city, City Council, and the Airport Board maintain such airport in a governmental capacity; that the rules and regulations of the airport will be followed and obeyed; and that the privilege of using the airport and its facilities shall be conditioned on the assumption of full responsibility and risk by user thereof and he or she shall release, hold harmless, and indemnify the city, the City Council, the Airport Board, and all city officers and employees from any liability or loss resulting from such use.

(Ord. 2012-7, passed 9-4-2012)

' 114.99 PENALTY.

Any person violating any provisions of this chapter for which no specific penalty is prescribed shall be subject to ' 10.99 of this code of ordinances.

CHAPTER 115: CABLE TELEVISION

Section

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GENERAL PROVISIONS

' 115.01 TITLE.

This subchapter shall be known and may be cited as the A Lemmon Cable Television Ordinance@. (Ord. 503, passed 12-6-1993; Ord. 2013-4, passed 4-1-2013)

' 115.02 DEFINITIONS.

For the purposes of this subchapter, the following terms, phrases, words, and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the 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.

CABLE TELEVISION RECEPTION SERVICE. The delivery by the company to television receivers (or any other suitable type of electronic terminal or receiver) of the electronic signals and other communications services carried over said system.

CABLE TELEVISION SYSTEM or CABLE SYSTEM. A system utilizing certain electronic and other components which deliver to subscribing members of the public various communications services.

CITY. The City of Lemmon, South Dakota.

CITY COUNCIL. The City Council of Lemmon, South Dakota.

FACILITIES. Include, but not limited to, poles, wires, cables, modulators, towers, antennae, and apparatus designed, constructed and/or wired for the purpose of receiving, transmitting, and distributing television and other various signals.

FCC. The Federal Communications Commission.

FRANCHISEE and COMPANY. West River Cable Television, Inc. of Bison, South Dakota.

MAYOR. The Mayor of Lemmon, South Dakota.

PERSON. Any person, firm, partnership, association, corporation, or organization of any kind and any other legally recognized entity.

STREETS. The surface of the space above and below, in, along and across any public street, way, place, right-of-way, road, highway, freeway, bridge, tunnel, lane, path, bike-path, alley, court, sidewalk, park-way, drive, communications or utility easement by whatever name called, now or hereafter existing as such within the franchise area.

SUBSCRIBERS. Those persons contracting to receive cable television reception services furnished under this subchapter by company.
(Ord. 503, passed 12-6-1993; Ord. 2013-4, passed 4-1-2013)

' 115.03 GRANT OF NON-EXCLUSIVE AUTHORITY.

(A) In consideration of the performance and observance of the conditions which are hereinafter specified, the nonexclusive right is hereby granted to West River Cable Television, Inc. of South Dakota, and to its successors, assigns, or designees, to erect, maintain and operate in, under, over, along, across and upon the present and future streets, lanes, avenues, sidewalks, alleys, bridges, highways, easements dedicated for compatible uses and other public places in the city, and subsequent additions thereto, towers, poles, lines, cables, wires, manholes and all other fixtures and equipment necessary for the maintenance and operation in the city of a cable television system, for the purpose of transmission and distribution of audio, visual, electronic and electric impulses in order to furnish television and radio programs and various other communications services to the public by what is commonly called a community antenna television system, for a period of 20 years, commencing from and after the effective date of this subchapter.

(B) The right to use and occupy said streets, alleys, public ways and places for the purposes herein set forth shall not be exclusive.
(Ord. 503, passed 12-6-1993; Ord. 2013-4, passed 4-1-2013)

' 115.04 COMPLIANCE WITH APPLICABLE LAW AND ORDINANCES.

The company shall, during the term hereof, except in those areas which have been preempted by the Cable Communications Policy Act of 1984, as amended, or which are regulated by the Federal Communications Commission or any other federal or state law, be subject to all lawful exercise of the regulating and police powers of the city; and company shall comply with all applicable federal, state, and local laws, rules, regulations, codes and other requirements in connection with the operation of the franchise.
(Ord. 503, passed 12-6-1993; Ord. 2013-4, passed 4-1-2013)

' 115.05 TERRITORIAL AREA INVOLVED.

This subchapter relates to the present territorial limits of the city and to any area annexed thereto during the term of this subchapter. Company may, but shall not be required to, provide service to residents of newly annexed areas of the city or areas within the city limits that are beyond 400 feet from existing distribution lines, except upon payment by such residents of the capital costs incurred by the company in bringing service to such residents. Company may, but shall not be required to, serve areas or individual homes adjoining, but outside the city limits, that may be served from its existing facilities. Company may negotiate directly with such customers the amount to be charged for the bringing of the service to the customer.

(Ord. 503, passed 12-6-1993; Ord. 2013-4, passed 4-1-2013)

' 115.06 LIABILITY AND INDEMNIFICATION.

Company shall, at all times, keep in effect the following types of insurance coverage:

(A) Worker=s compensation upon its employees engaged in any manner in the installation or servicing of its plant and equipment within the city; and

(B) (1) Property damage liability insurance to the extent of \$250,000 as to each occurrence and \$250,000 aggregate, and personal injury liability insurance to the extent of \$500,000 as to each occurrence and \$500,000 aggregate. Excess bodily injury and property damage of \$1,000,000 each occurrence and \$1,000,000 aggregate. Automobile bodily injury and property damage liability combined \$1,000,000 each occurrence.

(2) Company shall indemnify, protect, and save harmless the city from and against losses and physical damage to property and bodily injury or death to persons, and payments made under any worker=s compensation law which may arise out of their erection, maintenance, presence, use, or removal of said attachments or poles within the city, or by any other act of company, its agents or employees. Company shall carry insurance in the above described amounts to protect the parties hereto from and against all claims, demands, actions, judgments, costs, expenses, and liabilities which may arise or result, directly or indirectly, from or by reason of such loss, injury, or damage. Company shall also carry such insurance as it deems necessary to protect it from all claims under the worker=s compensation laws in effect that may be applicable to company. All insurance required shall be and remain in full force and effect for the entire life of the rights granted hereunder. The city shall be named an additional insured on all insurance policies.

(3) These damages or penalties shall include, but shall not be limited to, damages arising out of copyright infringements and all other damages arising out of the installation, operation, or maintenance of the cable television system authorized herein, whether or not any act or omission complained of is authorized, allowed, or prohibited by this subchapter.

(Ord. 503, passed 12-6-1993; Ord. 2013-4, passed 4-1-2013)

' 115.07 GENERAL SYSTEM SPECIFICATIONS.

The facilities used by the company shall have a minimum capacity of 300 MHZ.
(Ord. 503, passed 12-6-1993; Ord. 2013-4, passed 4-1-2013)

' 115.08 TECHNICAL STANDARDS.

Company shall be governed by technical standards established by the FCC. Company, through the system, to the extent reasonably possible, shall provide uniform, strong signals that are free from any significant distortion and interference. The system shall be designed, constructed and operated, and maintained for 24-hour a day continuous operation.
(Ord. 503, passed 12-6-1993; Ord. 2013-4, passed 4-1-2013)

' 115.09 OPERATION AND MAINTENANCE OF SYSTEM.

The company shall render 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 to the subscribers, except for emergency repairs, which shall be performed as soon as possible.
(Ord. 503, passed 12-6-1993; Ord. 2013-4, passed 4-1-2013)

' 115.10 SERVICE TO SCHOOLS AND CITY.

(A) The company may, at its discretion, subject to the line extension provisions of ' 115.05 of this chapter, provide basic cable service at no cost to public and parochial elementary and secondary schools within the city, at one terminal junction for educational purposes upon request of the school system.

(B) Company may, at its discretion, if requested by the city, subject to the line extension provisions of ' 115.05 of this chapter, also provide to the city without charge, at one city-owned building other than a hospital, nursing home, apartment or building at the airport, to be selected by the City Council, one junction terminal to said building and may also furnish to the building, without charge, basic service to all sets connected within such building to the terminal junction.

(C) The company shall allocate sufficient capacity on its existing community channel to the city as a medium for the city to provide information to its residents. The city shall provide the company sufficient notice to allow the company to insert such ads into its system.
(Ord. 503, passed 12-6-1993; Ord. 2013-4, passed 4-1-2013)

' 115.11 EMERGENCY USE OF FACILITIES.

(A) In the case of any emergency or disaster, the company shall, upon request of the City Council or Mayor, make available its facilities to the city for emergency use during the emergency or disaster.

(B) If the city wishes to operate a civil emergency alert system on a plan that is mutually acceptable to the city and company and provides company with the necessary equipment for such system, company will permit the system to be used on the cable system.

(Ord. 503, passed 12-6-1993; Ord. 2013-4, passed 4-1-2013)

' 115.12 SAFETY REQUIREMENTS.

The company shall, at all times, employ ordinary care and shall use and maintain commonly accepted methods and devices for preventing failures and accidents which are likely to cause damages, injuries, or nuisances to the public.

(Ord. 503, passed 12-6-1993; Ord. 2013-4, passed 4-1-2013)

' 115.13 LIMITATIONS ON RIGHTS GRANTED.

(A) All transmission and distribution structures, lines, and equipment erected by the company within the city shall be so located as to cause minimum interference with the proper use of streets, alleys, and other public ways and places, and to cause minimum interference with the rights and reasonable convenience of property owners who adjoin any of the said streets, alleys, or other public ways and places, and said poles or towers shall be removed by company whenever the City=s Engineer reasonably finds that the same restrict or obstruct the operation or location of any future streets or public places in the city.

(B) Construction and maintenance of the transmission distribution system shall be in accordance with the provisions of the National Electrical Safety Code, prepared by the National Bureau of Standards, the National Electrical Code of the National Board of Fire Underwriters, and such applicable ordinances and regulations of the city, affecting electrical installation, which may be presently in effect or changed by future ordinances.

(C) In case of disturbance of any street, sidewalk, alley, public way, or paved area, the company shall, at its own cost and expense and in manner approved by the City Engineer, replace and restore such street, sidewalk, alley, public way, or paved areas in as good a condition as before the work involving such disturbance was done. Company shall not be required to pay a fee for street openings.

(D) If at any time during the period of this subchapter the city shall lawfully elect to alter or change the grade of any street, sidewalk, alley, or other public way, the company, upon reasonable notice by the city, shall remove, relay, and relocate its poles, wires, cables, underground conduits, manholes, and other fixtures at its own expense.

(E) The company shall have the authority to trim trees that are overhanging the streets, alleys, sidewalks, and 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 company.

(F) Company shall, at its expense, protect, support, temporarily disconnect, relocate on the same street, alley, or public place, or remove from the street, alley, or public place, any property of company when required by the city by reason of traffic conditions, public safety, street vacation, freeway and street construction, change or establishments 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 company shall in all cases have the privileges and be subject to the obligations to abandon any property of company in place as hereinafter provided.

(G) Any property of company to be abandoned in place shall be abandoned in such a manner as the city may prescribe.

(H) Company shall file, update, and maintain with city, a map showing the location of all additional underground cables and equipment installed together with a statement showing the nature of the same. The map shall comply with that required by SDCL 49-7A.

(I) The city shall have the right to reasonably inspect all construction or installation work performed subject to the provisions of this franchise and make inspections as it may find necessary to ensure compliance with the terms of this franchise and other applicable provisions of law. In the instance the city chooses to inspect all construction or installation work, all inspections shall be completed by a licensed engineer, at the city=s expense and shall not place an unreasonable burden upon company.

(J) Company shall provide copy of the annual performance test, if any, or waiver, required by the Federal Communications Commission within 60 days after receipt of said test or waiver by the company. (Ord. 503, passed 12-6-1993; Ord. 2013-4, passed 4-1-2013)

' 115.14 OWNERSHIP AND REMOVAL OF FACILITIES.

All cable and passive equipment for cable television reception service installed by company at a subscriber=s location shall remain the property of company and company shall have the right to remove said cable and equipment. Upon termination of service to any subscriber, the company shall promptly remove all its above ground facilities and equipment from the premises of such subscriber upon his or her request.

(Ord. 503, passed 12-6-1993; Ord. 2013-4, passed 4-1-2013)

' 115.15 ASSIGNMENT OF AUTHORITY.

The company shall not assign this subchapter, or the rights bestowed upon the company as a result of this subchapter, to another person without prior approval of the City Council, which approval shall not be unreasonably withheld. No further approval shall be necessary, and this subchapter shall be valid, applicable, and effective as to all future transfers or assignments by West River Cable Television, Inc.

to all subsidiaries which currently are or in the future become the property of West River Cable Television, Inc. or West River Cooperative Telephone Company, Inc.
(Ord. 503, passed 12-6-1993; Ord. 2013-4, passed 4-1-2013)

' 115.16 PAYMENT TO THE CITY.

(A) During the term of the rights granted hereunder, and so long as the company operates said system, the company shall pay, as compensation to the city, a sum equal to 3% of the annual total gross receipts of the cable service rendered within the city. **GROSS RECEIPTS** shall consist of those revenues derived from the monthly service charges paid by subscribers for basic cable service and premium pay services, such as HBO. Gross receipts shall not include revenues received as installation charges and fees for reconnections, inspections, repairs, or modifications of any installation, or other services provided, and all state and federal taxes relating thereto.

(B) The payments that company makes to the city shall be in lieu of any occupation tax, license tax, or similar levy by the city and shall be paid on an annual basis, payable to the city within 60 days after the end of the annual period. Each payment shall be accompanied by a financial statement clearly showing the gross revenue attributed to the franchise operation, under oath from an official or representative of the company having the requisite knowledge to make such a statement certifying the gross revenues on which payment is based.

(C) This amount payable by the company to the city shall be the sole amount payable for all of its rights under this subchapter, including, but not limited to, the use of the streets and other facilities of the city in the operation of the cable system and for the municipal supervision thereof and shall be in lieu of any other occupational tax or franchise fee.

(D) For any tax or fee which the company is legally obligated to collect or pay, including the fee referenced herein payable to the city, the company shall have the right to charge the subscribers an additional amount equal to such fee or tax.
(Ord. 503, passed 12-6-1993; Ord. 2013-4, passed 4-1-2013)

' 115.17 DURATION AND RENEWAL OF AUTHORITY.

The rights, privileges and authority granted under this franchise shall take effect from final passage of the ordinance granting the franchise as provided by law. The rights granted to company herein shall, except as provided in this section, terminate 20 years from the effective date of this subchapter which shall be subject to renewal pursuant to the provisions of the Cable Communications Policy Act of 1984 applicable to new ordinances that are in the nature of a franchise. Pending final completion of renewal proceedings, this subchapter shall remain in effect even if the original 20-year term has expired. If this subchapter is not renewed or if it is revoked by the city, the transfer of company=s system shall be governed by Section 627 of the Cable Communications Policy Act of 1984. The city may revoke this

subchapter upon 180 days notice to the company. The company may relinquish its obligations in relation to this agreement upon providing 180 days notice to the city.
(Ord. 503, passed 12-6-1993; Ord. 2013-4, passed 4-1-2013)

' 115.18 MISCELLANEOUS.

Complaints regarding the quality of service, equipment malfunctions, and similar matters shall first be directed to company=s office. Should company fail to satisfy a complaint, it may then be directed to the Finance Officer for investigation. The complaining party and company shall be afforded a reasonable opportunity to present written statements of their position. The Finance Officer shall attempt to resolve the complaints and, if this cannot be achieved, he or she shall submit a recommendation to the city, which shall either dismiss the complaint, or specify corrective steps to be taken by company. Appeal from the city=s action may be made to the appropriate judicial or administrative forum.
(Ord. 503, passed 12-6-1993; Ord. 2013-4, passed 4-1-2013)

' 115.19 MODIFICATION OF OBLIGATIONS.

In addition to any other remedies provided by law or regulation, company=s obligations under this subchapter may be modified, at its request, in accordance with ' 625 of Cable Communications Policy Act of 1984 as it now exists, or as hereafter amended.
(Ord. 503, passed 12-6-1993; Ord. 2013-4, passed 4-1-2013)

FRANCHISES

' 115.35 DEFINITIONS.

For the purposes of this subchapter, the following terms, phases, words and their derivations shall have the meaning given herein. When inconsistent with the context, words used in the present tense include the future, words in the plural include the singular number and words in the singular number include the plural number. The word ***SHALL*** is always mandatory and not merely directory.

CATV SYSTEM. A system as defined by SDCL 9-35-16.

CITY. The City of Lemmon.

COMPANY. Any company granted a franchise by city to update a CATV system.

COUNCIL. The Council of the City of Lemmon.

PERSON. Any firm, person, partnership, association, or corporation of any kind.
(Prior Code, ' 17.0101)

' 115.36 GRANT OF AUTHORITY AND APPLICATION.

The city may grant to any company the right and privilege to construct, erect, operate, and maintain in upon, along, across, above, over, and under all the streets, alleys, public ways, and public places now laid out or dedicated and all extensions thereof, and additions thereto, in the city, poles, wires, cables, underground conduits, manholes, and other television conductors and fixtures necessary for the maintenance and operation in the city a CATV system for the interception, sale, and distribution of television and other signals.

(A) *Non-exclusive grant.* The right to use and occupy said streets, alleys, public ways, and places for the purposes herein set forth shall not be exclusive and the city reserves the right to grant similar use of said streets, alleys, public ways, and places to any person at any time during the period of this franchise.

(B) *Compliance with federal regulations.* Any modifications of the provisions of 47 C.F.R. Part 76 relating to cable television service shall be incorporated into the franchise granted hereunder within one year of the adoption of such modification or at the time of franchise renewal, whichever occurs first.

(C) *Application for franchise.* An application for a franchise hereunder shall be presented to the City Council in letter form by mail and personally at a regularly scheduled Council meeting and shall include the following:

(1) A statement of the fees to be charged by the applicant, including installation fees and periodic fees;

(2) The number of channels to be distributed and their origin;

(3) A copy of the South Dakota Articles of Incorporation and South Dakota Certificate of Incorporation if the applicant is a corporation or a copy of the partnership agreement if the applicant is a partnership or if the applicant is an individual information, including his or her name, business name, residence, and business address;

(4) A copy of the applicant=s liability policy. If the application is not accompanied by the policy, a copy shall be filed with the City Finance Officer prior to commencing construction of any kind;

(5) The percent of gross revenues from regular television services received from the company=s system to be paid to the city annually;

(6) A statement that the company agrees to identify and save the city harmless from any and all liability, damage, or expense from accident or damage, either to itself or persons or property of others, which may occur by reason of the company=s activities in the cable television business;

(7) Any other information the City Council may request at a regular meeting;

(8) A copy of the company=s rules and regulations applicable to the company=s relations with subscribers; and

(9) A copy of the company=s contract to be executed by subscribers.
(Prior Code, ' 17.0102)

' 115.37 COMPLIANCE WITH APPLICABLE LAWS AND ORDINANCES.

The company granted a franchise hereunder shall at all times during the life of its franchise be subject to all lawful exercise of the police power of the city, and to present ordinances and such reasonable regulation as the city shall hereafter by ordinance provide.
(Prior Code, ' 17.0103)

' 115.38 CONSTRUCTION STANDARDS.

(A) All construction by any company, including installation, shall conform to the National Electric Safety Code, the statutes of the state and the ordinances of the city. The company shall provide the city with a map designating the location of cable television facilities and said map shall be available for public inspection.

(B) All transmission and distribution structures, lines, and equipment erected by the company within the city shall be so located as to cause minimum interference with the proper use of streets, alleys, and other public ways and places and to cause minimum interference with the right of reasonable convenience of property owners who adjoin any of the said streets, alleys, or other public ways and places.

(C) In case of any disturbance of payment, sidewalk, driveway, or any other surfacing, company shall, at its own cost and expense, and in a manner approved by the City Engineer, replace and restore all such disturbed areas in as good as condition as before said work was commenced.

(D) In the event that at any time during the period of this franchise the city shall lawfully elect to alter or change the grade of any street, alley, or other public way, the company, upon reasonable notice by the city, shall remove, relay, and relocate its poles, wires, cables, underground conduits, manholes and other fixtures at its own expense in locations to be approved by the City Engineer.

(E) The company shall not place poles or other fixtures where the same will interfere with any gas, electric, or telephone fixtures, water hydrant or main, and all such poles or other fixtures placed in any street shall be placed at the outer edge of the sidewalk and inside the curb line, and those placed in alleys shall be placed close to the line of the lot abutting on said alley, and then in such a manner as not to interfere with the usual travel on said streets, alleys, and public ways. Locations are to be approved by the City Council.

(F) The company shall, on the request of any person holding a building moving permit issued by the city, temporarily raise or move its wires to permit the moving of buildings. The expense of same shall be paid by the person requesting same and the company shall have authority to require payment in advance and not less than 48 hours= advance notice.

(G) The company shall have the authority to trim trees upon and overhanging streets, alleys, sidewalks, and public places of the city so as to prevent the branches of such trees from coming in contact with the wires and cables of the company. All such trimming to be done with the approval of and under the supervision of the Park Board Superintendent and at the expense of the company.

(Prior Code, ' 17.0104)

' 115.39 SERVICE AND MAINTENANCE STANDARDS.

(A) The company shall maintain and operate its system and render efficient service in accordance with the rules and regulations as are, or may be set forth by the Council, or by the proper federal and/or state regulatory body.

(B) The company shall have a maintenance service readily available to subscribers upon telephone request. The company shall employ at least one qualified technician to provide said maintenance.

(C) Whenever it is necessary to shut off or interrupt for the purpose of making repairs, adjustments, or installations, the company shall do so at such time as will cause the least amount of inconvenience to its customers, and unless such interruption is unforeseen and immediately necessary, it shall give reasonable notice thereof to its customers.

(D) The company shall have adopted a written plan for the investigation and resolution of complaints regarding cable television complaints which shall be submitted to the city before completion of construction of energized trunk cables. This plan among other things shall require that the system have available at all times an agent or service personnel to receive and handle service calls and complaints; the company shall have the primary responsibility for the administration of the franchise and of complaint procedures and all subscribers to the cable system shall be supplied with a copy of the plan regarding complaints at the time of their subscription. Complaints may also be received by the city in the office of the City Finance Officer.

(E) The company shall, upon the request of any subscriber, promptly remove all wires and equipment from the premises of such subscriber at no expense to such subscriber.

(F) (1) The company shall at all times operate the cable system so as not to interfere with existing reception and shall prevent radiation from company=s cables to the antennas in the city.

(2) In the event the company=s operation should interfere with existing reception or radiation should emit from company=s cables to the antennas in the city and the same is not corrected within a reasonable time after the company shall have been notified of said, then, in that event, Council of the city may terminate this franchise.

(G) Installation and maintenance of equipment shall be such that standard color signals shall be transmitted to any subscriber receiver.

(H) Company shall install a system hereunder capable of distributing television channels in accordance with the best accepted standard of the industry.

(I) Approval by the Council shall be obtained before implementation of any changes in the rules and regulations of the company for the conduct of its business, or in fees or services as set forth in the original application.

(Prior Code, ' 17.0105)

' 115.40 FRANCHISE FEES.

The company shall pay to the city a certain percent of the gross revenues as specified in their application from regular television services received from the aforesaid CATV. Said payment shall be made on or before December 31 of each year during the term of this franchise herein granted.

(SDCL 9-35-22) (Prior Code, ' 17.0106)

' 115.41 TERM OF FRANCHISE.

(A) Any franchise and rights granted under authority of this subchapter shall take effect in force from and after adoption of a resolution by the city, as required by law, except as otherwise provided, and shall continue in force and effect for a term of 15 years from the effective date of this franchise.

(B) The franchise granted hereunder may be revoked by the city in the event the company fails to apply for a certificate of compliance from the Federal Communications Commission within 90 days of the effective date of the franchise.

(C) Any franchise granted hereunder may be revoked by the city in the event the company fails to commence significant construction within 120 days of the granting of a certificate of compliance.

(D) Any franchise granted hereunder may be revoked by the city in the event the company fails to comply with this subchapter.

(Prior Code, ' 17.0107)

' 115.42 INDEMNITY AND INSURANCE.

The company shall agree in its application to indemnify and save the city harmless from any and all liability, damage, or expense from accident or damage, either to itself or persons or property of others, which may occur by reason of the company's activities in the cable television business. For this purpose and prior to commencing construction of any kind, the company shall have in full force and effect and thereafter so maintain and file evidence thereof with the city, a good and sufficient policy of insurance

with liability limits of \$100,000 for property damage, \$250,000 for bodily injury to each person and \$500,000 for each accident. The said policy shall protect the city from and against any kind or description which may accrue to or be suffered by the city by reason of the construction, maintenance, or operation of company=s facilities.

(Prior Code, ' 17.0108)

' 115.43 RECORDS AND REPORTS.

(A) The city shall have access at all reasonable hours to all the company plans, contracts, financial, statistical, customer, and service records relating to the property and the operation of the company and to all other records required to be kept hereunder.

(B) The following records and reports shall be filed with the City Finance Officer:

(1) Copies of such rules and regulations as may be adopted by the company for the conduct of its business; and

(2) An annual summary report showing gross revenues received by the company from its operation of community television antenna system during the preceding year, and such other information as the city shall request to properties and expenses related to company=s service within the city.

(Prior Code, ' 17.0109)

' 115.44 PREFERENTIAL OR DISCRIMINATORY PRACTICE PROHIBITED.

The company shall not, as to rates, charges, service facilities, rules, regulations, or in any other respect, make or grant any preference or advantages to any person, nor subject any person to any prejudice or disadvantage, provided that nothing in this franchise shall be deemed to prohibit the establishment of a graduated scale of charges and classified rate schedules to which any customer coming within such classification would be entitled.

(Prior Code, ' 17.0110)

' 115.45 EXTENSION POLICY.

(A) The company is to have completed construction of energized trunk cables throughout the franchise area within one year of the date of the granting of a certificate of compliance.

(B) Subsequent extensions proposed by the company shall be submitted to and approved by the city as follows: the company shall file with the City Council its plan setting forth the stages by which it intends to extend its service into the newly annexed areas of the city. This has been formulated by the company. No installation of facilities shall commence until the Council has approved the extension plan. Upon the approval by the Council for the plan, the company shall complete the same within six months of such approval. If Council does not approve said plan, negotiations between the company and city, in

conjunction with public proceedings, shall be carried on until an acceptable policy can be determined and approved.

(Prior Code, ' 17.0111)

' 115.46 EXTENSION BY ANNEXATION.

Upon the annexation of any territory to the city, the portion of any said system that may be located or operated within such territory and upon the streets, alleys, or public ground thereof, shall thereafter be subject to all the terms of this grant as though it were an extension made thereunder.

(Prior Code, ' 17.0112)

' 115.47 APPROVAL OF TRANSFER.

The company shall not sell or transfer its plant or system to another, nor transfer any rights under this franchise to another without Council approval. Further, no sale or transfer shall be effective until the vendee, assignee, or lessee has filed in the office of the City Finance Officer an instrument, duly executed, reciting the fact of such sale, assignment, or lease, accepting the terms of the franchise and agreeing to all the conditions thereof.

(Prior Code, ' 17.0113)

' 115.48 CITY RIGHTS IN FRANCHISE.

(A) The right is hereby reserved to the city to adopt, in addition to the provisions herein contained and existing applicable ordinances, such additional regulations as it shall find necessary in the exercise of the police power, provided that such regulations by ordinance shall be reasonable and not in conflict with the rights herein granted, and shall not be in conflict with the laws of the United States and this state.

(B) During the life of this franchise, the city shall have the right to maintain upon the poles of the company such fixtures as may be necessary for a police and fire alarm system, such fixtures to be installed, maintained, and constructed by the city at its own expense and in accordance with the company=s rules and regulations.

(C) The city shall be solely responsible for all damages to persons or property arising out of the city=s use of said poles and shall save the company harmless from all claims and demands whatsoever arising out of said use. In the event of the company=s removal of poles, the city shall save the company harmless from all expense, damage to persons or property arising out of the removal of city=s aforesaid fixtures.

(D) The city reserves the general right to see the system of the company is constructed and maintained in a safe condition. If the city determines that an unsafe condition exists, it may order the

company to make the necessary repairs. If the company shall fail to make said repairs forthwith, the city may cause said repairs to be made and collect all costs and expense for the same from the company.
(Prior Code, ' 17.0114)

' 115.49 COMPANY RULES.

The company shall have the authority to promulgate such rules, regulations, terms, and conditions governing the conduct of its business as shall be reasonable necessary to enable the company to exercise its rights and perform its obligations under this franchise and to assure an uninterrupted service to its customers; provided, however, that such rules, regulations, terms, and conditions shall not be in conflict with the provisions hereof or of the laws of the state and, if required by law, shall be subject to approval by the proper federal and/or state regulatory body. Such rules and regulations shall be subject to prior approval of the Council as required by ' 115.39(I).
(Prior Code, ' 17.0115)

' 115.50 COMPLAINT PROCEDURE.

(A) The system shall provide a service representative who shall be available to respond to all service calls or complaints within a reasonable time after same have been received at the company=s office.

(B) The office of the City Finance Officer shall be the city office responsible for the continuing administration of the franchise and the handling of any complaints that a subscriber believes have not been satisfactorily handled by the company.

(C) At the time of subscriber=s initial subscription, he or she shall be advised of the above complaint procedure and shall also be advised as to the address and telephone number of the company=s offices and service representatives who will be available for the handling of complaints.
(Prior Code, ' 17.0119)

' 115.99 PENALTY.

Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to ' 10.99 of this code of ordinances.

TITLE XIII: GENERAL OFFENSES

Chapter

130. GENERAL OFFENSES

CHAPTER 130: GENERAL OFFENSES

Section

Prostitution

- 130.01 Enticing to house of prostitution
- 130.02 Keeping bawdy house
- 130.03 Frequenting house of prostitution
- 130.04 Soliciting prostitution

Miscellaneous Provisions

- 130.15 Malicious mischief
- 130.16 Injuring trees
- 130.17 Defacing sidewalks or buildings
- 130.18 Spitting on sidewalk
- 130.19 Bill posting on poles, lamp posts, and the like
- 130.20 Injuring telephone wires
- 130.21 Public indecency
- 130.22 Fighting and disorderly conduct
- 130.23 Making or creating disturbances
- 130.24 Crowds on streets
- 130.25 Burglars tools and the like
- 130.26 Discharging firearms and weapons
- 130.27 Sling shot, air gun, and BB gun
- 130.28 Impersonating police officer
- 130.29 Resisting or assisting to resist police officer
- 130.30 Littering

Curfew

- 130.45 Children under 18 years of age

- 130.99 Penalty

Cross-reference:

Nuisances, see Ch. 91

Streets and sidewalks, see Ch. 92

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PROSTITUTION

' 130.01 ENTICING TO HOUSE OF PROSTITUTION.

It shall be unlawful for any person in the city to entice or attempt to entice any individual into a house of prostitution or where prostitution may be committed.

(Prior Code, ' 8.0201) Penalty, see ' 130.99

' 130.02 KEEPING BAWDY HOUSE.

(A) It is unlawful for any person to be a keeper or inmate of a house of ill fame, or assignation, or bawdy or disorderly house, within the limits of the city, or within one mile thereof.

(B) It shall be unlawful for any person within the city to be a prostitute or to practice prostitution or to be an inmate of any bawdy house, house of ill fame, or assignation, or to follow the calling of a prostitute, or to entice, solicit, or procure any person to commit an act of prostitution with him or her, or to endeavor by sign, word, or action to ply the vocation of a prostitute.

(SDCL 9-29-4) (Prior Code, ' 8.0202) Penalty, see ' 130.99

' 130.03 FREQUENTING HOUSE OF PROSTITUTION.

It shall be unlawful for any person within the city to frequent any house of ill fame, prostitution, or assignation, or to be an inmate or visitor of such house of houses, or to occupy any room, house, or building within the city for the purpose of unlawful contact for sexual gratification.

(SDCL 9-29-4) (Prior Code, ' 8.0203) Penalty, see ' 130.99

' 130.04 SOLICITING PROSTITUTION.

It shall be unlawful for any person within the city to entice, solicit, or procure, or attempt to solicit, entice, or procure, another to commit an act of prostitution or to designate, indicate, or lead the way to any house, room, or place where prostitution is practiced or to point out or indicate to another, any person with whom he or she believes any act of prostitution may be committed.

(Prior Code, ' 8.0204) Penalty, see ' 130.99

General Offenses⁵

MISCELLANEOUS PROVISIONS

' 130.15 MALICIOUS MISCHIEF.

It is unlawful for any person who shall unlawfully, maliciously, or wantonly mar, injure, deface, destroy, or remove any fence, gate, sidewalk, sign, signposts, signboard, awning, lamp post, house, or building, or other property of another, within the limits of the city

(Prior Code, ' 8.0801) Penalty, see ' 130.99

' 130.16 INJURING TREES.

It is unlawful for any person to unlawfully, maliciously, or wantonly injure, deface, destroy, or cut down any trees, shrub, or flower being or growing upon any street, alley, highway, in any public park, or upon any public grounds or upon any premises belonging to another, within the city.

(Prior Code, ' 8.0802) Penalty, see ' 130.99

' 130.17 DEFACING SIDEWALKS OR BUILDINGS.

It shall be unlawful for any person to paint upon, mark, stain upon, or deface any sidewalk, pavement, curbing, water hydrant, public building, furniture, or other public property of the city, or cause the same to be done or aid or assist in doing the same without first having procured consent of the Mayor of said city so to do.

(Prior Code, ' 8.0803) Penalty, see ' 130.99

' 130.18 SPITTING ON SIDEWALK.

It shall be unlawful for any person to spit or expectorate upon any sidewalk in the city or upon the floor of any public building within said city.

(SDCL 9-30-2) (Prior Code, ' 8.0804) Penalty, see ' 130.99

' 130.19 BILL POSTING ON POLES, LAMP POSTS, AND THE LIKE.

It shall be unlawful for any person or persons, firm, or corporation to nail, post, glue, fasten, put up, erect, hang, or allow to be so done any sign, show bill, posters, notices, or any advertisement of any kind or description upon any telephone, gas, or electric posts, upon any of the streets, highways, alleys, or public places in the city.

(SDCL 9-30-3) (Prior Code, ' 8.0805) Penalty, see ' 130.99

' 130.20 INJURING TELEPHONE WIRES.

It shall be unlawful for any person to cut, take down, remove, or in any way injure or interfere with any wire or pole in use by any telephone, electric light, or power company within the city without permission or authority from the owner of such wire or pole.

(Prior Code, ' 8.0806) Penalty, see ' 130.99

' 130.21 PUBLIC INDECENCY.

It shall be unlawful for any person to appear in any street or alley or in any public or exposed place in a state of nudity, or in any indecent or lewd dress, or who shall make any indecent exposure of his or her person, or who shall commit any indecent exposure of his or her person, or who shall commit any indecent, obscene, or filthy act, or who shall be guilty of any indecent, lewd, or immoral conduct, language, or behavior within the limits of the city.

(SDCL 9-30-2) (Prior Code, ' 8.0807) Penalty, see ' 130.99

' 130.22 FIGHTING AND DISORDERLY CONDUCT.

It shall be unlawful for any person to fight or threaten to fight or commit an assault, or an assault and battery, or who shall curse, swear, or use violent or threatening language or make any great noises so as to disturb the peace of the city or any lawful assembly of persons or of any neighborhood family.

(SDCL 9-29-3) (Prior Code, ' 8.0810) Penalty, see ' 130.99

' 130.23 MAKING OR CREATING DISTURBANCES.

It is and shall be unlawful for any person to make or engage in any riot, mob, disturbance, or disorderly conduct or behavior, or to make or engage in any disorderly, riotous, improper diversion, or to incite, encourage, or aid, countenance, or assist any person or persons in making or engaging in any riot, mob, disturbance, or disorderly, riotous, improper, or unlawful diversion, assembly, or proceeding within the city.

(SDCL 9-29-3) (Prior Code, ' 8.0811) Penalty, see ' 130.99

' 130.24 CROWDS ON STREETS.

It shall be unlawful for persons to gather in crowds or groups or for any person to stand on any public street or sidewalk in the city, in such a manner as to obstruct free passage thereon or intentionally causes serious public inconvenience, annoyance or alarm to any other person.

(SDCL 9-29-3) (Prior Code, ' 8.0812) Penalty, see ' 130.99

' 130.25 BURGLARS TOOLS AND THE LIKE.

It shall be unlawful for any person to have in his or her possession any nippers of the description known as burglars nippers, picklock, skeleton key, keys, to be used with bits or bit, jimmy, or other burglars instruments, or tools of whatsoever kind of description, unless it is shown that such possession is innocent or for a lawful purpose.

(Prior Code, ' 8.0813) Penalty, see ' 130.99

' 130.26 DISCHARGING FIREARMS AND WEAPONS.

(A) It shall be unlawful for any person, not an officer of the law in the execution of his or her duty, to draw a pistol, revolver, knife or other deadly weapon upon another person.

(B) No person shall discharge or shoot off any gun, pistol, air gun or other firearm or shoot any bow and arrow within the limits of the city. Discharging of shot shells from a shotgun or shooting arrows from a bow will be permitted up to within 660 feet of the limits of the city. Discharging of shotguns shooting slugs will not be permitted in or within one mile of the limits of the city. Discharging of rifles, pistols, air guns or any other type of firearm will not be permitted in or within one mile of the city limits. Any person who recklessly discharges a firearm or recklessly shoots a bow and arrow or sets a device designed to activate a weapon upon being tripped or approached, and leaves it unmarked or unattended by a competent person or has in their possession a loaded firearm while said person is intoxicated is guilty of a misdemeanor. This section shall not apply to shooting ranges regularly licensed or owned by the city, nor shall this section apply to any duly-appointed police officer or their designee authorized by the governing board to eradicate any wild animal causing injury to trees, shrubs, vegetable gardens, flower gardens or other vegetation.

(SDCL 22-14-7) (Prior Code, ' 8.0814) (Ord. 2006-13, passed 11-6-2006) Penalty, see ' 130.99

' 130.27 SLING SHOT, AIR GUN, AND BB GUN.

It shall be unlawful for any person to carry or use any slingshot, air gun, or BB gun for throwing or forcing through the air, missiles or projectiles of any character whatsoever.

(Prior Code, ' 8.0816) (Ord. 2006-15, passed 1-8-2007) Penalty, see ' 130.99

' 130.28 IMPERSONATING POLICE OFFICER.

It shall be unlawful for any person not duly authorized to exercise the duty conferred by ordinance upon police officers of this city, to wear a police officer=s badge or insignia or represent himself or herself as being a police officer or attempt to exercise the duties of the police officer=s in the city.

(Prior Code, ' 8.0817) Penalty, see ' 130.99

' 130.29 RESISTING OR ASSISTING TO RESIST POLICE OFFICER.

It shall be unlawful for any person in the city to in any way resist a police officer in the lawful discharge of his or her duties or to in any way aid or assist any person to resist or escape from any police officer or to assist any person to escape from any lawful confinement in said city or to assault any police officer or to in any way interfere with a police officer in making an arrest or in the discharge of his or her duties.

(Prior Code, ' 8.0818) Penalty, see ' 130.99

' 130.30 LITTERING.

It shall be unlawful for any person to throw or deposit on or upon any street, street ditches, alleys, public or private property in the city, any glass, plastic bottles, tin cans, scrap iron, scrap paper, or any other article that will cause an unsightly appearance or which is likely to be injurious to vehicles or persons.

(SDCL 9-32-10) (Prior Code, ' 8.0829) Penalty, see ' 130.99

CURFEW**' 130.45 CHILDREN UNDER 18 YEARS OF AGE.**

It shall be unlawful for any person under the age of 18 years to be abroad upon the streets, alleys, or public grounds of the city between the hours of 10:00 p.m. and 5:00 a.m. on Sunday through Thursday nights and between the hours of 12:00 p.m. and 5:00 a.m. on Friday and Saturday nights; and for all grade school children between the hours of 10:00 p.m. and 5:00 a.m. all nights of the week, unless accompanied by some person of lawful age having him or her in charge or unless upon some errand by permission or direction of his or her parents, guardians, or employer, in which later event said minor shall not loiter upon the way or make any undue disturbance.

(Prior Code, ' 8.0901) Penalty, see ' 130.99

' 130.99 PENALTY.

(A) Any person who violates any of the provisions of ' 130.45 shall be subject to being detained by any police or probation officer without process; and where they will be delivered into the hand of the parents, guardian, or responsible adult of such boy or girl.

(Prior Code, ' 8.0902)

(B) Any person violating any provisions of this chapter for which no specific penalty is prescribed shall be subject to ' 10.99 of this code of ordinances.

TITLE XV: LAND USAGE

Chapter

150. BUILDING REGULATIONS

151. PLUMBING CODE

152. ELECTRICAL CODE

153. STREET AND SIDEWALK CONSTRUCTION

154. ZONING

155. SUBDIVISIONS

CHAPTER 150: BUILDING REGULATIONS

Section

Legislative Provisions of Uniform Building Code

- 150.001 Adoption of Building Code
- 150.002 Definitions
- 150.003 Fire limits established
- 150.004 Saving clause
- 150.005 Amendments made in said code

Building Inspector

- 150.020 Establishment of Department of Building Inspection
- 150.021 Appointment of Building Inspector
- 150.022 Work of Department
- 150.023 Duties of Building Inspector
- 150.024 Application for permit
- 150.025 Department of Building Inspection and Building Inspector
- 150.026 Form of permit
- 150.027 How constructed
- 150.028 Moving buildings
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Moving Buildings on Streets

- 150.045 Permission
- 150.046 Application
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- 150.048 Applicant must serve notice to owners of wires and the like

Numbering of Buildings

- 150.060 Numbering of buildings
- 150.061 Numbering east and west streets

- 150.062 Numbering north and south streets
- 150.063 Duty of owner to properly number buildings

International Property Maintenance Codes

150.090 Adoption of code

150.999 Penalty

Statutory reference:

Related provisions, see SDCL 9-30-2 and 9-33-10

LEGISLATIVE PROVISIONS OF UNIFORM BUILDING CODE

' 150.001 ADOPTION OF BUILDING CODE.

There is hereby adopted by the city for the purpose of establishing rules and regulations for the construction, alteration, removal, demolition, equipment, use and occupancy, location, and maintenance of buildings and structures, including permits and penalties, that certain building code then currently in effect known as the National Building Code, and recommended by the American Insurance Association, successor to the National Board of Fire Underwriters and the whole thereof save and except such portions as are hereinafter deleted, modified, or amended, of which not less than three copies have been and now are filed in the office of the City Finance Officer and the same are hereby adopted and incorporated as fully as if set out at length herein, and from the date on which the ordinance codified herein shall take effect, the provisions thereof shall be controlling in the construction of all buildings and other structures therein contained within the corporate limits of the city.

(SDCL 9-33-4.1) (Prior Code, ' 2.0101)

' 150.002 DEFINITIONS.

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

CORPORATION COUNSEL. The attorney for the city.

MUNICIPALITY. The City of Lemmon.
(Prior Code, ' 2.0102)

' 150.003 FIRE LIMITS ESTABLISHED.

The following blocks and parts of blocks, including the lots therein, and parts of the city otherwise described are hereby declared to be within the fire limits of the city, to-wit:

(A) Blocks 1, 2, 3, 4, 11, 12, 13, 14, 21, 22, 24, west half of 23, east half of 5, east half of 10, east half of 15, and east half of 20 of the original plat of the city;

(B) Blocks 42, 43, and 44 of Milwaukee Land Company=s Third Addition to the city;

(C) Lots 5, 6, 7, 8, 9, 10, 11, and 12 of Block 29 and Lots 5, 6, 7, 8, 9, 10, 11, and 12 of Block 30 and Lots 1 through 12 inclusive of Block 31 of Milwaukee Land Company=s First Addition to the city;

(D) Block 41, east half of Block 40 of Milwaukee Land Company=s Second Addition to the city;

(E) The odd numbered Lots of 99 through 137 inclusive located on the Chicago, Milwaukee, St. Paul, and Pacific Railroad Company right-of-way within the corporate limits of the city;

(F) Lots 4 through 12 inclusive of Block 7 and Lots 9 through 16 inclusive of Block 8 in the city=s Second Addition to the city;

(G) Lots 7 and 8 of Block 6 of Borreson=s addition to the city;

(H) The tract of land described as beginning at the northwest corner of Lot 7 in Block 6 of Borreson=s Addition to the city, thence south 208.6 feet, thence west 175.8 feet, thence north 208.6 feet, thence east 175.8 feet to starting point, Lots 7 through 12 inclusive in Block 5A in Borreson=s Addition to the city;

(I) Lots 1, 2, 3, 10, 11, and 12 of Block 3 and 1, 2, 3, 10, 11, and 12 of Block 4 of Norwest Townsite Company=s Second Addition to the city;

(J) Lots 1 through 6 inclusive and the north 30 feet of Lot 7 of Block 4, Lots 1, 8, and the north 30 feet of Lot 2 and the north 30 feet of Lot 7 of Block 5, and Lots 1, 2, 9, and 10 of Block 6 and Lots 1, 2, 9, and 10 of Block 7 of Behrman-Mork Addition to the city;

(K) The tract described as beginning at the southwest corner of Lot 9 of Block 7 of Behrman-Mork Addition to the city, thence north 366 feet, thence west to corporate limits, thence south 366 feet, thence east to starting point; and

(L) Lots 1 through 9 inclusive in Block 1 and Lots 4 through 9 inclusive of Block 2 of the city=s Fourth Addition to the city.

(SDCL 9-32-2) (Prior Code, ' 2.0103)

' 150.004 SAVING CLAUSE.

(A) Nothing in this chapter or in the Code hereby adopted shall be construed to affect any suit or proceeding now pending in any court, or any rights acquired, or liability incurred, nor any cause or causes of action accrued or existing, under any act or ordinances repealed hereby.

(B) Nor shall any right or remedy of any character be lost, impaired, or affected by this subchapter. (Prior Code, ' 2.0104)

' 150.005 AMENDMENTS MADE IN SAID CODE.

The said code is amended and changed in the following respects.

(A) Section 13.4 Moving Buildings. No building or structure prohibited by Section 13.2 shall be moved from without to within the fire limits or from one lot to another within the fire limits except as the same complies with one of the exceptions set out in 13.6 of this code.

(B) Section 9 Penalties, 9.1 Noncompliance. A person who shall violate a provision of this code or fails to comply therewith or with any of the requirements thereof, or who shall erect, construct, add to or, alter, move, or demolished, or has erected, constructed, added to or altered, moved, or demolished a building or structure or portion thereof, in violation of a detailed statement or plan submitted and approved thereunder, or of a permit or certificate issued thereunder, shall be guilty of a misdemeanor; also the owner of a building or structure, or portion thereof, the premises where anything in violation of this code shall be placed or shall exist, and an architect, engineer, builder, contractor, agent, or corporation employed in connection therewith and who assisted in the commission of such violation. Each such person shall be deemed guilty of a separate offense for each and every day or portion thereof during which any violation of any provision of this code is committed or continued and upon conviction of such violation each such person shall be punished as prescribed by ' 10.99. (Prior Code, ' 2.0106)

BUILDING INSPECTOR**' 150.020 ESTABLISHMENT OF DEPARTMENT OF BUILDING INSPECTION.**

There is established a Department of Building Inspection in and for the city. (SDCL 9-33-10) (Prior Code, ' 2.0201)

' 150.021 APPOINTMENT OF BUILDING INSPECTOR.

The Mayor shall have power, with the approval of the City Council, to appoint an officer as the head of the Department of Building Inspection, and to be known as the Building Inspector.
(Prior Code, ' 2.0202)

' 150.022 WORK OF DEPARTMENT.

All buildings constructed, repaired, or removed within the limits of the city shall be under the supervision and control of the Building Inspector aforesaid, and shall be subject to all the provisions of the ordinances of the city.
(Prior Code, ' 2.0203)

' 150.023 DUTIES OF BUILDING INSPECTOR.

(A) It shall be the duty of the Building Inspector to examine, or cause to be examined, all theaters, grand stands, elevators, public structures, store buildings, office buildings, and other buildings open and accessible to the public as often as it=s required to ensure their safety and proper maintenance. It shall be the duty of the Building Inspector to examine, or cause to be examined, all buildings reported dangerous, or damaged by fire or accident; and whenever any wall or other part of a building is found to be unsafe, or when any building or part thereof shall become unsafe for the purpose for which it was intended or used, the Building Inspector shall notify the owner or occupant or person in charge or control of such building, in writing, specifying wherein the danger exists and ordering such changes or repairs in the building or parts thereof, as are necessary to make them safe, or any certain machinery, material, or staging removed, taken down, repaired, or altered as the Building Inspector shall require; the owner, agent, occupant, or person in charge or control of the same, so notified by the Building Inspector, shall forthwith put such wall, building, machinery, material, or staging in a safe condition or take down or remove the same.

(B) Whenever the Building Inspector has knowledge of any unsafe building, structure, or part thereof, the condition being such as to endanger the public or the occupants of such building or structures, it shall be his or her duty to affix a notice warning the public of the dangerous character of such building or structure in a conspicuous place on the exterior thereof. The Building Inspector shall also enforce all provisions of the city code concerning the Building Code; Electrical Code; Fire Code; property maintenance; Health Code; Plumbing Code; public ways, places, and improvements; trees and zoning.
(SDCL 9-33-10) (Prior Code, ' 2.0204) (Ord. 2013-6, passed 6-3-2013)

' 150.024 APPLICATION FOR PERMIT.

Any person, persons, firm, or corporation desiring to construct, erect, repair, or remove any building within the corporate limits of the city shall make application for a permit therefor to the

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Department of Building Inspection, which application shall state the name of the building and shall further state the following facts:

(A) First, in cases where the building is proposed to be constructed, said application shall state the name of the architect, if any, the name of the contractor or builder, the street and number of the proposed location, the lot or part of lot and block, with the addition upon which the building is proposed to be located, the contract price and estimated cost of the building, the dimensions of the building, giving its front, depth, height, and number of stories, the material of which it is proposed to be constructed, the manner of construction, the use of which said building is to be devoted, and the time of the probable completion;

(B) Second, in case of proposed repairs upon the building, the application shall state the present location of the building, giving the street, lot or part of lot, and block, and the addition, and description of the building, giving front, depth, height, number of stories, material built of, and purpose for which used, together with the value of the building to be repaired, and a specific description of the contemplated repairs and improvements, giving the cost of such repairs and improvements; and

(C) Third, in case of removal of the building, such application shall state the street, lot, or part of lot and block and addition of the present location, number of stories, width and depth of the building, and shall also state the proposed location of the building after being moved, giving the street, lot or part of lot, and block with the addition or subdivision, which application shall be described and sworn to by the owner and contractor, or builder, and shall be filed in the Department of Building Inspection, together with such other information as may be required by the Building Inspector.

(SDCL 9-33-6) (Prior Code, ' 2.0205)

' 150.025 DEPARTMENT OF BUILDING INSPECTION AND BUILDING INSPECTOR.

(A) The Inspector or Code Enforcement Officer shall examine all applications for permits, and in case the application conforms to the forms of this subchapter and such building or improvements of any building not situated within the fire limits of said city, and for new buildings, inside the fire limits shall be deemed to be safe and advisable in the public interests, the Department of Building Inspection and Building Inspector shall grant such permit. But in case of buildings within the fire limits which are to be altered or repaired, the Department of Building Inspection and Building Inspector shall receive the application and refer it to the City Council, at the next meeting for its approval, and when approved by the City Council, the Department of Building Inspection and Building Inspector shall issue the permit.

(B) Before granting any such permit the Building Inspector or Code Enforcement Officer shall collect from the applicant a fee for improvements or new structure as follows.

From zero to \$1,000	\$30
From \$1,001 to \$5,000	\$75

From \$5,001 to \$10,000	\$150
From \$10,001 to \$25,000	\$187.50
From \$25,001 to \$50,000	\$250
From \$50,001 to \$100,000	\$500
From \$100,001 to \$300,000	\$750
From \$300,001 to \$500,000	\$1,250
From \$500,001 and up	(0.25% of the project)

(SDCL 9-33-10) (Prior Code, ' 2.0206) (Ord. 2017-3B, passed 2-5-2018)

' 150.026 FORM OF PERMIT.

The permit granted by the Building Inspector or Code Enforcement Officer shall be in triplicate, one copy of which shall be delivered to the owner and one copy of which shall be retained in the Finance Office, and one copy to the County Assessor and attached to such permit shall be an agreement to be signed by the owner, specifying that in consideration of the issue of delivery to such owner of such permit, that said owner will do the proposed work in accordance with the specifications set forth in the application for permit and under directions of the Building Inspector or Code Enforcement Officer, and will in all things comply with the terms of this subchapter and amendments thereto and all other ordinances enforced in said city relating to this subject

(Prior Code, ' 2.0207)

' 150.027 HOW CONSTRUCTED.

Any building constructed, altered, or repaired within the fire limits of said city, as specified in ' 150.003, shall be erected and constructed in accordance with the terms or provisions of " 150.020 to 150.031, and in case any building is permitted to be erected, altered, or repaired within said fire limits, the Building Inspector or Code Enforcement Officer shall have supervision thereof and shall have authority and power in case such building, alteration, or repairs shall not comply with the provisions of said chapter, to require the work thereon immediately to cease by service of written notice signed by said Building Inspector or Code Enforcement Officer.

(SDCL 9-33-2) (Prior Code, ' 2.0208)

' 150.028 MOVING BUILDINGS.

Any person, persons, firms, or corporation moving any building within the city shall, before moving or removal, comply with the provisions of " 150.045 to 150.048 and such permit shall conform to the requirements of this chapter.

(Prior Code, ' 2.0209)

' 150.029 MONEY RECEIVED BY FINANCE OFFICER.

The City Finance Officer is hereby required to keep an account to be known as Athe account of the Department of Building Inspection@, and all sums paid for permits shall be paid into the city treasury and credited to this account, and shall be paid out only upon warrants signed by the Mayor and the Finance Officer, duly approved and allowed by the City Council.
(Prior Code, ' 2.0210)

' 150.030 SALARY.

The salary of the Building Inspector shall be such sum as provided by the City Council to be paid as provided for the payment of salaries of other appointive officers.
(SDCL 9-14-3) (Prior Code, ' 2.0211)

' 150.031 OATH OF OFFICE AND BOND OF INSPECTOR.

The Building Inspector, before entering upon the duties of his or her office, shall file his or her oath of office with the Finance Officer, together with his or her bond to be approved by the City Council in the sum set by resolution of the City Council, conditioned for the faithful discharge of duties of his or her office.
(Prior Code, ' 2.0212)

' 150.032 DANGEROUS BUILDINGS.

The document marked AUniform Code for the Abatement of Dangerous Buildings, 1997 Edition@ is hereby adopted as the Code for the Abatement of Dangerous Buildings for the city and may be cited as such.
(Prior Code, ' 2.0301) (Ord. 2006-4, passed 10-2-2006)

MOVING BUILDINGS ON STREETS**' 150.045 PERMISSION.**

It shall be unlawful for any person, firm, or corporation to move any building greater than eight feet in width or greater than ten feet in length into, along, or across any public street, alley, or highway within the city, without first having obtained permission to do so from the City Council.
(Prior Code, ' 10.0501) Penalty, see ' 150.999

' 150.046 APPLICATION.

Any person, firm, or corporation desiring to move any building into, along, or across any public street, alley, or highway must submit application to do so from City Council, by fully stating the name of the applicant, the name of the owner of the building, the description of the lot or place on which such building is standing and the lot or place to which it is to be moved, the street along which it is proposed to move such building, the time such removal will take place, and the size of the building.
(Prior Code, ' 10.0502)

' 150.047 PERMIT.

On the receipt of the application, the City Council, if satisfied in all respects that it will be proper to issue such permit, shall give permission to the applicant to so move such building into, along, or across the streets, highways, or alleys so designated.
(Prior Code, ' 10.0503)

' 150.048 APPLICANT MUST SERVE NOTICE TO OWNERS OF WIRES AND THE LIKE.

If the permit includes streets, alleys, or highways on which are located or across or along which are strung electric light or telephone wires, it shall be the duty of such applicant to notify the resident manager or managing agent or officer of such public service corporation or owner of such line of wires, at least 24 hours before the commencement of such work, of his or her intent to so move such building under or across such line or wire and of the approximate time for such crossing of line or wire by such building. Any person, firm, or corporation so moving any building upon any of the streets, alleys, and highways of said city shall be liable for any damages or for any expense occasioned to anyone on account of the moving of said building.
(Prior Code, ' 10.0504)

NUMBERING OF BUILDINGS

' 150.060 NUMBERING OF BUILDINGS.

Buildings on the east and south sides of any street or avenue shall be evenly numbered and those on the west and north sides are hereby given odd numbers, for as far as said avenues or streets may be extended.
(Prior Code, ' 10.0601)

' 150.061 NUMBERING EAST AND WEST STREETS.

On all streets and avenues running east and west, the numbering shall begin at Main. East of this division line the names of all east and west streets shall be succeeded by the word east, and those west of Main shall be succeeded by the word west. The numbering shall be increased at the rate of 100 for each block east or west. For example, the numbering between Main and First Avenue shall be below 100 and those numbers between First Avenue and Second Avenue shall be in the 100=s.

(Prior Code, ' 10.0602)

' 150.062 NUMBERING NORTH AND SOUTH STREETS.

On all streets and avenues running north and south, the numbering shall begin at the Milwaukee Railroad. The designation of avenue shall succeed the number to indicate avenues west or avenues east on Main. The numbering shall increase at the rate of 100 for each block south. For example, the numbering between First Street and Second Street shall be in the 100=s; and those between Second Street and Third Street shall be in the 200=s.

(Prior Code, ' 10.0603)

' 150.063 DUTY OF OWNER TO PROPERLY NUMBER BUILDINGS.

It shall be the legal duty of the owner or agent having control of any house or building to have said house or building neatly, clearly, and properly numbered, so as to be clearly visible from the street, as provided for in this subchapter. The correct number is to be obtained from the Finance Officer=s office. In case any house or building is incorrectly numbered, the Finance Officer may order the owner or agent thereof to correctly number the same and it shall be unlawful for such owner or agent to refuse to comply with such order.

(Prior Code, ' 10.0604)

INTERNATIONAL PROPERTY MAINTENANCE CODES**' 150.090 ADOPTION OF CODE.**

(A) A certain document, one copy of which is on file in the City Finance Office, being marked and designated as the Amended Lemmon International Property Maintenance Code, 2012 edition, as published by the International Code Council, be and is hereby adopted as the Property Maintenance Code of the city, for regulating and governing the conditions and maintenance of all property, essential to ensure that structures are safe, sanitary, and fit for occupation and use; and the condemnation of buildings and structures unfit for human occupancy and use, and the demolition of such structures as herein provided; providing for the issuance of permits and collection of fees therefor; and each and all of the regulations, provisions, penalties, conditions, and terms of said Property Maintenance Code on

file in the office of the city are hereby referred to, adopted, and made a part hereof, as if fully set out in this legislation.

(B) The following sections are hereby revised:

(1) Section 101.1. Insert: City of Lemmon; and

(2) Section 112.4. Insert: Section 1.07.

(Ord. 2013-2, passed 6-3-2013)

' 150.999 PENALTY.

Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to ' 10.99 of this code of ordinances.

CHAPTER 151: PLUMBING CODE

Section

General Provisions

- 151.01 Adoption of National Plumbing Code
- 151.02 Adoption of the State Plumbing Code

Plumbing Regulations

- 151.15 Dimension of pipes at roof
- 151.16 Soil pipes
- 151.17 Drainage
- 151.18 Sewer connections
- 151.19 Pipe line receiving from water closet
- 151.20 Size of waste pipe
- 151.21 Pipes
- 151.22 Traps and drains
- 151.23 Size of vent
- 151.24 Grease traps
- 151.25 Drip
- 151.26 Waste and trap sizes
- 151.27 Closets
- 151.28 Plan or plug closets
- 151.29 Enclosing bath tubs
- 151.30 Urinals
- 151.31 Traps for floor washers
- 151.32 Traps generally
- 151.33 Rain water
- 151.34 Condensed water
- 151.35 Fixture definition
- 151.36 Old fixtures
- 151.37 Inspection; defects
- 151.38 Licensed plumbers
- 151.39 Right-of-way specifications

- 151.99 Penalty

Statutory reference:

Related provisions, see SDCL 9-32-9 and 9-34-12

16Lemmon - Land Usage

GENERAL PROVISIONS

' 151.01 ADOPTION OF NATIONAL PLUMBING CODE.

There is hereby adopted by the city as the minimum requirement for plumbing within the corporate limits of the city, the National Plumbing Code currently in effect. The invalidity of any section or provision of the National Plumbing Code shall not invalidate any other section or provision thereof.
(Prior Code, ' 9.0107)

' 151.02 ADOPTION OF THE STATE PLUMBING CODE.

There is hereby adopted by the city as the minimum requirement for plumbing within the corporate limits of the city, the State Plumbing Code published by the State Plumbing Board.
(Prior Code, ' 9.0108) (Ord. 360, passed 7-15-1974)

PLUMBING REGULATIONS

' 151.15 DIMENSION OF PIPES AT ROOF.

All main soil pipes or waste pipes shall be carried full size within a foot of roof and then increase one size to ten inches above the roof, except in case of roofs used for drying purposes; in all such cases they shall extend seven feet above roof, and be suitably braced. When within 25 feet of any opening in the same or in adjoining building, such main soil or waste pipe shall be carried up undiminished in size, by not less than four inches in diameter, two feet above such openings, unless such pipe is provided with running trap and fresh air inlet. There shall be no cowl, ventilators, or return bends put on the end of pipes above roof.
(Prior Code, ' 9.0207)

' 151.16 SOIL PIPES.

All side soil or waste pipes extending 15 feet or more from main line must extend through roof or re-vent into a main soil pipe.
(Prior Code, ' 9.0208)

' 151.17 DRAINAGE.

The drainage of all buildings, public or private, and the alterations of the same, shall be executed in accordance with the laws and rules of this subchapter.

(Prior Code, ' 9.0210)

' 151.18 SEWER CONNECTIONS.

The main drain of every house or building shall be separately and independently connected with the sewer where the sewer is in front of said building. When it is desired to connect two or more buildings with one branch sewer, the person desiring to do so shall first obtain permission from the Building Inspector or City Council. Such applicant shall file a plan of such sewer with the City Council who shall submit the same to the City Engineer for consideration in connection with application. After drawings have been furnished as herein provided, no change in the plans shall be made without the permission of the Building Inspector. Also an easement shall be taken out and filed by the applicant with the Building Inspector when crossing private property.

(Prior Code, ' 9.0211)

' 151.19 PIPE LINE RECEIVING FROM WATER CLOSET.

When 15 or more water closets discharge into a line of soil pipes, such soil pipe shall not be less than six inches in diameter; in all cases, the soil pipe receiving the discharge from the water closet shall not be less than four inches in diameter.

(Prior Code, ' 9.0212)

' 151.20 SIZE OF WASTE PIPE.

Waste pipe receiving the discharge from eight fixtures shall not be less than three inches in diameter, those receiving the discharge from three to seven fixtures shall not be less than two inches in diameter, and those receiving the discharge from less than three fixtures shall not be less than one and one-half inches in diameter, except in cases of wash basins and pantry sinks. Two wash basins or pantry sinks may be connected to a one and one-fourth inch waste pipe; three wash basins may be connected to a one and one-half inch waste pipe. The main vertical waste pipe must be increased one size in diameter for every additional 20 basins; iron pipe shall not be used for waste pipes unless it is well galvanized.

(Prior Code, ' 9.0213)

' 151.21 PIPES.

(A) All soil, ventilation, or drain pipes and fittings from a point three feet outside of cellar or foundation wall shall be of extra heavy cast iron soil pipe. The main soil pipe shall not be less than four inches in diameter, and shall have a four-inch AT@ left at front wall, or where it passes out through the

foundation wall, for the purpose of applying the smoke test to the system; if the owner so desires, same shall be used for cleanout. At the foot of bottom of every vertical line of soil pipes there shall be provided a AY@ and one-eighth bend with a brass cleanout plug at end of AY@ and every line of soil pipe shall be securely fastened in place by means of a pipe resting on the first floor and a pipe rest for every floor. Said soil pipe shall also be properly hooked in position and put up in a good workmanlike manner.

(B) All changes in direction must be made by means of a AY@ branch or one-eighth or one-sixteenth bend. Sanitary AT=s@ may be used where a branch for a closet is left in a vertical stack of soil pipe. One-fourth iron bends may be used in cellars or basements where it is necessary to connect under a water closet. Also, at the end of each horizontal line and each junction, there shall be a cleanout connection the same diameter as of the pipe into which it is inserted. Said cleanout connection must be so connected as to be exposed to plain view and shall not be in any way confined. No double hub fitting will be allowed to be used below the waste line of fixtures.

(Prior Code, ' 9.0214)

' 151.22 TRAPS AND DRAINS.

In all cases where no continuous vent is used, every trap shall be ventilated not more than four inches from the water line by special air pipes (except traps in water bowls set within 30 inches of the main stack, floor trap for floor drains, four by eight drum traps, the waste of which does not exceed five feet in length from trap to its connection with a continuous or revert, and four by eight traps the waste of which opens into an open fixture, trapped basin, or floor drain where such waste pipes have fresh air passage between the ends of such waste pipes and the fixture or basin receiving such waste). All vent pipes shall be galvanized wrought iron pipes, cast iron, brass, or lead pipes. All cast iron pipes must be coated with coal tar pitch as specified in this subchapter and free from all defects. No vent pipes shall be laid with a grade of less than one-fourth inch to the running foot. Vent pipes, before connecting with AY@ to other vent pipes, must be carried up on foot above the highest water line of fixtures, so that the vent pipes cannot act as a waste pipe. No rubber coupling shall be used to connect vent pipes, nor shall soldering unions, slip joints or joints made with soldering iron be used to connect waste or vent pipes. No black iron pipes shall be allowed below the water line of plumbing fixtures, but such vent pipe must be lead pipe from trap to above water line of fixture vented.

(Prior Code, ' 9.0215)

' 151.23 SIZE OF VENT.

(A) The size of vent pipes shall not be less than that of the traps they serve, except as provided in this section. A two-inch pipe, not to exceed 25 feet in length, may be used to ventilate the trap of an ordinary set of house fixtures, to-wit: one wash basin, one bath-tub, one sink, and one set of wash tubs. In hotels, factories, and other buildings where there are groups of slop sinks, traps may be ventilated into a two-inch pipe, and the vertical vent pipe must be increased one-half inch for each six succeeding slop sinks or fraction thereof until it becomes as large as the main soil pipe.

(B) In case of bath tubs, sinks, wash traps, and wash basins, the vent pipes from traps may be combined as stated before: one foot above water line and in the following proportions:

- (1) Three two-inch traps vented into two-inch pipe not to exceed 35 feet long;
- (2) Two one and one-half inch traps vented into one and one-half inch pipe not to exceed 35 feet long. Six one and one-half inch traps vented into two-inch pipe not to exceed 35 feet long;
- (3) Two one and one-fourth inch pipes vented into one and one-fourth inch pipe not to exceed 35 feet long. Three one and one-fourth inch traps vented into one and one-half inch pipe not to exceed 35 feet long. And not more than ten one and one-fourth inch traps may be vented into two-inch pipes;
- (4) Water closets more than 15 feet from main stack shall be vented into a pipe not less than two inches in diameter;
- (5) Every sink, basin, bath, water closet, urinal, and each set of wash tubs, or other fixtures, shall be separately and effectively trapped. The trap shall be set as near as practicable to the fixture it serves. No fixtures shall be set unless supplied with sufficient water to properly flush it;
- (6) Grease traps inside of buildings shall be made of lead, cast iron, or brass, having an air-tight screw cover, of at least four inches in diameter, and the discharge from and fixture must not pass through more than one trap, except that such discharge from one or more separately trapped fixtures may pass through running traps, if any, in main soil pipe; and
- (7) In bath rooms there must be placed on 4 X 2 sanitary AT@ or AY@ to connect bathtub, basins, or sinks, each waste pipe or fixture shall run separately to the two-inch inlet. No waste pipe to connect the closet bend. All waste pipes from fixtures, except water closets, where they connect with the soil or waste pipe, said connection should not be smaller than two inches.
(Prior Code, ' 9.0216)

' 151.24 GREASE TRAPS.

In all cases where a building is used as a hotel, tenement, boarding house, or restaurant, the owner or occupant shall provide properly constructed grease traps through which all slop or greasy nature shall pass, and the Building Inspector shall have authority, and is hereby authorized to direct and compel any person, firm, or corporation to provide and use a grease trap as aforesaid, when, in his or her judgement, the same is necessary.

(Prior Code, ' 9.0218)

' 151.25 DRIP.

All drip or overflow pipes from under plumbing fixtures or tanks shall run to the cellar or discharge outside of building or at some conspicuous point and in no case shall such pipe connect with any soil, waste, or vent pipe.

(Prior Code, ' 9.0219)

' 151.26 WASTE AND TRAP SIZES.

Traps and branch waste pipes shall not be less than the following sizes:

(A) For one basin or pantry sink: one and one-fourth inches;

(B) For slop: two inches;

(C) For kitchen sink: one and one-half inches;

(D) For bathtub: one and one-half inch waste pipe, with four by eight-inch drum, trap to have four-inch cleanout screw above floor, or a one and one-half inch brass trap may be used, if set above floor and ventilated;

(E) For urinals: one and one-half inches;

(F) For laundry tubs: one and one-half inches; and

(G) For water closets, four inches.

(Prior Code, ' 9.0220)

' 151.27 CLOSETS.

Every water closet shall be supplied from a separate tank or cistern, except closets in outhouses, and shall be so arranged as to deliver at least four gallons of water at each flushing and shall have a flush pipe of not less than one and one-fourth inches in diameter. Cistern valves shall be fitted and adjusted so as to prevent waste of water.

(Prior Code, ' 9.0222)

' 151.28 PLAN OR PLUG CLOSETS.

Plan or plug closets and dry closets in inhabited dwellings, or any closets having any mechanism in connection with the bowl forming a mechanical seal, are prohibited. Water closets must never be placed in an unventilated room but must be open to the outer air by means of a window or airshaft, and

in no case shall air duct which serves water closets open into living or sleeping rooms. Water closets having traps set beneath the floor will only be permitted in outhouses.

(Prior Code, ' 9.0223) Penalty, see ' 151.99

' 151.29 ENCLOSING BATH TUBS.

Enclosing water closets, bath tubs, or sinks with wooden casings will not be permitted.

(Prior Code, ' 9.0225) Penalty, see ' 151.99

' 151.30 URINALS.

When urinals are placed in any public buildings, the floors, sides, and partitions must be covered with either marble, slate, extra heavy glass, or heavy sheet lead (not less than four pounds to the square foot, with tightly soldered seams, or cast iron enameled). Floor drain shall have trap at least two inches in diameter. Traps to be supplied with water drip, and no galvanized sheet iron or other sheet metal through urinal will be permitted in any building, public or private.

(Prior Code, ' 9.0226)

' 151.31 TRAPS FOR FLOOR WASHERS.

Floor washers must be connected to drainage pipes by means of a deep seal trap, having a heavy strainer and a backwater valve.

(Prior Code, ' 9.0228)

' 151.32 TRAPS GENERALLY.

(A) All traps must be placed as near the fixture as practicable. When a trap of any fixture except closets is set more than two feet six inches from the vertical line of pipe, a return connection from crown of trap or continuous waste must in all cases be provided. All connections between lead and iron pipes shall be made with a brass ferrule, and the ferrule shall be connected to lead pipe by means of a wiped solder joint. All four-inch bends shall be combination lead bends.

(B) There shall be cleanouts put in the sewer at each horizontal line, and at the foot of each vertical line of soil or waste pipe, and at the place where sewer enter exterior basement wall. All cleanouts shall be closed by brass covers, and shall be kept accessible when sewers are laid beneath the floor. Manholes must be constructed to give access to cleanout, or cleanouts be brought to the surface of the floor by an extension of pipe with AY@ branch and one-eighth bend.

(Prior Code, ' 9.0229)

' 151.33 RAIN WATER.

Rainwater leaders shall never be used as soil or waste or vent pipes, nor shall soil or waste or vent pipes be used as rainwater leaders.

(Prior Code, ' 9.0230)

' 151.34 CONDENSED WATER.

Condensed water for making connections with sewer for condensed water, a sanitary AT@ shall be provided, if within any building.

(Prior Code, ' 9.0232)

' 151.35 FIXTURE DEFINITION.

The word *FIXTURE*, as used in this chapter, shall be construed as meaning water closets, urinals, bathtubs, kitchen tubs, lavatory, and wash and shower baths when not placed over bathtubs.

(Prior Code, ' 9.0233)

' 151.36 OLD FIXTURES.

In the reconstruction, alteration, or repair of plumbing or house drainage systems, any and all old plumbing fixtures that are not removed from the wall or position may be connected with new traps, waste, and soil.

(Prior Code, ' 9.0234)

' 151.37 INSPECTION; DEFECTS.

Any person, firm, or corporation doing plumbing business in the city shall, when work has been prepared for inspection, as provided for in this chapter, notify the Building Inspector or City Superintendent that inspection be ready for inspection. If the Building Inspector or City Superintendent finds the work not in accordance with the provisions of this chapter, the plumber doing the work and also the owner of the premises shall be notified by Building Inspector or City Superintendent by posting written notices upon the premises, and such posted notices shall be all the notice required to be given to the defects in the work found upon such inspection.

(Prior Code, ' 9.0235)

' 151.38 LICENSED PLUMBERS.

All plumbers shall be licensed by the State of South Dakota and shall be held responsible for the acts of their agents or employees done under and by virtue of his, her, or their license. Any defective work

must be changed to conform to the requirements of this subchapter and if, on due notice from the Building Inspector, such changes are not made, the Building Inspector shall proceed to have them made and shall recover the costs thereof from the delinquent plumber or his or her bonds person.

(Prior Code, ' 9.0236)

' 151.39 RIGHT-OF-WAY SPECIFICATIONS.

The specifications of materials and dimensions in the various sections of this chapter refer only to plumbing installations on private property. Those portions of a sewer or water connection which lie within the city=s right-of-way must conform to the specifications contained in the sewer regulations (Chapter 52) and the water regulations (Chapter 51).

(Prior Code, ' 9.0238) (Ord. 423, passed 3-8-1983)

' 151.99 PENALTY.

Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to ' 10.99 of this code of ordinances.

CHAPTER 152: ELECTRICAL CODE

Section

- 152.01 Inspector
- 152.02 Inspection
- 152.03 National Electrical Code
- 152.04 Conduit wiring
- 152.05 Connection with current
- 152.06 May disconnect current

- 152.99 Penalty

' 152.01 INSPECTOR.

The Building Inspector, or such other person as shall be appointed by the City Council, shall be Electric Wiring Inspector of said city.
(Prior Code, ' 4.0101)

' 152.02 INSPECTION.

It shall be unlawful for any persons, firm, or corporation to lay, construct, or cause to be laid, constructed, installed, or done, any electric wiring or apparatus without inspection by the Electric Wiring Inspector.
(Prior Code, ' 4.0102) Penalty, see ' 152.99

' 152.03 NATIONAL ELECTRICAL CODE.

There is hereby adopted by the city for the purpose of establishing rules and regulations for construction, installation, alteration, removal, or any work to be done as to electrical wiring or apparatus, that certain electrical code then currently in effect known as the National Electrical Code recommended by the National Fire Protection Association and the whole thereof, save and except such portions as are hereinafter deleted, modified, or amended, have been and now are filed in the office of

the City Finance Officer, and the same are hereby adopted and incorporated as fully as if set out at length herein and from the date of which this chapter shall take effect, the provisions thereof shall be controlling concerning the said subject matter.

(Prior Code, ' 4.0103)

' 152.04 CONDUIT WIRING.

All electric wiring hereafter installed in the fire limits of the city shall be conduit-armored cable, electrical metallic tubing, or metal raceways. All auto and tractor repair shops, oil stations, and gasoline service stations and places of similar hazards shall be wired in conduit.

(Prior Code, ' 4.0104)

' 152.05 CONNECTION WITH CURRENT.

It shall be unlawful for any person, firm, or corporation to connect or cause to be connected any newly constructed or installed electric wiring or apparatus in the city with an electric current or any electric wiring or apparatus heretofore installed or constructed with any electric current which shall not have been first inspected by such Electric Wiring Inspector and having first obtained a certificate of approval from him or her as provided for in this chapter.

(Prior Code, ' 4.0105) Penalty, see ' 152.99

' 152.06 MAY DISCONNECT CURRENT.

The Inspector appointed as herein provided shall have power at any time, in his or her discretion, to sever and disconnect the current from any premises or building when, in his or her opinion, the wiring and apparatus therein have become unsafe and insecure and the connection shall not again be made until the wiring and apparatus is approved by such Inspector.

(Prior Code, ' 4.0106)

' 152.99 PENALTY.

Any person, firm, or corporation violating any of the provisions of this chapter and/or of the National Electrical Code hereby adopted shall be punished in the same manner and to the same extent as provided by the general penalty set out as ' 10.99.

(Prior Code, ' 4.0108)

CHAPTER 153: STREET AND SIDEWALK CONSTRUCTION

Section

Grades of Streets and the Like

- 153.01 Street grades
- 153.02 Width and material of sidewalks
- 153.03 Curb and gutter elevations

Construction of Sidewalks

- 153.15 Construction of sidewalks
- 153.16 Inspection of sidewalks
- 153.17 Handicap accessible

Excavations in Streets

- 153.30 Permit required
- 153.31 Application and deposit
- 153.32 Cutting street surface
- 153.33 Refilling excavations
- 153.34 Excavation guarded

- 153.99 Penalty

Statutory reference:

Related provisions, see SDCL 9-30 and 9-46

GRADES OF STREETS AND THE LIKE

' 153.01 STREET GRADES.

The grade for the streets on the west and south sides of Block 20, Lemmon=s Original, as designed and profiled by the City Engineer, as filed June 6, 1949 with the City Finance Officer, be established as the official grade therefor. The grades of the streets, gutters, curbs, and sidewalks of the city shall

be such as may have been adopted and on file in the office of the City Finance Officer and such as may be hereafter adopted.

(SDCL 9-45) (Prior Code, ' 10.0101)

' 153.02 WIDTH AND MATERIAL OF SIDEWALKS.

All sidewalks hereafter constructed within the corporate limits of the city shall be of the following uniform width, and all of said sidewalks shall be constructed of cement and shall be known as soft walk with rough finish according to the specifications on file in the office of the City Finance Officer. All walks on Main Street, north of Blocks 23 and 24 in the city, shall be of the width of 12 feet and all sidewalks on any other street extending one block from Main Street shall be of the width of ten feet, and all other walks shall be of the width of five feet. The width of the sidewalks on any streets may be changed by the City Council upon proper application being made.

(SDCL 9-46) (Prior Code, ' 10.0102)

' 153.03 CURB AND GUTTER ELEVATIONS.

Prior to installation of any curb and gutter within the city, the City Engineer shall be consulted to determine the appropriate positioning and elevations for drainage purposes, the approval of plans and specifications, and scheduling of City Engineer inspections to guarantee conformity. All expenses for topographical survey, planning, and inspections shall be the responsibility of and borne by the construction company, contractor, or the property owner directing the project.

(Prior Code, ' 10.0103) (Ord. 568, passed 7-1-2002)

CONSTRUCTION OF SIDEWALKS

' 153.15 CONSTRUCTION OF SIDEWALKS.

All sidewalks constructed shall be laid and constructed on the grade as established and approved by the City Council and on file in the office of the Finance Officer.

(Prior Code, ' 10.0201)

' 153.16 INSPECTION OF SIDEWALKS.

All cement sidewalks hereafter constructed upon the streets and avenues of this city, whether constructed by the city or the owners of abutting property, shall be constructed in accordance with the specifications hereinafter prescribed for the construction of such walks, and shall be under the inspection of the Building Inspector.

(Prior Code, ' 10.0202)

' 153.17 HANDICAP ACCESSIBLE.

Construction of new sidewalks or replacement of sidewalks or portions thereof at street corners for commercial property shall be designed to be handicap accessible, complete with curb cuts, ramps, and barrier free, pursuant to Americans with Disabilities Act of 1990 (ADA), being 42 U.S.C. " 12101 et seq. and acts amendatory thereto.

(Prior Code, ' 10.0203) (Ord. 558, passed 6-4-2001)

EXCAVATIONS IN STREETS

' 153.30 PERMIT REQUIRED.

No person shall make or cause to be made any excavation in or under any street, parking, sidewalks, alley, or public ground or remove any earth, soil, paving, gravel, or other material therefrom without first having obtained permission from the Building Inspector or City Superintendent.

(Prior Code, ' 10.0401) Penalty, see ' 153.99

' 153.31 APPLICATION AND DEPOSIT.

Application for such permit shall be made to the Building Inspector, who shall secure the approval of the City Superintendent before issuing such permit. The application shall be accompanied by the deposit hereinafter set out in ' 153.32.

(Prior Code, ' 10.0402)

' 153.32 CUTTING STREET SURFACE.

Where it is necessary to cut the street surface in making any street excavation, there shall be a fee in the amount of \$250 to be given to the Finance Officer before the permit is issued. The fee shall be deposited in the permanent Street Fund and be used by the Department of Streets in replacing said street surfaces. The removal of the street surface shall be under the supervision of the Street Department who will replace and repair the pavement after the underground installation or repair work has been made and the re-fill properly made.

(Prior Code, ' 10.0403) (Ord. 2011-2, passed 8-1-2011)

' 153.33 REFILLING EXCAVATIONS.

Any person making such excavation shall, when the same has been completed, promptly and without delay, re-fill the same as herein provided. In re-filling any excavation, the earth shall be thoroughly settled and compacted as the filling progresses by flushing with water or, if water is not available, the

earth shall be thoroughly tamped in successive layers of not to exceed six inches per layer, in such a manner so as to restore the surface of the street, alley, or public place to its original condition. Any rubbish or surplus dirt must be removed from the site. In cases where excavations are made in paved streets or alleys, the earth shall be replaced in the manner above specified and the pavement shall be replaced by the Street Department.

(Prior Code, ' 10.0404)

' 153.34 EXCAVATION GUARDED.

Before commencing work thereon, the site where such excavation is to be made shall be properly guarded, and such guard shall be kept and maintained in such position until the excavation is completed and the ground leveled. Should such excavations remain uncompleted at any time during the night, suitable barriers and signals of warning shall be placed at all sides of approach in such manner as to warn travelers of the location of danger.

(Prior Code, ' 10.0405)

' 153.99 PENALTY.

Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to ' 10.99 of this code of ordinances.

CHAPTER 154: ZONING

Section

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Appendix A: Zoning map

GENERAL PROVISIONS

' 154.01 DEFINITIONS.

(A) *General rules for application of the chapter=s language.* Where the language in this chapter is ambiguous or unclear, the Planning and Zoning Board may issue a statement of clarification, which must be reviewed and approved by the Lemmon City Council. Or, an amendment to this chapter may be initiated following the procedures herein.

(B) *Tenses and usage.* Words used in the singular include the plural, and words used in the plural include the singular. Words used in the present tense include the future tense, and words used in the future tense include the present tense. The words *Amust@*, *Ashall@*, and *Awill@* are mandatory. The word *Amay@* is permissive. The word *Aprohibited@* generally means something is not legally allowed and specifically means that a variance or conditional use review cannot be requested in order to allow an exception to the regulation. This does not preclude requests for chapter amendments.

(C) *Lists.* Lists of items that state *Asuch as@* or similar language are not limited to just those items. The lists are intended to provide examples, but not to be exhaustive of all possibilities. Conversely, lists without *Asuch as@* or similar language are limited to just those items.

(D) *Defining words and phrases.* For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ABUT. Also ***ADJOIN.*** For two or more geographic areas, objects, etc. to share any portion of a boundary including even a single point.

ACCESSORY USE. A use or activity that is a subordinate part of a permitted primary use and that is clearly incidental to that permitted primary land use on a site. For example, a storage shed would be an accessory use in any zoning district, or a parking lot would be an accessory use to a store located in the Commercial Zoning District.

ACCESSORY STRUCTURE. A structure in which an accessory use is conducted or that is used for an accessory use. For example, a garage or shed are common accessory structures to a single-family residence.

ADJACENT. See ***ABUT.*** Also, in the case of lots or properties, two or more lots or properties are considered adjacent to each other if separated by public right-of-way.

ADJOIN. See ***ABUT.***

ADMINISTRATIVE OFFICER. The official, officer, staff person, employee, or agent of the city who is officially authorized by the city to oversee administration of this chapter.

ADULT-ORIENTED BUSINESS. An adult live entertainment establishment, adults-only bookstore, adult novelty store, adult video store, or adults-only motion picture theater where the inventory, merchandise, or performances are characterized by a preponderance of nudity, sexual conduct, sadomasochism, and/or sexual excitement.

ALLEY. A minor right-of-way which affords a secondary means of vehicular access to the rear or side of properties otherwise abutting a street.

AMUSEMENT AND RECREATION ESTABLISHMENTS. Businesses or facilities with the primary function as entertainment. Examples include: theaters, billiards halls, bowling alleys, miniature golf, and game arcades. Accessory uses include such things as: storage of goods, concessions, restaurants, bars, and parking areas.

ANTENNA. Any structure or device used to collect or radiate electromagnetic waves for the provision of cellular, paging, personal communications services and microwave communications. Such structures and devices include, but are not limited to the following: directional antennas such as panels, microwave dishes and satellite dishes; and omnidirectional antennas such as whips.

APPLICANT. A person or entity who applies for a permit. An applicant can be the owner of the property or someone who has been authorized by the owner to represent the owner such as a builder, developer, optional purchaser, consultant, engineer, surveyor, architect, attorney, etc.

ASSISTED LIVING FACILITY. A health facility where persons are housed and furnished with meals and/or continuing nursing care for compensation.

AUTOMOTIVE SALES AND RENTALS. Buildings and premises for the sale, rental, and ancillary service of vehicles such as automobiles, motorcycles, and boats.

BARS. An establishment in which the primary function is the sale and service of alcoholic beverages for consumption on the premises. A bar may also be referred to as a **NIGHTCLUB**. A casino may be an accessory use to a bar.

BASEMENT. A story having at least one-half of its height below the average level of the adjoining ground for more than 50% of the total perimeter. A basement shall be counted as one-half of a story.

BASIC UTILITIES AND SERVICES. Infrastructure services that provide access, power, water, natural gas, sewage service, storm water facilities, and telecommunication facilities to a neighborhood, lot or development site. Basic utilities are accessory uses to the primary use on a lot.

BED AND BREAKFAST. The use of a residential structure to provide rooms for temporary lodging for overnight guests on a paying basis. The owners of the said residential structure reside within such structure, or on the same site.

BUILDING. A structure that has a roof and is enclosed on its sides.

BUILDING COVERAGE. The area that is covered by buildings and other roofed structures.

CALENDAR DAYS. As opposed to **DAYS** (see separate definition), **CALENDAR DAYS** includes any day of the 365-day calendar including weekdays, weekend days, and holidays.

CAMPGROUND. The commercial use of land for more than 30 calendar days annually (as counted cumulatively) consisting of the provision of camping areas and incidental services by individuals in tents or recreational vehicles. See also **TEMPORARY CAMPGROUND** and **RECREATIONAL VEHICLE PARK**.

CARETAKER RESIDENCE. An accessory use allowed in certain zoning districts and consisting of a dwelling unit that is located within the same building or on the same property as a non-residentially zoned property and serves as a residence for up to two persons who are responsible for the supervision and security of the premises and/or goods.

CARRIER ON WHEELS (COW). A portable self-contained cellular communications site that can be moved to a location and set up to provide personal wireless services on a temporary or emergency basis. A COW is normally vehicle-mounted and contains a telescoping boom and an antenna support.

CEMETERIES. Property used to locate graves for the deceased. Also known as **GRAVEYARDS**. Examples of accessory uses include: head stones or monuments, tombs, urns, mausoleums or other structures for the holding of cremation remains, cemetery office, cemetery maintenance buildings and facilities, chapels, caretaker=s residences, etc.

CITY. The City of Lemmon, South Dakota.

CITY COUNCIL. The City Council of the City of Lemmon, South Dakota.

CLUB or **LODGE.** The use of a site for provision of meeting, recreational, or social facilities by a private or nonprofit association, primarily for use by members and guests. This use includes private social clubs and fraternal organizations.

COMMUNITY FACILITIES. Community facilities are uses of a public or nonprofit nature that provide a local non-commercial oriented service to people of the community. Examples include: libraries; museums; senior centers; historic and monument sites; public swimming pools; and public safety facilities, such as police, ambulance, and fire stations.

CONCENTRATED ANIMAL FEEDING OPERATION. A lot or facility that stables or confines and feeds or maintains animals for a total of 45 calendar days or more in a 12-month period.

CONDITIONAL USE. A land use that may or may not be allowed in a zoning district due to certain special characteristics related to its operation. Conditional uses may be granted or denied. Furthermore, as part of the granting of a conditional use, stipulations may be attached to the approval in order to mitigate any concerns.

CONFORMING. As in a conforming use, building, structure or lot of record. This term means that the use, building, structure or lot in question was/is in compliance with all requirements of this chapter that was in effect at a specific reference point in time. This term is different and not to be

confused with the following: **NONCONFORMING OR LEGAL NONCONFORMING BUILDING**, **NONCONFORMING OR LEGAL NONCONFORMING STRUCTURE**, **NONCONFORMING OR LEGAL NONCONFORMING LOT OF RECORD**, or **NONCONFORMING OR LEGAL NONCONFORMING USE** (refer to separate definitions for all of the preceding).

CONTRACTORS AND/OR EQUIPMENT STORAGE YARDS or UTILITY SHOPS. Land or buildings on which the primary land use is the storage or housing of construction-related equipment, tools or building materials such as heavy equipment, vehicles used for business purposes, tools of all types, lumber, stone, dirt, sand, cement, and other materials customarily used in the construction industry and not available for on-site retail purchase.

CONVENTION CENTER. A facility used for business or professional conferences, entertainment and seminars.

DAY CARE CENTER. In return for compensation, the use of a non-residential structure for the care for any number of children or adults in need of supervision outside of their homes.

DAY CARE FACILITIES. A general term that includes, for example: day care; preschools; nursery schools; and senior daycare programs. Refer to separate specific definitions for: **IN-HOME DAY CARE FACILITY** and **DAY CARE CENTER**.

DAYS. As opposed to **CALENDAR DAYS** (see separate definition), **DAYS** refers to days for public notices or letters, posting of zoning request signs, or actions of the city on requests for variances, zoning amendments, conditional use requests, etc. In this context, **DAYS** shall include the day of the notice, but not the day of the hearing and shall include weekends and holidays.

DETENTION FACILITIES. Detention facilities include facilities for judicially required detention or incarceration of people. Inmates and detainees are under 24-hour supervision. Examples include: prisons, jails, probation centers, alternative or post incarceration facilities, and juvenile detention homes.

DEVELOPMENTAL LOT. A developmental lot is more than one adjoining platted lots or unplatted parcels that for purposes of this chapter are treated as one lot due to the presence of permanent structures or permanent improvements that cross lot lines.

DRIVEWAY. The area that provides vehicular access to a site. A driveway begins at the property line and extends into the site.

DRIVE-THROUGH RESTAURANT. See **RESTAURANT, DRIVE-THROUGH**.

DWELLING UNIT. A building, or a portion of a building that has independent living facilities including provisions for sleeping, cooking, and sanitation, and that is designed for residential occupancy by a household. Furthermore, in order to be considered as a **DWELLING UNIT** the structure or portion thereof must meet all of the following criteria. Specifically, the structure or portion thereof must:

- (a) Have been designed or converted for use for human habitation;
- (b) Have a functional indoor plumbing system including water supply and waste disposal;
- (c) Have sufficient structural integrity to bear normal snow loads, prevent normal rainfall and drainage from entering and prevent access by rodents and other non-domestic animals;
- (d) Have ample and safe wiring for normal electrical loads; and
- (e) Not be a building or structure that has been condemned by the city.

EASEMENT. A grant of rights by a property owner that allows another person or persons to use the owner's land for a specified purpose, such as access to, or to locate utilities.

FINANCIAL SERVICES. The use of a site for the provision of financial and banking services. Examples include: banks, credit unions, savings and loan institutions, and loan and lending activities.

FRONTAGE. The portion of a lot or site that abuts a street.

GARAGE. A covered structure designed to provide shelter for vehicles, and which is accessory to a primary use on the lot. Carports are considered garages.

GREENHOUSE. See **PLANT NURSERY.**

GRAVEYARDS. See **CEMETERIES.**

GROUP LIVING. A facility consisting of dwelling units, licensed by the appropriate state or local agency that provides resident service to individuals of whom one or more are unrelated. These are individuals with disabilities, aged, undergoing rehabilitation, or in need of adult supervision. The size of the group is typically larger than the average size of a household. Examples include; group homes for the physically or intellectually disabled, or emotionally disturbed; and residential programs for drug and alcohol treatment.

HEIGHT. The vertical distance measured from the average ground elevation of the proposed or existing finished grade to the: (1) highest point of a structure which is not a building; or (2) highest point of a building for flat roofs, to the deck line of buildings with mansard roofs, and to the mean height between eaves and ridge for buildings with gable, hip, and gambrel roofs.

HOME OCCUPATION. A business activity that is carried out on the same site as a dwelling unit, and which is accessory to the residential use on the site and is otherwise in compliance with this chapter.

HOSPITAL. An institution providing health services primarily for human inpatient medical or surgical care for the sick or injured and including related facilities such as laboratories, outpatient

departments, training facilities, central services facilities, cafeterias, and staff offices that are an integral part of the facilities.

HOTEL. The use of a site for the provision of rooms for temporary housing. Examples include: hotels, motels, and hostels. Accessory uses may include such things as: parking areas, restaurants, and recreation facilities.

HOUSE. A detached dwelling unit located on its own lot or property.

HOUSEHOLD. One or more persons related by blood, marriage, legal adoption or guardianship, who live together in one dwelling unit, or a group not to exceed five persons not related by blood, marriage, legal adoption or guardianship, living together as a single housekeeping unit and using common cooking facilities.

INDIVIDUAL MANUFACTURED HOME LOT OR SPACE. A designated lot or space of a designated size suitable for the placement of no more than one manufactured home and located within a manufactured home park.

INDUSTRIAL SERVICE. Industrial service businesses repair or service industrial, business, or consumer machinery. Few customers come to the site at any one time. Examples include: welding shops; machine shops; tool repair; towing and vehicle storage; fuel oil distributors; and laundry, dry cleaning and carpet cleaning plants.

IN-HOME DAY CARE FACILITY. The use of a residence for the care of children or adults (including any clients already living on-site) in need of supervision outside of their homes and subject to all requirements of state law.

INTERIOR SIDE LOT LINE. A side lot line separating two single-family attached residences (***TOWNHOMES***) and which typically will have a zero-foot setback.

KENNEL. The use of a site for the boarding and care of four or more dogs, cats, or similar small animals six months of age and older. This use includes: boarding kennels, pet motels, and dog training centers.

LANDFILL. A facility that complies with state regulations for the disposal of solid waste materials.

LEGAL NONCONFORMING BUILDING or ***NONCONFORMING STRUCTURE.*** As opposed to a ***LEGAL NONCONFORMING USE*** or ***LEGAL NONCONFORMING LOT OF RECORD.*** A building or structure that was legal with respect to setbacks, height, density and the other zoning development standards immediately and on the day prior to adoption of this chapter; and which has not been damaged by fire, explosion, act of God, or the public enemy to the extent of more than 50% of its value since such time; but which is no longer legal with respect to the development standards set forth in this current chapter.

LEGAL NONCONFORMING LOT OF RECORD. As opposed to a **LEGAL NONCONFORMING BUILDING, LEGAL NONCONFORMING STRUCTURE** or **LEGAL NONCONFORMING USE**. A lot, parcel, or tract of land that was legal with respect to lot size immediately and upon the day prior to adoption of this chapter but which is not in compliance with the lot size requirements or other zoning development standards of this chapter.

LEGAL NONCONFORMING USE. As opposed to a **LEGAL NONCONFORMING BUILDING, LEGAL NONCONFORMING STRUCTURE** or **LEGAL NONCONFORMING LOT OF RECORD**. An existing land use that was legally allowed immediately and upon the day prior to adoption of this chapter and which has remained continually since that time with no gap in operating of 180 calendar days or more, but which is no longer legally allowed under this chapter.

LIQUOR STORE. A liquor store is characterized by the retail sale of beer, wine, and/or other alcoholic beverages for consumption off-premises.

LOT. A parcel of land established by plat, subdivision, or as otherwise permitted by law, to be separately owned, used, or developed.

LOT LINE. Refer to **PROPERTY LINE**.

LOT WIDTH, MINIMUM. See **MINIMUM LOT WIDTH**.

MAJOR EVENT ENTERTAINMENT. Major event entertainment uses are characterized by activities and structures that draw large numbers of people to specific events or attractions. Examples include: race tracks, sports areas or arenas; rodeo grounds; exhibition areas; drive-in theaters; amusement parks; golf courses and country clubs; tourist attraction sites; and fairgrounds.

MAJOR UTILITY FACILITIES. A major structure owned or operated by a public, private or cooperative electric, fuel, or communications company for the generation, transmission, distribution or processing of its products. Examples of major utility facilities include, but are not limited to: power substations, power plants, major transmission pipelines, etc.

MANUFACTURED HOME. A movable dwelling unit designed for year-round occupancy, and either having a permanent foundation or having no foundation other than wheels, jacks, piers or skirting, and which is capable of being moved, towed or transported by another vehicle.

MANUFACTURED HOME PARK. A contiguous parcel of land that is intended for the accommodation of more than one occupied manufactured home. This definition does not include **RECREATIONAL VEHICLE PARKS**.

MANUFACTURING AND PRODUCTION. Manufacturing and production businesses are involved in manufacturing, processing, fabrication, packaging, or assembly of goods. Goods are generally not displayed or sold on the site. Few customers come to the site. Examples include:

processing of food; breweries; distilleries; wineries; production of textile or apparel; production of wood, rubber, leather, clay, plastic, stone, or glass materials or products; fabrication of metal products; and manufacturing of machinery, equipment, and instruments.

MEDICAL FACILITIES. See ***MEDICAL OFFICE.***

MEDICAL OFFICE. Medical office uses are characterized by the provision of human medical services in an office setting. Examples include: doctor=s offices, dentist offices, urgent medical care facilities, patient testing facilities for out-patient testing procedures, and blood collection facilities.

MINIMUM LOT WIDTH. The width of the lot measured at the front line of the building.

MINING AND MINERAL EXTRACTION FACILITIES. The development or extraction of a mineral from its natural occurrence on affected land. Examples include the mining of minerals such as stone, sand, gravel, clay, and coal and the facilities to extract oil and gas resources.

MODULAR HOME. Finished units composed of two or more components designed to be joined into one integral unit not capable of being separated into its components for moving and towing. A modular home is designed to be placed on a permanent foundation with or without a basement.

MONOPOLE. A single, freestanding pole-type structure supporting one or more antennas. For purposes of this chapter, a monopole is not a ***TOWER.***

MULTI-FAMILY RESIDENCE. A structure that contains two or more dwelling units that share common walls or floor/ceilings. Each dwelling unit is intended to be occupied by a separate residential household. The land underneath the structure is not divided into separate lots unless said lots constitute a ***DEVELOPMENTAL LOT.*** Examples of multi-family residences include: duplexes and apartment buildings.

NIGHTCLUB. See ***BAR.***

NONCONFORMING. As in a nonconforming building, structure, use, or lot of record. The term ***NONCONFORMING*** means the building, structure, use or lot was in existence prior to adoption of this chapter but does not meet one or more requirements of this chapter. This term is broader than, and means something different than, the terms ***LEGAL NONCONFORMING BUILDING***, ***LEGAL NONCONFORMING STRUCTURE***, ***LEGAL NONCONFORMING USE***, or ***LEGAL NONCONFORMING LOT OF RECORD*** (refer to separate definitions for these). ***NONCONFORMING*** does not imply whether the building, structure, use or lot was legal or illegal prior to adoption of this chapter, only that it was in existence and did not meet the requirements of this chapter.

OFFICE. Office uses are characterized by activities conducted in an office setting that focus on the provision of services. The services do not typically involve large customer volume at a given time

and frequently entail scheduled appointments with clients. Examples include: offices of attorneys; accountants; engineers; financial businesses; real estate agents; government offices; and public utility offices.

OWNER. The owner of the title to real property or the contract purchaser of real property of record, as shown on the latest assessment records of Perkins County. **OWNER** also includes a deed holder or contract purchaser whose name does not appear in the latest assessment records, but who presents to the city a copy of a deed or contract of sale showing date, book, and page of recording.

PARKING AREA. The area devoted to the parking, maneuvering, and circulation of motor vehicles.

PARKING LOT. See **PARKING AREA**.

PARKING SPACE. A space designed to provide parking for a motor vehicle.

PARKS AND OPEN SPACE. Parks and open space are uses that are characterized by natural areas consisting mostly of vegetative landscaping and/or outdoor recreation facilities. Examples include: parks, public squares, recreational trails, community gardens, and nature preserves.

PERSONAL SERVICES. The use of a site for the provision of periodic services of a personal nature. Examples include: beauty or barber shops; seamstress or tailor services; shoe repair shops; laundromats; dry cleaning pick-up station services; photographic studios; tanning salons; dance classes; martial arts classes; music classes; mortuaries; and animal grooming. Accessory uses may include such things as: the storage of goods, offices, and parking areas.

PLANNING AND ZONING BOARD. The City of Lemmon Planning Commission.

PLANT NURSERY. The use of a site for the growing and sale of plants or related goods and services. Examples include: greenhouses, nurseries and sod farms.

PLAT. A map, plan, or layout indicating the location and boundaries of individual properties drawn in compliance to local and state requirements.

PRIMARY STRUCTURE. Also **PRINCIPAL STRUCTURE.** A structure or combination of structures of chief importance or function on a site. In general, the primary use of the site is carried out in a primary structure.

PRIMARY USE. Also **PRINCIPAL USE.** An activity or combination of activities of chief importance on the site, the main purpose for which the land or structures are intended, designed, or ordinarily used.

PRINCIPAL STRUCTURE. Also **PRIMARY STRUCTURE.** A structure or combination of structures of chief importance or function on a site. In general, the principal use of the site is carried out in a principal structure.

PRINCIPAL USE. Also **PRIMARY USE.** An activity or combination of activities of chief importance on the site, the main purpose for which the land or structures are intended, designed, or ordinarily used.

PROPERTY LINE. The property lines along the edges of a lot, parcel or other property.

PROPERTY LINE, FRONT. A property line that abuts a street or street right-of-way. In the case of a lot fronting on more than one street or right-of-way, there would exist multiple front property lines. For example, a corner lot would have two front property lines.

PROPERTY LINE, REAR. A lot line that is opposite the front property line. In the case of multiple frontage lots such as a corner lot the property owner prior to the time of construction of the primary structure may choose which property line is to be the rear.

PROPERTY LINE, SIDE. A lot line that is classified as neither a front nor rear line.

RAILROAD YARDS. Railroad yards are areas that contain multiple railroad tracks used for rail car switching, assembling trains, and transfer of goods from other transportation modes to and from trains.

RANCHING AND FARMING. Ranching and farming activities are characterized by the breeding and raising of livestock such as cattle and sheep, fowl and/or crop production on large tracts of open land. **RANCHING AND FARMING** uses do not include **CONCENTRATED ANIMAL FEEDING OPERATIONS.** Examples include: general farming; pasture; grazing; horticulture; viticulture; forestry; sod farming; wild crop harvesting; and roadside stands exclusively for the sale of products raised on the premises.

RECREATIONAL VEHICLE. A portable or mobile living unit in which the wheels are not typically removed, unlike a manufactured home; and used for temporary human occupancy away from the principal place of residence of the occupants.

RECREATIONAL VEHICLE PARK. A commercial use where one or more lots are rented to users of recreational vehicles that are occupied for temporary purposes. There is no minimum required stay in a recreational vehicle park; however, the maximum stay is 30 calendar days per year. Uses where unoccupied recreational vehicles are offered for sale or lease, or are stored, are not **RECREATIONAL VEHICLE PARKS.**

RECREATIONAL VEHICLE SPACE. The area within a recreational vehicle park designated for one recreational vehicle.

RELIGIOUS INSTITUTIONS. Religious institutions provide meeting areas for religious activities. Examples include: churches, temples, synagogues, and mosques.

RESTAURANT. An establishment that provides the sale and service of food or beverages for the ready consumption within the establishment or for take-out service or via a walk-up window.

RESTAURANT, DRIVE-THROUGH. An establishment that provides the sale and service of food or beverages, but not including alcoholic beverages, for the ready consumption within the establishment, via a drive-through window, or via a walk-up window.

RETAIL SALES AND SERVICE. Retail sales and services businesses are involved in the sale or lease of products to the general public. Examples include: stores selling, leasing, or renting consumer, home and business goods including art, art supplies, bicycles, clothing, dry goods, electronic equipment, fabric, furniture, garden supplies, gifts, groceries, jewelry, pets, pet food, pharmaceuticals, plants, printed material, videos, and food sales. Accessory uses may include such things as: the storage of goods; parking areas; and offices.

RIGHT-OF-WAY. A public area that allows for the passage of people, vehicles or goods.

ROAD. See **ROADWAY.**

ROADWAY. The portion of a public right-of-way or of an easement that is improved for motor vehicle travel. **ROADWAY** includes vehicle travel lanes and on-street parking areas. **ROADWAY** does not include areas devoted to curbs, parking strips or sidewalks.

SCHOOLS. A school is a private or public institution of education, which provides instruction at the elementary, middle, high school, or post-secondary level.

SELF-SERVICE STORAGE. Self-service storage uses provide separate storage areas for individual or business uses. The storage areas are designed to allow private access by the tenant for storing or removing personal property. Examples include: self-storage warehouse and mini-storage facilities. Accessory uses may include such things as: caretakers living quarters and parking areas.

SETBACK. An area upon a lot or property that is measured from the property line to the nearest point of a structure or object and which must be kept free of any buildings, accessory buildings, or other structures or objects and is of a distance necessary to obtain the minimum front, side, corner and rear yards required in this chapter. Unless otherwise specified, a **SETBACK** refers to a building or structure setback.

SETBACK, FRONT. A setback measured from the front property line(s).

SETBACK, REAR. A setback measured from the rear property line.

SETBACK, SIDE. A setback measured from the side property line(s).

SIDEWALK. A paved area for a pedestrian walkway. Sidewalks may be public as in typical public sidewalks that parallel a street, or they may be private as in a residential sidewalk that serves a residence.

SIGN. Any identification, description, illustration, or device which is illuminated or non-illuminated, which directs attention to a product, service, place, activity, person, institution, business, or solicitation, including any permanently installed or situated merchandise, or any emblem, painting, banner, pennant, place card or temporary sign designed to advise, identify or convey information, with exceptions of window displays.

SINGLE-FAMILY ATTACHED RESIDENCE. A residential dwelling unit that is part of two or more attached dwelling units, each of which is located on a separate lot and which are built on site and have common or abutting walls. (Traditionally, these have also been known as ***TOWNHOUSES*** or ***TOWNHOMES.***)

SINGLE-FAMILY DETACHED RESIDENCE. A residential dwelling unit occupied, or constructed so as to be occupied, by no more than one single household and which is not connected to any other residences or other principal structures. Examples include: houses, manufactured homes, and modular homes.

SINGLE-FAMILY RESIDENCE. A residential dwelling unit occupied, or constructed so as to be occupied, by no more than one single household. Examples include: houses, manufactured homes, and modular homes.

SITE. A parcel or portion of a parcel of land occupied or intended to be occupied by a building, structure, or land use.

SMALL WIND ENERGY SYSTEM. A wind energy facility with a single tower used primarily for on-site generation and consumption of power.

STATE LAW. South Dakota Codified Law.

STORY. That portion of a building, other than a cellar or basement, included between the surface of any floor and the surface of the floor next above it, or if there is no floor above it, then the space between the floor and the ceiling next above it.

STREET. A public or private thoroughfare that affords the principal means of vehicle access to property.

STRUCTURE. Any object that has been, or is proposed to be constructed on the ground or added to an existing structure. Examples of structures include: buildings, decks, towers, signs, mechanical equipment, chimneys and other similar objects. ***STRUCTURE*** does not include paved areas or vegetative landscaping materials, unless specified in this chapter.

SUBDIVISION. Any land vacant or improved, which is divided or proposed to be divided into two or more lots, parcels, sites, units, plots, or interests for the purpose of offer, sale, transfer, lease, or development, including re-subdivision. Subdivision includes the division of land whether by deed, metes and bounds description, devise, intestacy, lease, map, plat or other recorded instrument.

SUPPORT STRUCTURE. A structure designed to elevate and support telecommunications facilities or small wind energy systems and including, but not limited to, monopoles, towers, and other structures.

SURFACE PASSENGER FACILITIES. Surface passenger facilities are passenger terminals for regional bus or rail service. Examples include: bus and rail stations.

TEMPORARY CAMPGROUNDS. Campgrounds for overnight lodging of 20 or more people and/or which is in operation for three calendar days or more (but not to exceed 30 calendar days) consecutively or cumulatively in a calendar year. (See also ***CAMPGROUND.***)

TEMPORARY MERCHANTS. A temporary use established for a fixed period of time for the retail sale of primarily seasonal products, including, but not limited to, food, Christmas trees, live plants, and event merchandise. This use may or may not involve the construction or alteration of a building or structure.

TEMPORARY USES. A temporary use is a use that is established for a fixed period of time. Examples of common temporary uses include temporary campgrounds or temporary merchants.

TOWER. A structure, guyed or free-standing, that serves to elevate and support other equipment such as small wind energy systems, telecommunications facilities, electrical transmission equipment, etc. Also includes observation towers.

TOWNHOME. See ***SINGLE-FAMILY ATTACHED RESIDENCE.***

TOWNHOUSE. See ***SINGLE-FAMILY ATTACHED RESIDENCE.***

TURBINE. The parts of a small wind energy system including the blades, generator and tail.

USE. The purpose for which land, a building, or a structure is designed, arranged, intended, or for which it is or may be occupied or maintained.

UTILITIES. Infrastructure services and structures or improvements necessary to deliver those services. These services may be provided by a public or private agency. Examples include: water, sanitary sewer, electricity, natural gas, internet, and telephone services.

VARIANCE. An official authorization by the city to waive or relax for a specific proposed development, one or more zoning development standards regulations such as building setbacks, density,

lot coverage, etc. Variances can only be granted when certain criteria are met and variances can never be granted for the use of a property. Variances may be granted or denied. If granted, appropriate stipulations may be added to the approval.

VEHICLE SERVICE AND REPAIR. Vehicle service and repair uses provide servicing for passenger vehicles, trucks, motorcycles, boats, and recreational vehicles. Examples include: gas stations; auto mechanic shops; transmission or muffler shops; auto body shops; tire sales and mounting businesses; oil change businesses; and self-service automobile washing businesses.

VETERINARY SERVICES. The use of a site for provision of veterinary services for animals. Examples include pet clinics and dog and cat hospitals.

WAREHOUSE AND FREIGHT MOVEMENT. Warehouse and freight movement businesses are involved in the storage or movement of goods. There is little on-site sales activity. Examples include: general freight storage, parcel services, stockpiling of aggregate material, and storage of miscellaneous wares and product.

WASTE-RELATED FACILITIES. Waste-related uses are characterized by uses that receive solid or liquid wastes from others for disposal on the site or for transfer to another location, uses that collect sanitary wastes, or uses that manufacture or produce goods from the biological decomposition of organic material. Examples include: landfills, sewer treatment plants, recycling operations, junk and salvage yards, automobile wrecking; and hazardous waste collection sites. Accessory uses include such things as: recycling of materials; offices; parking areas; and repackaging and shipment of byproducts.

WHOLESALE SERVICES. Wholesale services or businesses are involved in the sale, lease, or rent of products primarily intended for industrial, institutional, or commercial businesses. Business may or may not be open to the general public, but sales to the general public are often limited. Examples include: wholesale or rental of machinery; equipment and heavy trucks; wholesale building materials, special trade tools, machine parts, electrical supplies, janitorial supplies, and restaurant supplies; and wholesale food, clothing, building hardware, and office supplies. Accessory uses include such things as: offices, product repair, warehouses, parking areas, and repackaging of goods.

WIRELESS TELECOMMUNICATION FACILITY. Any unmanned facility, including all devices, machinery, structures, or supporting elements necessary to provide wireless transmission of voice, data, images or other information including, but not limited to, cellular telephone service, personal communication service (PCS), and paging service.

YARD. The portion of a property located between a building or structure and the nearest adjacent property line and which cannot be occupied by any buildings, structures or objects prohibited to be placed in the setback by this chapter.

YARD, FRONT. A yard located between a building or structure and the front property line.

YARD, REAR. A yard located between a building or structure and the rear property line.

YARD, SIDE. A yard located between a building or structure and the side property line.

ZONING BOARD OF ADJUSTMENT. An official decision-making body of the City of Lemmon that is separate from the City Council or the Planning and Zoning Board. The Zoning Board of Adjustment (or Board of Adjustment as it is sometimes referred to) has, as its primary responsibility, to approve or deny variance applications.

ZONING ORDINANCE. The official Zoning Ordinance of the City of Lemmon.
(Ord. passed 4-8-2019)

' 154.02 AUTHORITY AND ADMINISTRATION.

(A) *Authority.* This chapter is enacted under the authority of the laws of the State of South Dakota and is hereby adopted by the City Council of the City of Lemmon.

(B) *Short title.* This chapter shall be known and cited as the Lemmon Zoning Ordinance.

(C) *Repeal of prior zoning ordinances.* This chapter hereby fully repeals and replaces all portions of any prior Zoning Ordinances for the City of Lemmon.

(D) *Purpose of the chapter.* The purpose of this chapter is to encourage and protect the health, safety, order, convenience, aesthetics, prosperity, and general welfare of the citizens of Lemmon; promote property rights; provide for the appropriate and best use of land; and promote the goals of the Lemmon Comprehensive Plan.

(E) *Jurisdiction.* This chapter shall apply to all lands within the corporate boundary of the City of Lemmon as established on the map entitled AThe Official Zoning Map of Lemmon, South Dakota.@

(F) *Administration and enforcement.*

(1) *General provisions for application of regulations.* This chapter regulates the erection, construction, reconstruction, alteration, use or change of use of buildings and structures, and the use or change of use of land.

(2) *Administrative officer.* The provisions of this chapter shall be administered by the Administrative Officer. The Administrative Officer shall be the person officially designated in writing by the City Council. The Administrative Officer is authorized to enforce all provisions of this chapter.

(3) *Planning and zoning board.* The Lemmon Planning and Zoning Board shall assist the City Council in an advisory capacity in achieving the established purpose of this chapter. The Planning and Zoning Board shall establish rules of procedure that are necessary to the performance of its function under this chapter. The Planning and Zoning Board shall review and make recommendations to the City Council on all applications brought forth by the public in accordance with this chapter.

(4) *City Council.* The Lemmon City Council shall review all recommendations of the Planning and Zoning Board and make final decisions on all applications brought forth by the public in accordance with this chapter. The City Council may reverse or modify the recommendations of the Planning and Zoning Board by a majority vote of all of its members. The Lemmon City Council shall have the power to render interpretations of this chapter and to adopt and enforce supplemental policies in order to clarify the application of this chapter. Such interpretations shall meet the purpose of this chapter and be set forth in writing.

(5) *Board of Adjustment.* In lieu of appointing a Board of Adjustment, the City Council shall act as and perform all the duties and exercise the powers of such Board of Adjustment. The Board of Adjustment may, in appropriate cases, and subject to appropriate conditions and safeguards, grant variances to certain terms of this chapter. The President or Chairman of the City Council shall be the Chairman of the Board of Adjustment as so composed. The concurring vote of at least two thirds of the members of such Board as so composed shall be necessary to approve a variance.

(6) *Building permit required.* No building or other structure shall be erected, constructed, enlarged, altered, repaired, improved, moved or demolished without a permit thereof, issued by the City Engineer or designee.

(7) *Conditional uses.* A conditional use is any use that due to certain special characteristics related to its operation, may be allowed in a zoning district after evaluation and recommendation by the Planning and Zoning Board and approval by the City Council. The conditional use review process provides an opportunity to allow the use, but impose mitigation measures to address identified concerns, or deny the use if the concerns cannot be resolved. Those uses identified as a ACU@ in the district use tables are subject to the conditional use review process. Prior to obtaining a building permit, the conditional use must be approved by the City Council. A simple majority vote of the City Council is so needed to approve or deny a conditional use.

(a) *Required information for conditional use requests.* The Planning and Zoning Board shall formulate written policies that address the required application materials for conditional use requests.

(b) *Conditional use approval criteria.* A written statement and any supporting documentation that demonstrates that the conditional use approval criteria listed below will be met shall be provided by the applicant.

1. *Compatibility.*

a. The proposed use is consistent with the land uses in the area and the purpose of the zoning district;

b. The proposed use will not conflict with surrounding land uses and will not create nuisances for neighboring land owners; and

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c. The proposed use will not negatively impact environmentally sensitive areas on or near the site.

2. *Services.*

a. The existing transportation system is capable of supporting the proposed use;

b. The water, wastewater, and storm water plans adequately accommodate the proposed use and meet the applicable requirements of the city, the Department of Environment and Natural Resources and the Department of Health; and

c. Public services for law enforcement, fire protection, and emergency management are capable of serving the proposed use.

3. *Comprehensive plan.* The proposal is consistent with the goals identified in the Lemmon Comprehensive Plan.

(c) *Conditional use review process.* Upon submittal of a complete application, public hearings will be scheduled with the Planning and Zoning Board as well as the City Council.

1. *Public notice.* Notification of surrounding property owners and interested parties of the Planning and Zoning Board Hearing as well as the City Council Hearing shall be accomplished by posting a sign on the property, notification in the city's legal newspaper, and mailing notices of public hearings to neighboring property owners.

2. *Posting of sign.* A sign noting that a conditional use review has been requested shall be posted on the site not less than ten days before the Planning and Zoning Board public hearing. The sign shall be maintained on the site until the City Council has taken action on the request, or the application is withdrawn by the applicant. Approved signs shall be secured from the city who shall require a reasonable deposit to cover the cost of replacement of the sign(s) and who shall determine the number and location of the sign(s) to be posted on the site. The sign dimensions shall meet the requirements of state law.

3. *Publication.* Notification of the date, time, and location of the Planning and Zoning Board hearing as well as the City Council hearing shall be provided by the city at least ten days prior to the Planning and Zoning Board hearing by publication in the city's legally designated newspaper.

4. *Property owner notification.* The applicant or the city shall, by certified return-receipt mail, notify all property owners adjacent to, and within 250 feet of the perimeter of the property, inclusive of public right-of-way, of the nature of the request and the date, time, and location of the Planning and Zoning Board public hearing as well as the City Council public hearing at least ten days prior to the Planning and Zoning Board hearing.

5. *Planning and Zoning Board review.* At the Planning and Zoning Board public hearing, the board will consider the application, supporting documentation, public input, and the conditional use approval criteria. The Planning and Zoning Board may vote to recommend approval, approval with conditions, or denial of the conditional use request. The Planning and Zoning Board's recommendation shall be forwarded to the City Council for final consideration.

6. *City Council review.* At the City Council public hearing, the City Council may concur with, modify, or reverse the Planning and Zoning Board's recommendation. The decision of the City Council on a conditional use request shall be made within 30 days of the date of Planning and Zoning Board's recommendation, unless a continuation is requested by the applicant.

7. *Denial of request.* In the event that the conditional use request is denied by the City Council, reapplication shall not be permitted for a period of one year, unless the Planning and Zoning Board determines that the request has substantially changed.

(d) *Loss of conditional use status.* If an approved conditional use is discontinued for a period of one year, the conditional use rights are lost. This is so, even if the structure or materials related to the use remain. Any conditional use proposing to locate at the site after that time must file a new conditional use request.

(e) *Revocation of conditional use.* An approved conditional use may be revoked only for cause, consisting of failure to maintain the conditions required. A notice of intent to revoke a conditional use shall be given to the property owner by the city in writing 30 days prior to actual revocation and shall specify the area or areas of continued failure to meet requirements and maintain conditions the city may have imposed. If, during that period, proof of compliance is made, the conditional use shall be continued in force. If a hearing is requested by the property owner or their representative following receipt of notice of intent to revoke, the Planning and Zoning Board shall hold a public hearing on the matter and make a recommendation to the City Council for final determination on the revocation.

(8) *Variances.* The purpose of a variance is to modify the strict application of the development standards set out in each zoning district in the case where strict application would result in practical difficulty or unnecessary hardship depriving a property owner of the reasonable use of his or her land. The variance shall be used only where necessary to overcome some condition that prevents an owner from using the property as intended in this chapter. Variances must be approved by the Board of Adjustment prior to obtaining a building permit for a proposal that does not meet the development standards of the zoning district. Variances to uses are prohibited.

(a) *Required information for a variance request.* The Planning and Zoning Board shall formulate written policies that address the required application materials for variance requests.

(b) *Variance approval criteria.* A written statement and supporting documents that demonstrate that all of the variance approval criteria listed below will be met shall be provided by the applicant.

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1. There are special circumstances or conditions on the property, i.e., an exceptionally narrow lot, steep topography, or irregularly shaped lot;
2. The proposed use is either an allowed or conditional use in the zoning district;
3. Strict application of the regulation in question would preclude all reasonable use of the site;
4. Granting the variance is the minimum modification necessary to allow the reasonable use of the site;
5. Granting the variance will not compromise the purpose of this chapter nor that of the zoning district in which the property is located; and
6. Any impacts resulting from the variance will be mitigated.

(c) *Variance review process.* Upon submittal of a complete application, public hearings will be scheduled with the Planning and Zoning Board and the Board of Adjustment.

1. *Public notice of Planning and Zoning Board hearing as well as Board of Adjustment hearing.* Notification of surrounding property owners and interested parties shall be accomplished by posting a sign on the property, notification in the city's legal newspaper, and mailing notices of public hearings to neighboring property owners.

2. *Posting of sign.* A sign noting that a variance has been requested shall be posted on the site not less than ten days before the Planning and Zoning Board public hearing. The sign shall be maintained on the site until final action is taken on the request by the Board of Adjustment, or the application is withdrawn by the applicant. Approved signs shall be secured from the city who shall require a reasonable deposit to cover the cost of replacement of the sign(s) and who shall determine the number and location of the sign(s) to be posted on the site. The sign dimensions shall meet the requirements of state law.

3. *Publication.* Notification of the date, time, and location of the Planning and Zoning Board public hearing as well as the Board of Adjustment public hearing shall be provided by the City of Lemmon at least ten days prior to the Planning and Zoning Board hearing by publication in the city's legally designated newspaper.

4. *Property owner notification.* The applicant or the city shall, by certified return-receipt mail, notify all property owners adjacent to, and within 250 feet of the perimeter of the property, inclusive of public right-of-way, of the nature of the request and the date, time, and location of both public hearings at least ten days prior to the Planning and Zoning Board public hearing.

5. *Planning and Zoning Board hearing.* At the Planning and Zoning Board public hearing the Planning and Zoning Board will consider the request, supporting documentation, public

input, and the variance approval criteria. The Planning and Zoning Board may vote to recommend approval, approval with conditions, or denial of the variance. The Planning and Zoning Board's recommendation shall be forwarded to the Board of Adjustment for final consideration.

6. *Board of Adjustment public hearing.* The Board of Adjustment may concur with, modify, or reverse the Planning and Zoning Board's recommendation. The decision of the Board of Adjustment on a variance request shall be made within 30 days of the date of Planning and Zoning Board's recommendation, unless a continuation is requested by the applicant.

7. *Denial of request.* In the event that the variance request is denied by the Board of Adjustment, reapplication shall not be permitted for a period of one year, unless the Board of Adjustment determines that the request has substantially changed.

(9) *Zoning Ordinance amendments.* This chapter may be amended, supplemented, revised, or repealed as conditions warrant. The Lemmon City Council may amend zoning district boundaries, use categories, or the regulations established by this chapter.

(a) *Required information for an amendment request.* The Planning and Zoning Board shall formulate written policies that address the required application materials for amendment requests.

(b) *Amendment approval criteria.* A written statement and supporting documents that demonstrate that all of the amendment approval criteria listed below will be met shall be provided by the applicant.

1. The proposed amendment is necessary because of substantially changed or changing conditions of the area and zoning district affected, or in this chapter generally;

2. The proposed amendment is consistent with the purpose of this chapter;

3. The proposed amendment will not adversely affect any other part of this chapter nor any part of the community; and

4. The proposed amendment is consistent with the Lemmon Comprehensive Plan.

(c) *Ordinance amendment review process.* Upon submittal of a complete application, a public hearing will be scheduled with the Planning and Zoning Board.

1. *Public notice of Planning and Zoning Board hearing.* Notification of the date, time, and location of such hearing shall be provided by the city at least ten days prior to the hearing by publication in the city's legally designated newspaper.

2. *Zoning map amendment public notice.* For proposed amendments to the Lemmon zoning map, the applicant or the city shall, by certified mail, notify all property owners adjacent to, and within 250 feet of the perimeter of the property, inclusive of public right-of-way, of the nature of the

request and the date, time, and location of the public hearing at least ten days prior to the hearing. In addition, a sign noting the fact that a zoning map amendment has been requested shall be posted on the site not less than ten days before the Planning and Zoning Board public hearing. The sign shall be maintained on the site until the City Council has taken action on the request, or the application is withdrawn by the applicant. Approved signs shall be secured from the city who shall require a reasonable deposit to cover the cost of replacement of the sign(s) and who shall determine the number and location of the sign(s) to be posted on the site. The sign dimensions shall meet the requirements of state law.

3. *Planning and Zoning Board review.* At the public hearing the Planning and Zoning Board will consider the request, supporting documentation, public input, and the amendment approval criteria. The Planning and Zoning Board=s recommendation shall be forwarded to the City Council for final consideration.

4. *Public notice of City Council Hearing.* The City Council shall publish twice, for two successive weeks, notice of the public hearing on the ordinance amendment request in the city=s legally designated newspaper. The notification shall state the time, date, and location of the hearing.

5. *City Council review.* The City Council may concur with, modify, or reverse the Planning and Zoning Board=s recommendation. The decision of the City Council on an ordinance amendment request shall be made within 30 days of the date of Planning and Zoning Board=s recommendation, unless a continuation is requested by the applicant.

6. *Denial of request.* In the event that the ordinance amendment request is denied by the City Council, reapplication shall not be permitted for a period of one year, unless the City Council determines that the request has substantially changed.
(Ord. passed 4-8-2019)

ZONING DISTRICTS

' 154.20 ZONING DISTRICTS AND REGULATIONS.

(A) *Establishment of zoning districts.* For the purposes of this chapter, the City of Lemmon is divided into six different zoning districts. Within the same district, the requirements pertaining to land use and development standards is uniform. The six districts formed are: Residential, Downtown Commercial, General Commercial, Industrial, Agricultural, and Public.

(B) *Official zoning map.* The location and boundaries of the zoning districts established by this chapter are denoted and defined as shown on the AOfficial Zoning Map of Lemmon, South Dakota@ adopted, and from time to time amended together with this chapter. The zoning map is hereby incorporated and adopted into this chapter. (See Appendix A.)

(C) *Interpretation of the zoning map.* Where uncertainty exists with respect to the precise location of any of the aforesaid districts shown on the zoning map, the following rules shall apply:

(1) Boundaries shown as following or approximately following streets, highways, or alleys shall be construed to follow the centerlines of streets, highways, or alleys.

(2) For boundaries shown as following or approximately following platted lot lines or other property lines, such lines shall be construed to be the boundary lines.

(3) Boundaries shown as following or approximately following railroad lines shall be construed to lie midway between the main tracks of such railroad lines.

(4) Boundaries shown as following or approximately following the centerline of streams, rivers, or other continuously flowing watercourses shall be construed as following the channel centerline of such watercourses.

(5) Boundaries shown as following or closely following the limits of the city shall be construed as following such limits.

(6) Where the application of the aforesaid rules leaves a reasonable doubt as to the boundaries between two districts, the regulations of the more restrictive district shall govern the entire parcel in question, unless otherwise determined by the City Council.

(7) Whenever any street, alley, or public easement is vacated, the district classification of the property to which the vacated portions of land accrue shall become the classification of the vacated land.

(D) *Scope of the regulations.* The regulations applying to each district include specific limitations on the use of land and structures, including but not limited to: height and bulk of structures; density of population; lot area; yard dimensions; and the area of lot that can be covered by structures.

(E) *Land use categories.* This chapter classifies land uses and activities into land use categories on the basis of common, functional, or physical characteristics. Characteristics include the type and amount of activity; the type of customers or residents; how goods or services are sold or delivered; and common site factors. Detailed definitions of the land use categories are listed in ' 154.01.

(F) *Use regulations.* The use regulations are intended to promote the purpose of the zoning district. The zoning district use tables list each use category, and identify whether the use is allowed, requires a conditional use review, or is prohibited in the zoning district.

(1) *Permitted uses (or allowed uses).* Uses that are allowed in a zoning district are denoted with a AYes@ in the district use tables. These uses are allowed if the proposal complies with the zoning district development standards.

(2) *Conditional uses.* Uses that are allowed in a zoning district subject to review and approval by the Lemmon Planning and Zoning Board and the City Council are denoted with a ACU@ in the district use tables. These uses must be approved through the conditional use review process set forth in this chapter. These uses are allowed only if the proposal complies with the zoning district development standards; however, more stringent standards may also be applied through the conditional use process.

(3) *Prohibited uses.* Uses that are prohibited in a zoning district are denoted with a ANo@ in the district use tables. Furthermore, any proposed use not identified in the use tables shall be deemed a prohibited use. Variances to uses are not permitted.

(G) *Development standards.* The development standards regulate the development of land within each zoning district. The development standards work together with the use regulations to promote the purpose of the zoning district and maintain physical compatibility with existing development in the district. The development standards provide certainty to landowners, builders, and neighbors about the limits of development on land within a zoning district. The development standards are generally written for development on flat, regularly shaped lots. Where there are special circumstances or conditions on the propertyCi.e., an exceptionally narrow lot, steep topography, or irregularly shaped lotCa variance to one or more specific development standards may be requested following the procedures set forth in this chapter.

(Ord. passed 4-8-2019)

' 154.21 AGRICULTURAL ZONING DISTRICT.

(A) *Purpose.* The Agricultural District is established to accommodate land situated near the fringe of the community and currently used for agricultural purposes, but that is expected to undergo urbanization in the future. The permitted uses and their intensity are designed to encourage the protection of agricultural uses until urbanization is warranted.

(B) *Where these zoning regulations apply.* The Agricultural zoning regulations apply to all land designated as Agricultural on the City of Lemmon Zoning Map.

(C) *Agricultural District use regulations.* The use regulations listed in the following table are intended to maintain and promote Agricultural neighborhoods. The regulations allow a limited number of non-agricultural uses, but not to such an extent as to sacrifice the purpose of the district.

<i>Land Use Category and Specific Land Use Name</i>	<i>Is Land Use Allowed?</i>
<i>Residential Land Use Category</i>	
Single-family detached residence	Yes
Single-family attached residence	Yes

<i>Land Use Category and Specific Land Use Name</i>	<i>Is Land Use Allowed?</i>
Multi-family residence (two-unit only)	Yes
Multi-family residence (more than two units)	No
Manufactured home parks	No
Group living	No
In-home day care facility	Yes
<i>Commercial Land Use Category</i>	
Adult-oriented businesses	No
Amusement and recreation establishments	No
Automotive sales and rentals	No
Bed and breakfast	No
Bars and nightclubs	No
Campgrounds	No
Drive-through restaurants	No
Financial services	No
Hotels	No
Kennels	Yes
Liquor stores	No
Major event entertainment	No
Medical office or facilities	No
Office	No
Personal services	No
Plant nursery or greenhouse	Yes
Recreational vehicle parks	No
Restaurants	No

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<i>Land Use Category and Specific Land Use Name</i>	<i>Is Land Use Allowed?</i>
Retail sales and services	No
Self-service storage	No
Temporary campgrounds	CU
Temporary merchants	No
Vehicle service or repair	CU
Veterinary services	Yes
<i>Industrial Land Use Category</i>	
Contractors and/or equipment storage yards or utility shops	No
Industrial service	No
Manufacturing and production	No
Railroad yards or buildings	No
Warehouse and/or freight movement	No
Waste-related facilities	No
Wholesale services	No
<i>Institutional Land Use Category</i>	
Assisted living facility	No
Basic utilities or services	Yes
Clubs or lodges	No
Community facilities	No
Convention center	No
Day care centers	Yes
Detention facilities	No
Major utility facilities	CU
Hospital	No

<i>Land Use Category and Specific Land Use Name</i>	<i>Is Land Use Allowed?</i>
Parks and open space	No
Religious institutions	No
Schools	No
Cemeteries	Yes
<i>Other Land Use Category</i>	
Caretaker residence	CU
Concentrated animal feeding operations	No
Home occupations	Yes
Mining and mineral extraction facilities	CU
Ranching and farming	Yes
Small wind energy systems	CU
Surface passenger facilities	No
Wireless telecommunications facilities	CU
Any other use not listed in this table	No
<p>Notes:</p> <p>Yes = Use permitted No = Use not permitted CU = Use allowed only if conditional use permit is granted</p>	

(D) *Agricultural District development standards.* The following development standards in the Agricultural Zoning District regulate the physical development of land in order to promote the purpose of the district.

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	<i>All Uses</i>	<i>Accessory Structures</i>
Minimum Lot Size	5 acres	
Minimum Lot Size (if horses, livestock, fowl or other farm animals are kept)*	10 acres	
Minimum Setbacks**		
a. Front yard	40 feet	50 feet
b1. Rear yard	35 feet	25 feet
b2. Rear yard adjoining Residential District	50 feet	40 feet
c-1. Side yard for one story	25 feet	25 feet
c-2. Side yard for two stories or more	30 feet	30 feet
c2. Side yard adjoining Residential District	50 feet	40 feet
Maximum Height	35 feet	35 feet
Maximum Lot Coverage (includes accessory structures)	15%	
Minimum Lot Width	150 feet	150 feet
<p>Notes:</p> <p>* Unless larger lot size is required by South Dakota Administrative Rule 74:53:01:16.</p> <p>** In the event of raising horses, livestock, fowl or other farm animals, all setbacks (front, rear and side) adjoining a Residential Zoning District or a residential land use shall be no less than 100 feet. This setback applies to all non-residential buildings as well as all areas where animals are kept.</p>		

(Ord. passed 4-8-2019)

' 154.22 RESIDENTIAL ZONING DISTRICT.

(A) *Purpose.* The purpose of the Residential Zoning District is to preserve and promote residential neighborhoods.

(B) *Where these zoning regulations apply.* The Residential zoning regulations apply to all land designated as Residential on the City of Lemmon Zoning Map.

(C) *Residential District use regulations.* The use regulations listed in the following table are intended to maintain and promote residential neighborhoods. The regulations allow some non-residential uses, but not to such an extent as to sacrifice the purpose of the district.

<i>Land Use Category and Specific Land Use Name</i>	<i>Is Land Use Allowed?</i>
<i>Residential Land Use Category</i>	
Single-family detached residence	Yes
Single-family attached residence	CU
Multi-family residence (two-unit only)	Yes
Multi-family residence (more than two units)	CU
Manufactured home parks	CU
Group living	CU
In-home day care facility	Yes
<i>Commercial Land Use Category</i>	
Adult-oriented businesses	No
Amusement and recreation establishments	No
Automotive sales and rentals	No
Bars and nightclubs	No
Bed and breakfast	CU
Campgrounds	No
Drive-through restaurants	No
Financial services	No
Hotels	No
Kennels	No
Liquor stores	No
Major event entertainment	No
Medical office or facilities	No
Office	CU
Personal services	CU

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<i>Land Use Category and Specific Land Use Name</i>	<i>Is Land Use Allowed?</i>
Plant nursery or greenhouse	No
Recreational vehicle parks	No
Restaurants	No
Retail sales and services	CU
Self-service storage	No
Temporary campgrounds	No
Temporary merchants	No
Vehicle service or repair	No
Veterinary services	No
<i>Industrial Land Use Category</i>	
Contractors and/or equipment storage yards or utility shops	No
Industrial service	No
Manufacturing and production	No
Railroad yards or buildings	No
Warehouse and/or freight movement	No
Waste-related facilities	No
Wholesale services	No
<i>Institutional Land Use Category</i>	
Assisted living facility	CU
Basic utilities or services	Yes
Clubs or lodges	No

<i>Land Use Category and Specific Land Use Name</i>	<i>Is Land Use Allowed?</i>
Community facilities	CU
Convention center	No
Day care centers	CU
Detention facilities	No
Major utility facilities	CU
Hospital	No
Parks and open space	CU
Religious institutions	CU
Schools	CU
Cemeteries	CU
<i>Other Land Use Category</i>	
Caretaker residence	CU
Concentrated animal feeding operations	No
Home occupations	Yes
Mining and mineral extraction facilities	No
Ranching and farming	No
Small wind energy systems	CU
Surface passenger facilities	No
Wireless telecommunications facilities	CU
Any other use not listed in this table	No
<p>Notes:</p> <p>Yes = Use permitted No = Use not permitted CU = Use allowed only if conditional use permit is granted</p>	

(D) *Residential District development standards.* The following development standards in the Residential Zoning District regulate the physical development of land in order to promote the purpose of the district.

Lemmon - Land Usage

	<i>Single-Family Detached Residential Structures</i>	<i>Single-Family Attached Residential Structures (a.k.a. Townhouses)</i>	<i>Multi-Family Residential Structures</i>	<i>Accessory Structures</i>	<i>Other Uses (not included in this table or elsewhere in this code)</i>
Minimum Lot Size*	7,000 square feet	3,000 square feet	7,000 square feet for first unit + 2,000 square feet per additional unit		7,000 square feet
Minimum Setbacks					
a. Front yard**	25 feet	25 feet	25 feet	35 feet	25 feet
b. Rear yard**	25 feet	25 feet	25 feet	5 feet	25 feet
c. Side yard				5 feet	
c-1. For one story	8 feet	8 feet	8 feet		8 feet
c-2. For two stories or more	12 feet	12 feet	12 feet		12 feet
d. Interior side yard		0 feet			
Maximum Height	35 feet	35 feet	35 feet	15 feet	35 feet
Maximum Lot Coverage (includes accessory structures)	40%	40%	40%		40%
Minimum Lot Width	50 feet	20 feet	50 feet		50 feet
Notes:					
* Unless larger lot size required by South Dakota Administrative Rule 74:53:01:16.					
** (1) In the case of lots or properties that have more than one front yard (such as corner lots), one front yard shall meet the setback requirements set forth in Aa. Front yard,@ and the other front yards shall be no less than ten feet. (2) If for any residentially zoned lot (referred to in this section as Asubject lot@), any lot adjacent to the subject lot that is fronting on the same street and that is built upon with a front yard and/or rear yard setback that is greater than that required by this chapter, then any new construction on the subject lot cannot result in less than the existing front and/or rear setback on the adjacent lot; except nothing in this section shall require a setback in excess of 50 feet.					

(Ord. passed 4-8-2019)

' 154.23 DOWNTOWN COMMERCIAL ZONING DISTRICT.

(A) *Purpose.* The purpose of the Downtown Commercial Zoning District is to preserve and promote areas for commercial services that serve local and regional needs and which are generally readily accessible from major traffic ways or public sidewalks in the central business district. Generally speaking, the type of development in the Downtown Commercial Zoning District is characterized by relatively small lot sizes, little outdoor storage, lower traffic and truck volume than General Commercially zoned areas, significant pedestrian traffic, and frequent specialty shops.

(B) *Where these zoning regulations apply.* The Downtown Commercial zoning regulations apply to all land designated as Downtown Commercial on the City of Lemmon Zoning Map.

(C) *Downtown Commercial District use regulations.* The use regulations listed in the following table are intended to maintain and promote downtown commercial neighborhoods. The regulations allow some non-commercial uses, but not to such an extent as to sacrifice the purpose of the district.

<i>Land Use Category and Specific Land Use Name</i>	<i>Is Land Use Allowed?</i>
<i>Residential Land Use Category</i>	
Single-family detached residence	No
Single-family attached residence	No
Multi-family residence (two-unit only)	Yes
Multi-family residence (more than 2 units)	Yes
Manufactured home parks	No
Group living	CU
In-home day care facility	CU
<i>Commercial Land Use Category</i>	
Adult-oriented businesses	CU
Amusement and recreation establishments	Yes
Automotive sales and rentals	Yes
Bars and nightclubs	Yes
Bed and breakfast	CU
Campgrounds	No

Lemmon - Land Usage

<i>Land Use Category and Specific Land Use Name</i>	<i>Is Land Use Allowed?</i>
Drive-through restaurants	Yes
Financial services	Yes
Hotels	Yes
Kennels	CU
Liquor stores	Yes
Major event entertainment	CU
Medical office or facilities	Yes
Office	Yes
Personal services	Yes
Plant nursery or greenhouse	Yes
Recreational vehicle parks	No
Restaurants	Yes
Retail sales and services	Yes
Self-service storage	No
Temporary campgrounds	No
Temporary merchants	CU
Vehicle service or repair	Yes
Veterinary services	Yes
<i>Industrial Land Use Category</i>	
Contractors and/or equipment storage yards or utility shops	No
Industrial service	No
Manufacturing and production	CU
Railroad yards or buildings	CU
Warehouse and/or freight movement	No
Waste-related facilities	No
Wholesale services	CU

<i>Institutional Land Use Category</i>	
Assisted living facility	Yes
Basic utilities or services	Yes
Clubs or lodges	Yes
Community facilities	Yes
Convention center	CU
Day care centers	CU
Detention facilities	No
Major utility facilities	CU
Hospital	Yes
Parks and open space	Yes
Religious institutions	Yes
Schools	Yes
Cemeteries	CU
<i>Other Land Use Category</i>	
Caretaker residence	Yes
Concentrated animal feeding operations	No
Home occupations	Yes
Mining and mineral extraction facilities	No
Ranching and farming	No
Small wind energy systems	CU
Surface passenger facilities	CU

Lemmon - Land Usage

Wireless telecommunications facilities	CU
Any other use not listed in this table	No
<p>Notes:</p> <p>Yes = Use permitted No = Use not permitted CU = Use allowed only if conditional use permit is granted</p>	

(D) *Downtown Commercial District development standards.* The following development standards in the Downtown Commercial Zoning District regulate the physical development of land in order to promote the purpose of the district.

	<i>All Uses</i>	<i>Accessory Structures</i>
Minimum Lot Size*	3,500 square feet	
Minimum Setbacks:		
a. Front yard	0 feet	15 feet
a1. Front yard adjacent to Residential District	25 feet	25 feet
b1. Rear yard	0 feet	0 feet
b2. Rear yard adjacent to Residential District	25 feet	25 feet
c-1. Side yard	0 feet	0 feet
c2. Side yard adjacent to Residential District	8 feet	8 feet
Maximum Height	35 feet	15 feet
Maximum Lot Coverage (includes accessory structures)	100%	
Minimum Lot Width	25 feet	25 feet
<p>Notes:</p> <p>* Unless larger lot size is required by South Dakota Administrative Rule 74:53:01:16.</p>		

(Ord. passed 4-8-2019)

' 154.24 GENERAL COMMERCIAL ZONING DISTRICT.

(A) *Purpose.* The purpose of the General Commercial Zoning District is to preserve and promote areas for commercial services that serve local and regional needs and which are generally readily accessible from major traffic ways. The type of development in the General Commercial Zoning District is characterized by relatively large lot sizes, high vehicle traffic volume, large areas for outdoor storage or parking, little pedestrian traffic, and few specialty shops.

(B) *Where these zoning regulations apply.* The General Commercial zoning regulations apply to all land designated as General Commercial on the City of Lemmon Zoning Map.

(C) *General Commercial District use regulations.* The use regulations listed in the following table are intended to maintain and promote general commercial neighborhoods. The regulations allow some non-commercial uses, but not to such an extent as to sacrifice the purpose of the district.

<i>Land Use Category and Specific Land Use Name</i>	<i>Is Land Use Allowed?</i>
<i>Residential Land Use Category</i>	
Single-family detached residence	No
Single-family attached residence	No
Multi-family residence (two-unit only)	No
Multi-family residence (more than two units)	No
Manufactured home parks	No
Group living	CU
In-home day care facility	No
<i>Commercial Land Use Category</i>	
Adult-oriented businesses	CU
Amusement and recreation establishments	Yes
Automotive sales and rentals	Yes
Bed and breakfast	Yes
Bars and nightclubs	Yes

Lemmon - Land Usage

<i>Land Use Category and Specific Land Use Name</i>	<i>Is Land Use Allowed?</i>
Campgrounds	CU
Drive-through restaurants	Yes
Financial services	Yes
Hotels	Yes
Kennels	CU
Liquor stores	Yes
Major event entertainment	CU
Medical office or facilities	Yes
Office	Yes
Personal services	Yes
Plant nursery or greenhouse	Yes
Recreational vehicle parks	Yes
Restaurants	Yes
Retail sales and services	Yes
Self-service storage	Yes
Temporary campgrounds	CU
Temporary merchants	CU
Vehicle service or repair	Yes
Veterinary services	Yes
<i>Industrial Land Use Category</i>	
Contractors and/or equipment storage yards or utility shops	CU
Industrial service	Yes
Manufacturing and production	CU
Railroad yards or buildings	CU
Warehouse and/or freight movement	CU

<i>Land Use Category and Specific Land Use Name</i>	<i>Is Land Use Allowed?</i>
Waste-related facilities	No
Wholesale services	Yes
<i>Institutional Land Use Category</i>	
Assisted living facility	No
Basic utilities or services	Yes
Clubs or lodges	Yes
Community facilities	Yes
Convention center	CU
Day care centers	CU
Detention facilities	CU
Major utility facilities	CU
Hospital	Yes
Parks and open space	Yes
Religious institutions	Yes
Schools	Yes
Cemeteries	CU
<i>Other Land Use Category</i>	
Caretaker residence	CU
Concentrated animal feeding operations	No
Home occupations	CU
Mining and mineral extraction facilities	No
Ranching and farming	No
Small wind energy systems	CU

Lemmon - Land Usage

<i>Land Use Category and Specific Land Use Name</i>	<i>Is Land Use Allowed?</i>
Surface passenger facilities	CU
Wireless telecommunications facilities	CU
Any other use not listed in this table	No
<p>Notes:</p> <p>Yes = Use permitted No = Use not permitted CU = Use allowed only if conditional use permit is granted</p>	

(D) *General Commercial District development standards.* The following development standards in the Commercial Zoning District regulate the physical development of land in order to promote the purpose of the district.

	<i>All Uses</i>	<i>Accessory Structures</i>
Minimum Lot Size*	14,000 square feet	
Minimum Setbacks		
a. Front yard	25 feet	35 feet
b1. Rear yard	8 feet	8 feet
b2. Rear yard adjoining Residential District	25 feet	25 feet
c-1. Side yard for one story	5 feet	5 feet
c-2. Side yard for two stories or more	10 feet	10 feet
c2. Side yard adjoining Residential District	12 feet	12 feet
Maximum Height	35 feet	15 feet
Maximum Lot Coverage (includes accessory structures)	75%	
Minimum Lot Width	100 feet	100 feet
<p>Notes:</p> <p>* Unless larger lot size is required by South Dakota Administrative Rule 74:53:01:16.</p>		

(Ord. passed 4-8-2019)

' 154.25 INDUSTRIAL ZONING DISTRICT.

(A) *Purpose.* The purpose of the Industrial Zoning District is to: preserve and promote areas for industrial land uses; protect industrial uses from incompatible uses such as dwellings; protect residential, commercial, and other land uses from the effects of industrial uses; minimize traffic and loading issues on nearby properties; and facilitate the planning and provision of infrastructure improvements to meet the industrial needs of Lemmon. Industrial land uses may vary from those that are relatively low intensity to those that are high intensity. Low-intensity industrial land uses can include those such as industrial uses that take place completely within an enclosed building or those that share characteristics with more intensive commercial land uses. High-intensity industrial land uses include those uses that may create some form of nuisance that extends beyond property lines and which, therefore, may require more stringent regulation to protect the community.

(B) *Where these zoning regulations apply.* The Industrial zoning regulations apply to all land designated as Industrial on the City of Lemmon Zoning Map.

(C) *Industrial District use regulations.* The use regulations listed in the following table are intended to maintain and promote industrial neighborhoods. The regulations allow a limited number of non-industrial uses, but not to such an extent as to sacrifice the purpose of the district.

<i>Land Use Category and Specific Land Use Name</i>	<i>Is Land Use Allowed?</i>
<i>Residential Land Use Category</i>	
Single-family detached residence	No
Single-family attached residence	No
Multi-family residence (two-unit only)	No
Multi-family residence (more than two units)	No
Manufactured home parks	No
Group living	No
In-home day care facility	No
<i>Commercial Land Use Category</i>	
Adult-oriented businesses	No
Amusement and recreation establishments	No
Automotive sales and rentals	Yes

Lemmon - Land Usage

<i>Land Use Category and Specific Land Use Name</i>	<i>Is Land Use Allowed?</i>
Bed and breakfast	No
Bars and nightclubs	No
Campgrounds	No
Drive-through restaurants	No
Financial services	No
Hotels	No
Kennels	Yes
Liquor stores	No
Major event entertainment	No
Medical office or facilities	No
Office	No
Personal services	No
Plant nursery or greenhouse	CU
Recreational vehicle parks	No
Restaurants	No
Retail sales and services	CU
Self-service storage	Yes
Temporary campgrounds	No
Temporary merchants	CU
Vehicle service or repair	Yes
Veterinary services	CU
<i>Industrial Land Use Category</i>	
Contractors and/or equipment storage yards or utility shops	Yes
Industrial service	Yes

<i>Land Use Category and Specific Land Use Name</i>	<i>Is Land Use Allowed?</i>
Manufacturing and production	Yes
Railroad yards or buildings	Yes
Warehouse and/or freight movement	Yes
Waste-related facilities	CU
Wholesale services	Yes
<i>Institutional Land Use Category</i>	
Assisted living facility	No
Basic utilities or services	Yes
Clubs or lodges	No
Community facilities	No
Convention center	No
Day care centers	No
Detention facilities	CU
Major utility facilities	Yes
Hospital	No
Parks and open space	No
Religious institutions	No
Schools	No
Cemeteries	No
<i>Other Land Use Category</i>	
Caretaker residence	CU
Concentrated animal feeding operations	No
Home occupations	No
Mining and mineral extraction facilities	No
Ranching and farming	No

Lemmon - Land Usage

<i>Land Use Category and Specific Land Use Name</i>	<i>Is Land Use Allowed?</i>
Small wind energy systems	CU
Surface passenger facilities	No
Wireless telecommunications facilities	CU
Any other use not listed in this table	No
Notes:	
Yes = Use permitted	
No = Use not permitted	
CU = Use allowed only if conditional use permit is granted	

(D) *Industrial District development standards.* The following development standards in the Industrial Zoning District regulate the physical development of land in order to promote the purpose of the district.

	<i>All Uses</i>	<i>Accessory Structures</i>
Minimum Lot Size*	20,000 square feet	
Minimum Setbacks		
a. Front yard	25 feet	35 feet
b1. Rear yard	25 feet	15 feet
b2. Rear yard adjoining Residential District	30 feet	25 feet
c-1. Side yard for one story	15 feet	15 feet
c-2. Side yard for two stories or more	20 feet	
c2. Side yard adjoining Residential District	30 feet	35 feet
Maximum Height	50 feet	50 feet
Maximum Lot Coverage (includes accessory structures)	75%	
Minimum Lot Width	100 feet	100 feet
Notes:		
* Unless larger lot size is required by South Dakota Administrative Rule 74:53:01:16.		

(Ord. passed 4-8-2019)

' 154.26 PUBLIC ZONING DISTRICT.

(A) *Purpose.* The Public Zoning District is established to accommodate a variety of public and semi-public land uses such as parks, schools, open space areas, certain government uses, and civic and nonprofit organizations and uses. Public neighborhoods generally cater to a wide segment of the local population and can involve the congregation of large numbers of people.

(B) *Where these zoning regulations apply.* The Public zoning regulations apply to all land designated as Public on the City of Lemmon Zoning Map.

(C) *Public District use regulations.* The use regulations listed in the following table are intended to maintain and promote public neighborhoods. Because the Public Zoning District=s main criterion is that a land use be public in nature, the district therefore allows a variety of land uses while still preserving the Apublic@ character of these areas. It is important to note that not all government or non-profit land uses are allowed in the Public Zoning District. For example, offices are not an allowed land use and therefore a government office building would be more suitable in a commercial zoning district.

<i>Land Use Category and Specific Land Use Name</i>	<i>Is Land Use Allowed?</i>
<i>Residential Land Use Category</i>	
Single-family detached residence	No
Single-family attached residence	No
Multi-family residence (two-unit only)	No
Multi-family residence (more than two units)	No
Manufactured home parks	No
Group living	No
In-home day care facility	No
<i>Commercial Land Use Category</i>	
Adult-oriented businesses	No
Amusement and recreation establishments	Yes
Automotive sales and rentals	No
Bed and breakfast	No

Lemmon - Land Usage

<i>Land Use Category and Specific Land Use Name</i>	<i>Is Land Use Allowed?</i>
Bars and nightclubs	No
Campgrounds	No
Drive-through restaurants	No
Financial services	No
Hotels	No
Kennels	No
Liquor stores	No
Major event entertainment	CU
Medical office or facilities	No
Office	No
Personal services	No
Plant nursery or greenhouse	No
Recreational vehicle parks	No
Restaurants	No
Retail sales and services	No
Self-service storage	No
Temporary campgrounds	No
Temporary merchants	CU
Vehicle service or repair	No
Veterinary services	No
<i>Industrial Land Use Category</i>	
Contractors and/or equipment storage yards or utility shops	No
Industrial service	No
Manufacturing and production	No

<i>Land Use Category and Specific Land Use Name</i>	<i>Is Land Use Allowed?</i>
Railroad yards or buildings	No
Warehouse and/or freight movement	No
Waste-related facilities	No
Wholesale services	No
<i>Institutional Land Use Category</i>	
Assisted living facility	No
Basic utilities or services	Yes
Clubs or lodges	Yes
Community facilities	Yes
Convention center	Yes
Day care centers	CU
Detention facilities	No
Major utility facilities	CU
Hospital	No
Parks and open space	Yes
Religious institutions	Yes
Schools	Yes
Cemeteries	Yes
<i>Other Land Use Category</i>	
Caretaker residence	No
Concentrated animal feeding operations	No
Home occupations	No
Mining and mineral extraction facilities	No
Ranching and farming	No

Lemmon - Land Usage

<i>Land Use Category and Specific Land Use Name</i>	<i>Is Land Use Allowed?</i>
Small wind energy systems	CU
Surface passenger facilities	Yes
Wireless telecommunications facilities	CU
Any other use not listed in this table	No
<p>Notes:</p> <p>Yes = Use permitted No = Use not permitted CU = Use allowed only if conditional use permit is granted</p>	

(D) *Public District development standards.* The following development standards in the Public Zoning District regulate the physical development of land in order to promote the purpose of the district.

	<i>All Uses</i>	<i>Accessory Structures</i>
Minimum Lot Size*	None	
Minimum Setbacks		
a. Front yard	25 feet	35 feet
b1. Rear yard	8 feet	8 feet
b2. Rear yard adjoining Residential District	25 feet	25 feet
c-1. Side yard for one story	8 feet	8 feet
c-2. Side yard for two stories or more	12 feet	12 feet
c2. Side yard adjoining Residential District	15 feet	15 feet
Maximum Height	35 feet	35 feet
Maximum Lot Coverage (includes accessory structures)	50%	
Minimum Lot Width	None	None
<p>Notes:</p> <p>* Unless larger lot size is required by South Dakota Administrative Rule 74:53:01:16.</p>		

(Ord. passed 4-8-2019)

DEVELOPMENT STANDARDS**' 154.40 EXCEPTIONS TO ZONING DEVELOPMENT STANDARDS.**

(A) *Yard and setback exceptions.* The following requirements set forth exceptions or more specific requirements for the yard and setback regulations set forth in all zoning districts. In all cases, however, if a more restrictive code requirement exists outside of the yard and setback requirements of this chapter, then that more restrictive requirement takes precedent over these exceptions.

(1) No yard or setback area required for a building or structure shall ever be occupied by any other building or structure except for the following:

- (a) Awnings and canopies, as subject to applicable building codes;
- (b) Bay windows and chimneys, all not to exceed two feet;
- (c) Necessary mechanical equipment appurtenant to the primary or accessory structure such as central air conditioning units, heat pumps, etc.
- (d) Lighting, either attached to a building or free-standing, except that all lighting shall not primarily be directed towards structures located on adjacent properties;
- (e) Driveways, curbs, sidewalks and steps or stairs, provided, however, that steps or stairs must be non-enclosed and cannot extend more than six feet into the required yard or setback;
- (f) Fences, walls and hedges;
- (g) Flagpoles;
- (h) Garbage disposal equipment provided it is non-permanent;
- (i) Landscape features, planting boxes and recreational equipment;
- (j) Overhanging roof, eave, gutter, cornice or other architectural feature, not to exceed three feet. Open fire escapes may extend into any required yard not more than six feet;
- (k) Parking lots or parking spaces;
- (l) Signs;
- (m) Open patios, open terraces, and porches (non-enclosed) not to exceed six feet;

- (n) Trees, shrubs, flowers and other plants; and
- (o) Wheelchair ramps.

(2) Any building setback that is adjacent to an unimproved section line right-of-way shall meet the minimum setback prescribed by this chapter for that district plus an additional 33 feet.

(B) *Height exceptions.* The following requirements set forth exceptions or more specific requirements for the height regulations set forth in all zoning districts. In all cases, however, if a more restrictive code requirement exists outside of the regular height requirements of this chapter, then that more restrictive requirement takes precedence over these exceptions:

- (1) In measuring heights, a habitable basement or attic shall be counted as half a story;
- (2) The following structures or parts thereof are exempt from the height limitations set forth in the zoning districts:
 - (a) Agricultural buildings and in the Agricultural District only: barn, silo, windmill, but not including dwellings;
 - (b) Chimneys, smokestacks, decorative spires, flagpoles, ventilators, skylights, derricks, conveyors, and cooling towers;
 - (c) Radio and television antennas and towers, satellite dishes, observation towers, power transmission towers, cellular communication towers, and small wind energy systems;
 - (d) Water tanks and standpipes; and
 - (e) Other similar and necessary mechanical appurtenances pertaining to and necessary to the permitted uses of the districts in which they are located; provided that they are not used for human occupancy.

(4) Churches, schools, hospitals, sanatoriums, and other public and semi-public buildings may exceed the height limitations of the district if the minimum depth of the front, side and rear yards required in the district is increased one foot for each two feet by which the height of the public or semi-public structure exceeds the prescribed height limit.

(Ord. passed 4-8-2019)

' 154.41 DEVELOPMENT STANDARDS FOR SPECIFIC USES IN ALL ZONING DISTRICTS.

(A) *Purpose.* The purpose of this section is to set development standards for certain specific land uses that apply to that use throughout all zoning districts.

(B) *Manufactured homes on individual lots.* A manufactured home on an individual lot, outside of a manufactured home park, shall comply with the standards listed below.

(1) *Placement, securing and codes.* All manufactured homes and accessory structures shall be securely anchored to the ground in accordance with the manufacturer=s specifications. Manufactured homes, once in their permanent location upon the manufactured home space, shall be fully skirted within 45 days. All plumbing, mechanical, and electrical systems shall meet all current codes adopted by the City of Lemmon.

(2) *Permit.* A building permit shall be required before any manufactured home is located or relocated onto or off of a lot or property.

(C) *Manufactured home parks.*

(1) *Purpose.* The purpose of the manufactured home park regulations is to ensure that manufactured home park development is consistent with the desired character of residential areas within the city.

(2) *Permits required.* A building permit shall be required for each manufactured home moved into, or out of, a manufactured home park. Additionally, a conditional use permit shall be required for any proposed new or expanded manufactured home park.

(3) *Streets.* Each individual manufactured home lot or space shall abut a public or private street for a minimum distance of 25 feet. The street shall be maintained in good repair. Dead end streets shall be provided with a turn-around for emergency vehicles and built to city standards. In the event a manufactured home park has its own internal road(s), then a minimum of two entrances to the internal road(s) shall be provided.

(4) *Development standards.*

<i>Development Standards for Manufactured Home Parks</i>		
Manufactured Home Park, Minimum Area	2 acres	
Individual Manufactured Home Lot or Space Area, Minimum Size	3,000 square feet	
Individual Manufactured Home Lot or Space Coverage, Maximum	50%	
Individual Manufactured Home Lot or Space Width, Minimum	40 feet (front building line), 25 feet abutting street	
Manufactured Home Park, Maximum Density	Not more than 14 individual manufactured home lots or spaces per acre	
<i>Setbacks from Manufactured Home Park Boundary</i>		
Front	25 feet	
Side	12 feet	
Rear	25 feet	
<i>Setbacks from Manufactured Home Space Boundary</i>	<i>Primary Structure</i>	<i>Accessory Structure</i>
Front	15 feet	15 feet
Side	7 feet	5 feet
Rear	10 feet	5 feet
Maximum Building Height	20 feet	15 feet

(5) *Spacing.* A minimum of 14 feet spacing measured from any wall or extension of a manufactured home shall be maintained between manufactured homes.

(6) *Parking.* Each manufactured home lot shall have a minimum of two designated off-street parking spaces of gravel or pavement and connected to a public or private roadway.

(7) *Refuse collection.* A minimum of one refuse collection station shall be provided, with a minimum of one dumpster for each 14 manufactured homes in the park. Refuse collection stations shall not be located between the manufactured home park and a public street.

(8) *On-site management.* On-site management must be readily available at all times for any manufactured home park.

(9) *Tie-down requirements.* All manufactured homes shall be anchored to the ground in accordance with the manufacturer's specifications.

(10) *Skirting*. All manufactured homes, unless anchored to a permanent foundation, shall be skirted within 30 calendar days of placement.

(11) *Addresses*. Each manufactured home shall have an address number affixed to the home and clearly visible from the street.

(12) *Utilities*. The manufactured home park shall meet all applicable city and state requirements for water and wastewater systems as well as other utilities and mechanical and electrical systems.

(13) *Storm water*. Prior to approval of a conditional use permit, a storm water drainage plan must be submitted for review and approval of the city. Upon development of the manufactured home park, applicable drainage improvements shall be installed to ensure implementation of the storm water plan.

(D) *Wireless telecommunications facilities*.

(1) *Purpose*. The purpose of the wireless telecommunication facilities regulations is to accommodate wireless telecommunications facilities while ensuring the placement of such facilities is consistent with the city's land use policies.

(2) *Exemptions to wireless telecommunication facilities regulations*.

- (a) Ordinary maintenance of existing telecommunication facilities and support structures;
- (b) Antennas used by residential households solely for broadcast radio and television reception;
- (c) Satellite antennas used solely for residential or household purposes;
- (d) Carrier on Wheels (COW) placed for a period of not more than 120 calendar days at any location within the district after a declaration of an emergency or disaster by the Governor or by the responsible local government official.

(3) *Specific additional requirements for wireless telecommunication facilities located on existing structures*.

- (a) Antennas and accessory equipment may be located on any existing structure, including, but not limited to, buildings, water tanks, utility poles, broadcast towers or any existing support structure in accordance with the requirements of this section.
- (b) No wireless telecommunication facility shall be located within 30 inches of any space occupied by or available to the public.

(c) Antennas and accessory equipment may exceed the maximum building height limitations, provided that the antenna and accessory equipment are in compliance with the requirements and standards of this section.

(d) Each antenna mounting on existing structures and any accessory equipment shall meet the following standards:

1. Omnidirectional or whip antennas shall not exceed 20 feet in height and seven inches in diameter and shall be of a color that is identical or similar to the color of the supporting structure.

2. Directional or panel antennas shall not exceed ten feet in height and two feet in width and shall be of a color that is identical or similar to the color of the supporting structure.

3. Cylinder-type antennas shall not exceed ten feet in height and 12 inches in diameter and shall be of a color that is identical or similar to the color of the supporting structure.

4. Satellite and microwave dishes shall not exceed ten feet in diameter and shall be of a color that is identical or similar to the color of the supporting structure.

5. Other antenna types not specifically mentioned above shall be permitted if they are not significantly greater in size and will have a visual impact no greater than the antennas listed above.

(4) *New support structures.*

(a) The height of any proposed support structure shall not exceed the minimum height necessary to meet the coverage objectives of the facility, and shall not exceed 199 feet in height as measured from the base of the structure to the top of the highest point.

(b) Monopoles or replacement poles that will support utility lines as well as a telecommunication facility within utility easements or rights-of-way must meet the following additional requirements:

1. The utility easement or right-of-way shall be a minimum of 100 feet in width.

2. The easement or right-of-way shall contain overhead utility transmission and/or distribution structures that are 80 feet or greater in height.

3. The height of the monopole or replacement pole may not exceed by more than 30 feet the height of the existing utility support structures.

4. Monopoles and the accessory equipment associated therewith shall be set back a minimum of 15 feet from all boundaries of the easement or right-of-way.

5. Poles that use the structure of a utility tower for support are permitted. Such poles may extend up to 20 feet above the height of the utility tower.

6. Monopoles or replacement poles located on public property or within public rights-of-way that will support public facilities or equipment in addition to telecommunication facilities shall be permitted. Examples include, but are not limited to, public communication facilities, athletic field lights, traffic lights, street lights, and other types of utility poles in the public right-of-way.

(5) *Design and aesthetics.*

(a) Unless otherwise required by the Federal Communications Commission, the Federal Aviation Administration, or the Planning and Zoning Board, monopoles and towers shall have a galvanized silver or gray finish.

(b) Telecommunication facilities or support structures shall not be lighted or marked unless required by the Federal Communications Commission or the Federal Aviation Administration.

(c) Signs located at the telecommunication facility shall be limited to ownership and contact information, Federal Communications Commission antenna registration number, and any other information required by government regulation. Commercial advertising is prohibited.

(d) As part of a conditional use permit, the Planning and Zoning Board may require landscaping surrounding the accessory equipment.

(6) *Setbacks.*

(a) *Property lines.* Unless otherwise stated herein, monopoles and towers shall be set back from all property lines a distance equal to their height measured from the base of the structure to its highest point. Other support structures shall be governed by the setbacks required by the underlying zoning district.

(b) *Residential dwellings on the same site.* There shall be no setback requirements from dwellings located on the same lot as the proposed structure.

(c) *Accessory equipment.* Unless otherwise stated herein, all accessory equipment shall be set back from all property lines in accordance with the minimum setback requirements of the underlying zoning district.

(7) *Accessory equipment.* An equipment building, shelter, or cabinet must not exceed 560 square feet and 12 feet in height.

(8) *Safety.* Ground-mounted accessory equipment and support structures shall be secured and enclosed with a fence not less than six feet in height.

(9) *Abandonment and removal.* Any telecommunications facility or support structure that is not operated for a period of 12 consecutive months shall be considered abandoned. The city may issue a notice of abandonment to the owner of the wireless telecommunication system that it is deemed abandoned. The owner shall have the right to respond to the notice of abandonment within 30 days from the notice of abandonment receipt date. The city shall withdraw the notice of abandonment and notify the owner that the notice has been withdrawn if the owner provides information that demonstrates the wireless telecommunication system has not been abandoned. If the wireless telecommunication system is determined to be abandoned, the owner of the system shall remove the wireless telecommunication system at the owner=s sole expense within three months of the receipt of the notice of abandonment. If the owner fails to remove the wireless telecommunication system, the city may pursue legal action to have the wireless telecommunication system removed at the owner=s expense.

(E) *Small wind energy systems.*

(1) *Purpose.* The purpose of the small wind energy systems regulations is to allow wind energy as an alternative to traditional energy sources while ensuring that the placement, construction and modification of a small wind energy facility is consistent with the city=s land use policies, to minimize the impact of these facilities, and to protect the health, safety and welfare of the city=s citizens.

(2) *Height.* The maximum height of a small wind energy system shall be 50 feet as set forth in exceptions to height requirements.

(3) *Setbacks.* The minimum setback distance between each wind turbine tower and all surrounding property lines, overhead utility or transmission lines, other wind turbine towers, electrical substations, public roads, and dwelling units shall be equal to or greater than 1.1 times the tower height.

(4) *Access.* All ground mounted electrical and control equipment shall be labeled and secured to prevent unauthorized access, and the tower shall be designed and installed so as not to provide step bolts or a ladder readily accessible to the public for a minimum of eight feet above the ground.

(5) *Lighting.* A small wind energy system shall not be artificially lighted unless such lighting is required by the Federal Aviation Administration.

(6) *Noise.* A small wind energy system shall not emit noise that exceeds 55 dBA, as measured at the closest neighboring inhabited dwelling. The level may be exceeded during short-term events such as utility outages or wind storms.

(7) *Appearance, color, finish.* The small wind energy system shall remain painted or finished the color or finish that was originally applied by the manufacturer, unless otherwise approved or required by the city.

(8) *Signs.* All signs, other than the manufacturer=s or installer=s identification, appropriate warning signs, or owner identification signs, shall not be visible from any public road. Commercial advertising is prohibited.

(9) *Code compliance.* A small wind energy system shall comply with all applicable local and state construction and electrical codes.

(10) *Utility interconnections and notification.* No small wind energy system shall be installed until evidence that the utility company has been notified of the intent to install an interconnected customer-owned generator. Off-grid systems are exempt from this requirement. Furthermore, any interconnection between a wind energy conversion system and an electric utility company shall be allowed only in accordance with all local, state, and federal regulations including regulations issued by the Public Utilities Commission and Federal Aviation Administration, as well as standards of the applicable electric utility company.

(11) *Warning information.* Information related to the maximum power output, nominal voltage and maximum current, and emergency shutdown procedures for the wind energy conversion system shall be posted near the base of the tower in a visible location.

(12) *Electromagnetic interference.* No wind energy conversion system shall produce electromagnetic interference so as to disrupt transmission such as those from radio, television, or microwave towers. At the time of applying for the conditional use permit, the applicant must submit information from the manufacturer indicating that, once operational, the wind energy conversion system will not adversely affect transmissions. If necessary, generators and alternators shall be filtered, shielded, or both so as to prevent the emission of radio and television signals.

(13) *Manufacturer warranty/maintenance information.* The applicant shall submit a manufacturer=s statement documenting that the system has been successfully and safely operated in atmospheric conditions that are similar to the conditions in Lemmon. The applicant shall provide a copy of the manufacturer=s warranty indicating that the system is warranted against any system failures reasonably expected during severe weather conditions, system specifications including maximum power output, and a maintenance schedule for the system.

(14) *Lightning protection.* Any wind energy conversion system shall have appropriate lightning protection to sufficiently protect all connected and adjacent equipment and structures from damage. The lightning protection system shall effectively discharge lightning energy from the structure to the ground through the application of shielding, lightning arresters, and deep earth grounding.

(15) *Abandonment.*

(a) A small wind energy system that is out of service for a period of 12 consecutive months will be deemed abandoned. The city may issue a notice of abandonment to the owner of the small wind energy system that it is deemed abandoned. The owner shall have the right to respond to the notice of abandonment within 30 days from the notice of abandonment receipt date. The city shall withdraw the notice of abandonment and notify the owner that the notice has been withdrawn if the owner provides information that demonstrates the small wind energy system has not been abandoned.

(b) If the small wind energy system is determined to be abandoned, the owner of the system shall remove the wind generator from the tower at the owner=s sole expense within three months of the receipt of the notice of abandonment. If the owner fails to remove the wind generator from the tower, the city may pursue legal action to have the wind generator removed at the owner=s expense. Furthermore, if the small wind energy system is determined to be abandoned, the owner of the system shall remove the support structure or pole at the owner=s sole expense and within 12 months of the receipt of the notice of abandonment. If the owner fails to remove the support structure or pole, the city may pursue legal action to have the support structure or pole removed at the owner=s expense.

(F) *Major utility facility.*

(1) *Purpose.* The purpose of the major utility facility regulations is to protect neighboring properties from potential adverse impacts of the facilities.

(2) *Screening.* An opaque fence, six feet in height, shall be constructed around the substation or utility. The fence must meet all required setbacks of the zoning district in which it is located. This screening requirement shall not apply to the Industrial Zoning District unless the property is adjacent to a less intensive zoning district or a residential land use.

(3) *Impact standards.* There shall not be any offensive noise, smoke, dust, or heat noticeable beyond the premises.

(G) *Home occupations.*

(1) *Purpose.* The purpose of the home occupation regulations is to allow certain types of businesses to be operated from the home while protecting neighboring properties from potential adverse impacts of commercial activities within residential dwellings and to preserve the residential character of neighborhoods. The home occupation regulations recognize that many types of jobs can be done in a home with little or no effects on the surrounding area.

(2) *Required standards.*

(a) All commercial activities must be in completely enclosed structures.

(b) Exterior storage or display of goods or equipment is prohibited.

(c) The residential dwelling and site must remain residential in appearance and characteristics.

(d) No toxic, explosive, flammable, combustible, corrosive, etiologic, radioactive or other restricted material shall be stored or used on site.

(e) There shall not be any offensive noise, smoke, dust or heat noticeable beyond the premises.

(f) No activity can be conducted which interferes with radio, television, telephone, cellular, or other electronic communications or transmissions.

(g) There shall not be excessive vehicular or pedestrian traffic to the premises beyond what would normally be associated with the residential area in which the home occupation is located.

(h) No mechanical equipment other than that ordinarily utilized within a dwelling unit for household or hobby purposes shall be allowed.

(i) Home occupations can be conducted only by the occupants of the residence with no outside employees being hired.

(j) Merchandise offered for sale shall be clearly incidental to the home occupation; however, orders may be taken for later delivery off the premises.

(k) Truck deliveries or pick-ups of supplies or products associated with the home occupations are allowed between the hours of 8:00 a.m. and 5:00 p.m. However, no more than a total of two truck visits shall occur in the same week and no semi-trucks are allowed.

(l) Off-premises advertising for the home occupation shall be by phone number and website only.

(m) On-premises advertising shall be limited to one non-illuminated sign not exceeding three square feet. Such sign shall show only the name of the occupant and type of occupation and shall be neutral in color.

(H) *Recreational vehicle parks.*

(1) *Purpose.* The purpose of the recreational vehicle park regulations are to provide adequate sites for temporary parking of recreational vehicles whose occupants are visiting or passing through Lemmon; minimize potential adverse impacts between a recreational vehicle park and surrounding land uses; and provide health and safety standards to protect both the users of the park and the community.

(2) *Department of Health.* The recreational vehicle park shall meet all applicable requirements of the State of South Dakota Department of Health.

(3) *Occupancy.* The occupancy of each recreational vehicle space is limited to one recreational vehicle and one automobile or truck. The length of stay is limited to a maximum of 30 calendar days in any 12-month period. No buildings or storage sheds are permitted on individual recreational vehicle spaces.

(4) *Required standards.*

(a) *Setbacks.* All recreational vehicles, recreational vehicle spaces, office buildings, or service buildings shall be set back from all property lines a minimum of 25 feet.

(b) *Spacing.* A minimum of ten feet of spacing shall be maintained between recreational vehicles.

(c) *Recreational vehicle space size.* The minimum size of any individual recreational vehicle space shall be 1,815 square feet.

(d) *Minimum park size.* Any recreational vehicle park shall have a minimum of six designated spaces for recreational vehicles.

(e) *Vehicle parking.* A maximum of one passenger vehicle and one recreational vehicle (such as a camper trailer, motor home, etc.) may be parked within one recreational vehicle space.

(f) *Access.* Each recreational vehicle site shall have direct access to a driveway.

(I) *Adult-oriented businesses.* No adult-oriented business may be located within one quarter mile of a child welfare agency, place of worship, private or public school, residence, public playground, or public recreation facility.

(J) *Drive-through facilities.* The drive-through facilities regulations are intended to reduce potential negative impacts of these facilities on abutting uses; promote safe and efficient on-site vehicle and pedestrian circulation; and reduce conflicts between queued vehicles and adjacent streets. These regulations apply to new developments, the addition of drive-through facilities to existing developments, and the relocation of an existing drive-through facility.

(1) *Stacking lanes and service area descriptions.* The stacking lane is the space occupied by vehicles queuing for the service to be provided. The service area is where the service occurs, such as the service window, gas pump, or the area within the building, such as a car wash, where the service occurs.

(2) *Setbacks.* Service areas and stacking lanes must be set back at least 25 feet from all property lines that abut Residential Districts.

(3) *Stacking lane standards.*

(a) *Gasoline pumps.* A minimum of 30 feet of stacking lane is required between the property line and the nearest gasoline pump.

(b) *All other uses.* A minimum of 60 feet of length per stacking lane is required. A stacking lane is measured from the property line to the service area.

(c) *Stacking lane design and layout.* Stacking lanes must be designed so that they do not interfere with parking and vehicle circulation.

(d) *Stacking lanes identified.* All stacking lanes must be clearly identified through the use of striping and signage.

(K) *Screening requirements in commercial districts.* These screening standards address specific unsightly features that detract from the appearance of commercial areas.

(1) *Garbage collection areas.* All exterior garbage cans and garbage collection areas, except those located in and accessed from an alley, must be screened from the street and any adjacent properties. Garbage collection areas shall be screened on three sides by a solid wall or fence at least six feet in height.

(2) *Mechanical equipment.* Mechanical equipment located on the ground, such as heating or cooling equipment, pumps, or generators must be screened from the street and any abutting Residential Districts by walls, fences, or vegetation that is tall enough to screen the equipment.

(L) *Waste related facilities.* These standards are intended to mitigate the adverse impacts of intensive, industrial waste related facilities@ such as landfills, recycling centers, salvage operations, etc.

(1) *Location.* The location of any waste related facility shall be no closer than 300 feet from any Residential District.

(2) *Screening.* All outdoor storage or processing of waste or waste-related materials shall be conducted entirely within an enclosed eight-foot-tall opaque fence or wall, except for driveway areas. Storage or processing located between the street and such fence or wall is prohibited. Any fence or wall erected for screening purposes shall be within the buildable lot area and shall be maintained in good condition.

(Ord. passed 4-8-2019)

ENFORCEMENT

' 154.50 LEGAL NONCONFORMING USES, FEES AND ENFORCEMENT.

(A) *Legal nonconforming uses and development.* A legally nonconforming building, structure or use existing at the time of the adoption of this chapter may be continued, maintained, and repaired except as otherwise provided in this section.

(1) *Continuance of legal nonconforming uses.* Any use that is legal immediately prior to the adoption of this chapter, but does not conform to the same upon its adoption, becomes a legal

nonconforming use. A legal nonconforming use may continue unless it is discontinued for a period of 180 calendar days. In such case, the use shall only be reestablished through the conditional use process. A legal nonconforming use, if converted to a conforming use, shall not be changed back to a nonconforming use.

(2) *Alteration or enlargement of legal nonconforming buildings, structures or uses.* A legal nonconforming building, structure or use shall not be added to or enlarged in any manner unless such addition complies with the setback, height, density and other zoning requirements of the district in which it is located.

(3) *Damage to legal nonconforming buildings and structures.* A building or structure that by reason of the passage of this chapter has become legally nonconforming, and thereafter is damaged by fire, explosion, act of God, or the public enemy to the extent of more than 50% of its value, shall not be restored except in conformity with the regulations of the zoning district in which it is located. When damaged by less than 50% of its value, a legally nonconforming building or structure may be repaired or reconstructed up to its original size, and used as before the time of damage, provided such repairs or reconstruction are completed within one year of the date of such damage.

(4) *Legal nonconforming lots of record.* Where a lot, parcel or tract of land is in legal existence on the effective date of this chapter, and such lot is smaller than the minimum lot size required for the zoning district or otherwise does not meet a current zoning development standard, a legal nonconforming lot of record shall be deemed to exist. For the purpose of establishing the legal existence of a lot, parcel or tract of land evidence may be presented that the lot, parcel or tract was legally created by plat, recorded deed, recorded warranty deed, recorded contract of sale or purchase agreement executed prior to the effective date of this chapter. Any permitted use or allowed conditional use may be developed, altered or enlarged on a legal nonconforming lot of record so long as all other development standards are met and the appropriate reviews are completed.

(B) *Fees.* A fee shall be paid upon application for a conditional use, variance, or ordinance amendment. The fees shall be set by resolution of the City Council.

(C) *Court review of City Council decisions.* Any person, firm, or corporation aggrieved by any decision of the Lemmon City Council with respect to this chapter may appeal the decision to circuit court.

(D) *Complaints regarding violations.* Any person may file a written complaint alleging a violation of this chapter. The complaint shall state the basis for the violation, how the complainant is affected, and shall be filed with the Planning and Zoning Board, who shall timely investigate and take appropriate action as provided by this chapter.

(E) *Penalties.* Unless another penalty is expressly provided, every person convicted of a violation of any provision of this chapter, rule or regulation, adopted or issued in pursuance thereof, shall be punished by a fine of not more than \$200. Each violation and each day upon which any violation shall

occur shall constitute a separate offense. In addition to the penalty described above, the city may pursue other remedies, including but not limited to, abatement of nuisances, injunctive relief and revocation of licenses or permits. The penalty provided by this section, unless another penalty is expressly provided, shall apply to the amendment of any section in this chapter, whether or not such penalty is reenacted in the amendatory chapter.

(F) *Validity*. Should any section, clause or provision of this chapter be declared by the court to be unconstitutional or invalid, such shall not affect the validity of the chapter as a whole or any other part, other than the part judged invalid.

(G) *Conflict with public and private provisions*. Where any provisions of these regulations impose restrictions different from those imposed by any other provisions of these regulations, or any other ordinance, rule or regulation, or other provision of the law, whichever provisions are more restrictive or impose higher standards shall control. These regulations are not intended to nullify any easement, covenant or any other private agreement or restriction. As a rule of law, the city may not enforce covenants.

(H) *Reference to revised ordinance*. Additions or amendments to the Zoning Ordinance of the City of Lemmon when passed in the form as to indicate the intention of the City Council to make the same a part of this chapter shall be deemed to be incorporated in this chapter so that reference to the Zoning Ordinance includes the additions and amendments.

(I) *Future amendments*. Ordinances adopted after adoption of the Zoning Ordinance of the City of Lemmon that amend or refer to ordinances that have been codified in the Zoning Ordinance shall be construed as if they amend or refer to like provisions of the Zoning Ordinance.
(Ord. passed 4-8-2019)

APPENDIX A: ZONING MAP

CHAPTER 155: SUBDIVISIONS

Section

- 155.01 Definitions
- 155.02 Authority and administration
- 155.03 Layout plan
- 155.04 Preliminary plats
- 155.05 Final plats
- 155.06 Improvements
- 155.07 Exceptions
- 155.08 Conflicting regulations
- 155.09 Fees
- 155.10 Amendments
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- 155.12 Plat errors and omissions

- 155.99 Penalty

' 155.01 DEFINITIONS.

(A) *General rules for application of this chapter=s language.* Where the language in this chapter is ambiguous or unclear, the Planning and Zoning Board may issue a statement of clarification, which must be reviewed and approved by the Lemmon City Council.

(B) *Tenses and usage.* Words used in the singular include the plural, and words used in the plural include the singular. Words used in the present tense include the future tense, and words used in the future tense include the present tense. The words Amust@, Ashall@, and Awill@ are mandatory. The word Amay@ is permissive.

(C) *Lists.* Lists of items that state Asuch as@ or similar language are not limited to just those items. The lists are intended to provide examples, but not to be exhaustive of all possibilities.

(D) *Defining words and phrases.* For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. Terms not herein defined shall have the meaning customarily assigned to them.

ABUT. See ***ADJOIN.***

ADJOIN. To share any portion of a lot line, including a single point.

ADMINISTRATIVE OFFICIAL. The officer appointed by the city to administer these regulations.

ALLEY. A minor public right-of-way, dedicated to public use, which affords a secondary means of vehicular access to the back or side of properties otherwise abutting a street.

APPLICANT. A person or entity who submits a plat or exception request. An applicant can be the owner of the property or someone who is representing the owner, such as a builder, developer, optional purchaser, consultant, engineer, or architect.

CITY. The City of Lemmon, South Dakota.

CITY COUNCIL. The City Council of the City of Lemmon.

CITY ENGINEER. The person designated by the Lemmon City Council to furnish engineering assistance for the administration of this chapter.

COMPLETE APPLICATION. A complete application contains all of the information and items required per this chapter and/or city policy.

COMPREHENSIVE PLAN. The currently adopted Lemmon Comprehensive Plan.

DEDICATION. The designation and formal transfer of land to the governing body for use by the public.

EASEMENT. A grant of the rights by a property owner that allows another person to use the owner's land for a specific purpose, such as access or to locate utilities. An easement is self-perpetuating and runs with the land.

EXCEPTION. A waiver granted by the City Council to the terms of this chapter that will not be contrary to the public interest or the purpose of this chapter. An approved exception is a vested property right that runs with the land.

GOVERNING BODY. The City Council of the City of Lemmon, South Dakota.

IMPROVEMENT. Changes and additions to land necessary to support the development or use of real property, such as, but not limited to, boulevards, bridges, culverts, curbs and gutters, electrical transmission and service lines, natural gas lines, potable water mains and service lines, sanitary or storm sewers, sidewalks, street grading and surfacing, street lights, survey monuments, telephone lines, and other similar items.

LAYOUT PLAN. A layout plan is a general plan of a proposed subdivision. The layout plan review process allows for an informal review of a proposed subdivision to help the applicant determine

the proposal= s conformance with city ordinances and development requirements. A layout plan review is not required for proposed subdivisions.

LOT. A parcel of land established by plat, subdivision, or as otherwise permitted by law, to be separately owned, used, or developed.

LOT LINE. The property lines along the edge of a lot.

MAJOR STREET PLAN. The map showing the designations of streets within the city= s planning jurisdiction, adopted or established by law, any amendments or additions thereto resulting from the approval of subdivision plats and the subsequent filing of such approved plats.

OWNER. The owner of the title to real property or the contract purchaser of real property of record, as shown on the latest assessment records of the Perkins County Assessor. Owner also includes a deed holder or contract purchaser whose name does not appear in the latest assessment records, but who presents to the city a copy of a deed or contract of sale showing date, book, and page of recording.

OWNER= S ENGINEER. The registered engineer, in good standing with the State of South Dakota, who is the agent of the owner of land that is proposed to be subdivided or which is in the process of being subdivided.

OWNER= S SURVEYOR. The registered land surveyor, in good standing with the State of South Dakota, who is the agent of the owner of land that is proposed to be subdivided or that is in the process of being subdivided.

PARCEL. A lot, or contiguous group of lots, or other pieces of land in single ownership or under single control and considered a unit for purposes of development.

PLANNING AND ZONING BOARD. The City of Lemmon Planning and Zoning Board.

PLAT. A map, plan, or layout indicating the location and boundaries of individual properties drawn in compliance with state requirements.

PLAT, FINAL. The plat of the subdivision and any accompanying material as described in these regulations.

PLAT, PRELIMINARY. The plat of the proposed subdivision and any accompanying material approved by the Lemmon City Council in advance of the submission of a final plat.

PROPERTY LINE ADJUSTMENT. A property line adjustment relocates or eliminates an existing common property line(s) between two abutting lots. Property line adjustments do not require subdivision improvements and must comply with certain other provisions as set forth in this chapter.

RECORDED ACCESS. A permanent easement or dedication providing legal access to a tract of land.

REGISTERED LAND SURVEYOR. A surveyor registered and in good standing with the State of South Dakota.

RIGHT-OF-WAY. A public area that allows for the passage of people or goods.

RIGHT-OF-WAY EASEMENT. A portion of a parcel of land that is defined by a notation on a plat as a permanent easement for use as a public right-of-way.

ROADWAY. The portion of the right-of-way that is improved for motor vehicle travel. **ROADWAY** includes vehicle travel lanes and on-street parking areas. **ROADWAY** does not include areas devoted to curbs, parking strips, or sidewalks.

SIDEWALK. A paved area for a pedestrian walkway paralleling and separated from the roadway.

SPECIFICATIONS. The development specifications that have been adopted by the City Council.

STREET. A public or private thoroughfare that affords the principal means of access to abutting property.

STREET, PRIVATE. A street that provides vehicular and pedestrian access to an isolated tract of land where a public right-of-way does not exist or is deemed impractical by the city.

STREET, RESIDENTIAL. A street intended to provide access to other roads from abutting properties.

STREET SPECIFICATIONS. The required standards to which streets within the jurisdiction of the city must be constructed.

SUBDIVIDER. The person(s), firm(s), or corporation(s), owning land in the process of creating a subdivision of said land.

SUBDIVISION. Any land vacant or improved, which is divided or proposed to be divided into two or more lots, parcels, sites, units, plots, or interests for the purpose of offer, sale, transfer, lease, or development, including re-subdivision. **SUBDIVISION** includes the division of land whether by deed, metes and bounds description, devise, intestacy, lease, map, plat or other recorded instrument.

SURETY. Security consisting of cash deposit, surety bond, personal guarantee, collateral, property, or instrument of credit in an amount and form satisfactory to and approved by the Lemmon City Council whenever surety is required by these regulations.

UTILITIES. Infrastructure services and structures necessary to deliver those services. These services may be provided by a public or private agency. Examples include water, sanitary sewer, electricity, natural gas, internet, and telephone services.

ZONING DISTRICT. Any section or sections of the City of Lemmon for which the regulations governing the use of land and use, density, bulk, height, and coverage of buildings and other structures are uniform.

ZONING MAP. The Lemmon Zoning Map, which delineates the extent of each zoning district established in the Zoning Ordinance.

ZONING ORDINANCE. The City of Lemmon Zoning Ordinance.
(Ord. passed 4-8-2019)

' 155.02 AUTHORITY AND ADMINISTRATION.

(A) *Authority.* The City of Lemmon exercises the power and authority to review, approve, and deny applications for the subdivision of land pursuant to the authority of the laws of the State of South Dakota and the ordinances of the City of Lemmon.

(B) *Short title.* This chapter shall be known and cited as the ALemmon Subdivision Ordinance.@

(C) *Purpose.* The purpose of this chapter is to promote: the harmonious development of the City of Lemmon and its environs; the coordination of streets within the municipality; adequate open spaces; a distribution of population and traffic that will create conditions favorable to health, safety, convenience, and prosperity; and the implementation of the goals of the Lemmon Comprehensive Plan.

(D) *Jurisdiction.* This chapter shall apply to all land located within, adjoining, or contiguous to the boundaries of the City of Lemmon and to any extraterritorial platting area as identified on the city= adopted Future Land Use Plan/Master Street Plan.

(E) *Administration and enforcement.*

(1) *General provisions for application of regulations.* This chapter works in conjunction with other city ordinances and policies to regulate the subdivision of land and implement the provisions of the Lemmon Zoning Ordinance and Comprehensive Plan. Prior to recording, any proposed plat within, adjoining, or contiguous to the corporate boundaries of Lemmon, shall be approved by the City Council.

(2) *Administrative Officer.* The provisions of this chapter shall be administered by the Administrative Officer. The Administrative Officer shall be the person officially designated in writing by the City Council. The Administrative Officer is authorized to enforce all provisions of this chapter.

(3) *Planning and Zoning Board.* The Lemmon Planning and Zoning Board shall assist the City Council in an advisory capacity in achieving the established purpose of this chapter. The Planning and Zoning Board shall establish the rules of procedure that are necessary to the performance of its function under this chapter. The Planning and Zoning Board shall review and make recommendations to the City Council on all preliminary and final plat applications and exception requests brought forth by the public in accordance with this chapter.

(4) *City Council.* The Lemmon City Council shall review all recommendations of the Planning and Zoning Board and make final decisions on preliminary and final plat applications and exception requests brought forth by the public in accordance with this chapter. The City Council may reverse or modify the recommendation of the Planning and Zoning Board by a majority vote of all of its members. The City Council shall have the power to render interpretations of this chapter and to adopt and enforce supplemental policies in order to clarify the application of the chapter. Such interpretations shall meet the purpose of this chapter and be set forth in writing.

(Ord. passed 4-8-2019)

Statutory reference:

Municipal approval for adjoining addition or subdivision, see SDCL 11-3-6

' 155.03 LAYOUT PLAN.

(A) *Explanation and purpose.* A layout plan is a generalized plan of a proposed subdivision. The layout plan review process allows for an informal review of a proposed subdivision to help the applicant determine the proposal's conformance with city ordinances and development requirements. A layout plan review is not required for proposed subdivisions.

(B) *Application requirements.* The Planning and Zoning Board shall formulate written policies that identify the required information to be submitted for layout plan reviews.

(C) *Layout plan review process.*

(1) *Application.* The applicant shall submit the required review materials to the Administrative Officer. Upon application, the layout plan will be placed on the next available Planning and Zoning Board meeting agenda for review.

(2) *Planning and Zoning Board review.* The applicant is required to attend the Planning and Zoning Board meeting to discuss the layout plan. At the meeting, the Planning and Zoning Board will review the proposal in relation to applicable city ordinances and development requirements and provide information and feedback on the layout plan design and the platting process.

(Ord. passed 4-8-2019)

' 155.04 PRELIMINARY PLATS.

(A) *Explanation and purpose.* A preliminary plat of a proposed subdivision shall be submitted to the Planning and Zoning Board for their consideration and recommendation to the City Council for approval prior to final plat application. A preliminary plat is a plan of a proposed subdivision and which may require the installation of public improvements.

(B) *Application requirements.* The Planning and Zoning Board shall formulate written policies that identify the required information for submittal of preliminary plat applications.

(C) *Preliminary plat review and approval process.*

(1) *Application.* The applicant shall submit the required application, number of copies of the preliminary plat, and supporting documentation to the Administrative Officer. Upon application, the preliminary plat will be placed on the next available Planning and Zoning Board meeting agenda for review.

(2) *Planning and Zoning Board review.* Review of the plat application by the Planning and Zoning Board shall occur within 60 days of submission. In reviewing the plat, the Planning and Zoning Board will consider the application, supporting documents, public input, and the preliminary plat approval criteria. The Planning and Zoning Board may vote to recommend approval, approval with conditions, or denial of the preliminary plat. The Planning and Zoning Board's recommendation shall be forwarded to the City Council for final consideration.

(3) *City Council review.* The City Council may concur with, modify, or reverse the Planning and Zoning Board's recommendation. The decision of the City Council on a plat application shall be made within 90 days of the application submittal. If City Council action on the plat is not taken within 90 days of submission, such plat shall be deemed approved and a certificate to that effect shall be issued by the City Council. The applicant may waive this requirement and consent to the extension of such period.

(D) *Preliminary plat approval criteria.* The Planning and Zoning Board as well as the City Council shall use the following criteria in reviewing preliminary plat applications:

- (1) The proposal complies with zoning district requirements;
- (2) The proposal complies with the improvements requirements of this chapter;
- (3) The proposal complies with state, federal, and local laws, regulations, and requirements;
- (4) If necessary, the applicant has provided surety to guarantee the construction of all required improvements; and
- (5) The proposal complies with city floodplain regulations.

(E) *Expiration of preliminary plats.* A preliminary plat application approved under the provisions of the chapter shall expire and become null and void if a final plat for the proposal is not submitted within two years of the date of approval. An extension beyond the two-year period may be granted by the City Council.

(F) *Property line adjustments.* A property line adjustment relocates or eliminates an existing common property line(s) between two abutting lots. Property line adjustments do not require subdivision improvements.

(1) *Eligibility criteria.* All of the following criteria must be met in order for a preliminary plat to be considered as a property line adjustment:

- (a) There can be a maximum of two existing or proposed lots involved, and the resulting number of lots will not increase as a result of the plat approval;
- (b) The proposal does not alter the availability of existing services to a site;
- (c) The proposal does not alter a recorded easement without the prior written approval of the easement holder;
- (d) The proposal does not alter street right-of-way locations or dimensions;
- (e) The adjusted lots meet the standards of the underlying zoning district; and
- (f) The plat complies with all provisions of division (D) of this section.

(2) *Property line adjustment process.* A preliminary plat application that is submitted and is found by the Planning and Zoning Commission to meet all aforementioned eligibility requirements, may be considered as a property line adjustment and therefore approved as a final plat by the Commission. After approval as a final plat, the plat is subject to all requirements of ' 155.05 except for division (C)(2), as no further Planning and Zoning Commission review or action is required.
(Ord. passed 4-8-2019)

Statutory reference:

Approval or disapproval of plat, see SDCL 11-6-32

' 155.05 FINAL PLATS.

(A) *Explanation and purpose.* A final plat is a permanent record of the size and location of lots, blocks, streets, alleys, drainage areas, easements, and other parcels of land within a subdivision. When a final plat is recorded with the Perkins County Register of Deeds, the plat becomes a legal instrument.

(B) *Application requirements.* In order for a final plat to be reviewed, the following information must accompany the required application:

- (1) The original plat document that meets all requirements of South Dakota state statutes and administrative rules;
- (2) The required number of copies of the plat, set per city policy;
- (3) The application fee;
- (4) Surety in lieu of subdivision improvements, if applicable;
- (5) Inspection fees; and
- (6) Any additional information required as a condition of approval of the preliminary plat.

(C) *Final plat review and approval process.*

(1) *Application.* After approval of the preliminary plat, the applicant shall submit a final plat of the proposed subdivision to the Administrative Officer. The final plat shall substantially conform to the approved preliminary plat and shall incorporate all required conditions of approval from the preliminary plat.

(2) *Planning and Zoning Board review.* Within 60 days of submission, the Planning and Zoning Board shall review the application and make a recommendation on the final plat to the City Council.

(3) *City Council review.* The City Council may concur with, modify, or reverse the Planning and Zoning Board's recommendation. The decision of the City Council on a final plat application shall be made within 90 days of the application submittal. Approved plats shall be recorded with the Perkins County Register of Deeds.

(Ord. passed 4-8-2019)

' 155.06 IMPROVEMENTS.

(A) *Explanation and purpose.* All improvements referenced in this section and approved as part of a preliminary plat application shall be designed in accordance with city standards and the following requirements. All required improvements must be constructed or installed, or surety provided in lieu, prior to final plat approval.

(B) *Streets.*

(1) The arrangement, character, extent, location and grade of all proposed streets shall be designed in accordance with good land planning principles and constructed in accordance with city standards, the Major Street Plan, and the Comprehensive Plan. Streets shall be provided in relation to

existing and proposed streets, topographical conditions, public convenience and safety, in appropriate relation to the proposed uses of land to be served, and in relation to the provision of utilities to service all lots.

(2) Each lot shall be provided with access to a public street.

(3) Property abutting a proposed subdivision shall not be left landlocked by such proposed subdivision.

(4) Street names shall not be duplicated by spelling or sound, such that they may be confused with the names of existing streets. Street names are subject to the approval of the Planning and Zoning Board.

(C) *Sidewalks.* Public sidewalks shall be provided in accordance with city standards and constructed on both sides of all streets within any subdivision or any other place deemed necessary by the Planning and Zoning Board.

(D) *Easements.* Utility, drainage, or other easements shall be provided in accordance with city standards.

(E) *Lots.*

(1) Every lot shall abut a street improved to city standards.

(2) Lot dimensions shall be in conformity with the provisions of Chapter 154.

(F) *Utilities.* Utilities shall be provided in accordance with city standards.

(G) *Drainage facilities.*

(1) If subdivision improvements are required, a drainage plan and report shall be submitted by the applicant's engineer.

(2) The provision of drainage facilities shall be provided in accordance with city standards.
(Ord. passed 4-8-2019)

' 155.07 EXCEPTIONS.

(A) *Explanation and purpose.* The City Council may grant exceptions to submittal requirements, standards for improvements, or other provisions of this chapter.

(B) *Exception procedures.* An applicant shall make a written request to the Planning and Zoning Board specifically identifying the provision of this chapter and the waiver being requested. The request

shall be processed concurrently with the associated preliminary plat application. The Planning and Zoning Board may request additional information from the applicant in order to make a recommendation on the request to the City Council. The Planning and Zoning Board's recommendation shall be forwarded to the City Council for final consideration.

(C) *Exception approval criteria.* In order to grant approval of an exception request, all of the following criteria must be met:

(1) There are special circumstances or conditions on the property such that the strict application of the regulation in question would preclude all reasonable use of the site;

(2) Granting the exception will not compromise the purpose of this chapter; and

(3) Any impacts resulting from the exception will be mitigated.

(Ord. passed 4-8-2019)

' 155.08 CONFLICTING REGULATIONS.

Where any provision of these regulations imposes restrictions different from those imposed by any other provision of these regulations, or any other ordinance, rules or regulations, or other provision of law, whichever provisions are more restrictive or impose higher standards shall control. These regulations are not intended to abrogate any easement, covenant, or any other private agreement or restrictions.

(Ord. passed 4-8-2019)

' 155.09 FEES.

Fees shall be paid at the time of application. The fees shall be set by resolution of the City Council.

(Ord. passed 4-8-2019)

' 155.10 AMENDMENTS.

(A) *Explanation and purpose.* The City Council may from time to time amend the provisions of these subdivision regulations.

(B) *Amendment procedures.* A public hearing on all proposed amendments shall be held by the Planning and Zoning Board and recommendations shall be forwarded to the City Council for final action.

(Ord. passed 4-8-2019)

' 155.11 COURT REVIEW OF CITY COUNCIL DECISION.

Any person, firm, or corporation aggrieved by any decision of the Lemmon City Council with respect to these subdivision regulations may appeal the decision to circuit court.
(Ord. passed 4-8-2019)

' 155.12 PLAT ERRORS AND OMISSIONS.

Corrections of errors and omissions on a plat document shall follow the South Dakota state statutes requirements per SDCL 43-18-11.
(Ord. passed 4-8-2019)

' 155.99 PENALTY.

(A) *Explanation and purpose.* Unless another penalty is expressly provided, every person convicted of a violation of any provision of this chapter, rule or regulation, adopted or issued in pursuance thereof, shall be punished.

(B) *Penalties defined.* Such punishment shall consist of applicable monetary fines as set by the city. In addition, the city may pursue other remedies, including but not limited to, abatement of nuisances, injunctive relief and revocation of licenses or permits.

(C) *Applicability.* The penalty provided by this section, unless another penalty is expressly provided, shall apply to the amendment of any section in this chapter, whether or not such penalty is reenacted in the amendatory ordinance.
(Ord. passed 4-8-2019)

CITY OF LEMMON, SOUTH DAKOTA

CODE OF ORDINANCES

2020 S-1 Supplement contains:
Local legislation current through Ordinance passed 4-8-2019

Published by:
AMERICAN LEGAL PUBLISHING CORPORATION
525 Vine Street η Suite 310 η Cincinnati, Ohio 45202
1-800-445-5588 η www.amlegal.com

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