

REVISED

MUNICIPAL ORDINANCES

TOWN OF SHERMAN, SOUTH DAKOTA

Ordinance # _____

Effective Date: _____

AN ORDINANCE IN REVISION OF THE MUNICIPAL ORDINANCES
OF THE TOWN OF SHERMAN, SOUTH DAKOTA

Revised under the direction of the Town Board of the Town of Sherman
Prepared by the South Eastern Council of Governments

ORDINANCE # _____

AN ORDINANCE IN REVISION OF THE MUNICIPAL ORDINANCES OF THE TOWN OF SHERMAN, SOUTH DAKOTA.

BE IT ORDAINED BY THE TOWN OF SHERMAN, SOUTH DAKOTA:

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

First Reading: _____

Second Reading: _____

Publication Dates: _____ & _____

Effective Date: _____

Robin Berg, Town Board President

Ann Thiel, Town Clerk

MUNICIPAL SEAL:

NOTICE OF ADOPTION

AN ORDINANCE IN REVISION OF THE MUNICIPAL ORDINANCES OF THE TOWN OF SHERMAN, SOUTH DAKOTA

Notice is hereby given that Ordinance # _____, an Ordinance in Revision of the Municipal Ordinances of the Town of Sherman, was duly adopted by the Town Board of the Town of Sherman on _____, and shall become effective _____, 2007, unless the referendum shall be invoked.

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

A copy of the Revised Municipal Ordinances is available for public inspection at Sherman Town Hall and may be viewed during normal business hours.

Dated this _____ day of _____, 2007.

Ann Thiel
Town Clerk

(Publication Dates: _____ & _____)

MUNICIPAL ORDINANCES

AN ORDINANCE IN REVISION OF THE MUNICIPAL ORDINANCES OF THE TOWN OF SHERMAN, SOUTH DAKOTA

This Ordinance in Revision of the Municipal Ordinances of the Town of Sherman, South Dakota, is a revision of the Ordinances of the Town heretofore adopted, except special ordinances, appropriation ordinances, levying ordinances for the issuance of bonds, and other special ordinances of like character. Such ordinances not included in this revision and still having force and effect may be found in the office of the Town Clerk.

In the construction of this ordinance, the following definitions shall apply unless otherwise provided:

Town or the Town	The Town of Sherman, South Dakota.
Town Board	The Town Board of the Town of Sherman, South Dakota, constituting the governing body of the Town.
he, his or him	Words imparting the masculine gender shall extend and be implied to females and to firms, partnerships, associations and corporations, as well as to males.

TABLE OF CONTENTS

	Page #
TITLE 1 - ADMINISTRATIVE CODE	
Chapter 1.01 – Municipal Employees.....	1
Chapter 1.02 – Town Board of Trustees	1
Chapter 1.03 – Volunteer Fire Department	2
Chapter 1.04 – Finance Regulations.....	3
TITLE 2 - BOUNDARIES, WARDS AND VOTING PRECINCTS	
Chapter 2.01 – Boundaries.....	5
Chapter 2.02 – Wards and Voting Precincts	5
TITLE 3 - HEALTH AND SANITATION	
Chapter 3.01 – Nuisances	6
TITLE 4 - LICENSES	
Chapter 4.01 – General Provisions	11
Chapter 4.02 – Transient Merchants, Peddlers.....	12
Chapter 4.03 – Alcoholic Beverages	14
TITLE 5 - OFFENSES	
Chapter 5.01 – Offenses Against Public Welfare	17
Chapter 5.02 – Animals	20
Chapter 5.03 – Firearms.....	25
Chapter 5.04 – Minors	25
Chapter 5.05 – Public Nudity and Regulating Strip Dancing	26
TITLE 6 - STREETS, SIDEWALKS AND PUBLIC PLACES	
Chapter 6.01 – Street Names and Addresses.....	28
Chapter 6.02 – Streets, Sidewalks, Curb and Gutter	28
Chapter 6.03 – Snow Removal.....	30
Chapter 6.04 – Moving Buildings.....	31
Chapter 6.05 – Municipal Trees	31
TITLE 7 - TRAFFIC CODE	
Chapter 7.01 – General Provisions	33
Chapter 7.02 – Operation of Vehicles	34
Chapter 7.03 – Vehicle Equipment.....	37
Chapter 7.04 – Speed Restrictions.....	39
Chapter 7.05 – Parking, Stopping	39

	Chapter 7.06 – Trucks	41
	Chapter 7.07 – Snowmobiles	43
	Chapter 7.08 – Miscellaneous Provisions	45
TITLE 8 -	PLANNING, ZONING AND BUILDING REGULATIONS	
	Chapter 8.01 – Planning Commission	48
TITLE 9 -	TAXATION	
	Chapter 9.01 – Municipal Sales and Service Tax and Use Tax	51
TITLE 10 -	GENERAL PROVISIONS	
	Chapter 10.01 – Penalties and Repealing Clause.....	53

TITLE 1 - ADMINISTRATIVE CODE

Chapter 1.01 - Municipal Employees

Chapter 1.02 - Town Board of Trustees

Chapter 1.03 - Volunteer Fire Department

Chapter 1.04 - Finance Regulations

CHAPTER 1.01 - MUNICIPAL EMPLOYEES

- 1.0101 Appointment of Officers. At the regular meeting of each January, there shall be appointed a Town Clerk, Maintenance Superintendent and such other officers as may be provided by ordinance, to hold office until the appointment and qualifications of successors. All such appointments shall be made by the Town Board. The Town Board may by resolution enter into a contract pursuant to SDCL 9-14 with an attorney to provide legal services to the Town as the Town Attorney. (SDCL 9-14-3)
- 1.0102 Salaries. The salaries of all appointive officers and employees of the Town shall be reviewed and approved at the regular meeting each January, and shall be paid as established by the Town Board. The Town Clerk shall be bonded in such sum to be approved by the Town in accordance with state law, conditioned for the faithful performance of the duties of such office. (SDCL 9-14-1, SDCL 9-14-28)

CHAPTER 1.02 – TOWN BOARD OF TRUSTEES

- 1.0201 Composition. The Town Board shall consist of three Trustees, elected at large. Each Trustee shall be elected for a term of three (3) years. (SDCL 9-7-3)
- 1.0202 President of Board. At the first regular meeting after their election, the members of the Town Board shall elect one of their members as president to serve for one year and until his successor is elected and qualified.
- 1.0203 Regular and Special Meetings. On the first Tuesday of each month at 7:30 p.m., the Town Board shall meet at the Town Hall or other designated place, to consider, take under advisement, and act upon such business as may come before it. Special meetings may be called at any time by the Board President or in his absence, by the acting Board President. (SDCL 9-7-6)
- 1.0204 Town Board President - Duties. The President shall preside at all meetings of the Town Board. The President shall perform such other duties as may be prescribed by laws and ordinances and ensure that such laws and ordinances are faithfully executed.
- 1.0205 Compensation – Town Board. The Town Board members are to be allowed compensation as set by resolution of the Town Board. Compensation of the

Town Board members as herein set forth shall be paid at such times as may be decided upon by the Board. (SDCL 9-14-28)

CHAPTER 1.03 – VOLUNTEER FIRE DEPARTMENT

- 1.0301 Establishment. There shall be established for the Town a Volunteer Fire Department which shall consist of a Chief, Assistant Chief, Secretary-Treasurer, and such other members as may be from time to time determined by the Fire Department. (SDCL 9-33-13)
- 1.0302 Constitution and Bylaws. The Fire Department may adopt such constitution and bylaws and rules for its regulation and government, subordinate to the ordinances of the Town, as it may deem best calculated to accomplish the object of its organization.
- 1.0303 Members. The members of the Fire Department shall be able-bodied persons of good moral character, duly elected by a majority of the active members of the Fire Department.
- 1.0304 Terms of Office. The Chief, Assistant Chief, and Secretary-Treasurer shall be the head of the Fire Department and shall hold office for a term of one year and until their successors shall be appointed and qualified.
- 1.0305 Appointment of Officers. The officers shall be nominated by the active members of the Fire Department and elected by a majority of members present at the annual meeting of the Fire Department in December of each year; the names of such officers shall be reported to the Town Board and confirmed by them.
- 1.0306 Meetings. The Fire Department shall meet at least once a month upon call of the Fire Chief and any member not responding to such call unless absent from the Town, or upon other good cause shown to the satisfaction of the Chief of the Fire Department may be dismissed from said Department.
- 1.0307 Appropriation. The Town Board shall in its annual appropriation, appropriate such amounts as they may deem necessary for the purpose of maintaining such Fire Department including equipment, ladders, trucks, hoses and other apparatus, and providing such necessary articles of clothing as they may deem necessary for the members of said Department. (SDCL 9-33-12)
- 1.0308 Equipment. The equipment, trucks, implements and all apparatus, shall be kept at such place as may be provided and directed by the Town Board and shall at all times be ready for immediate use. (SDCL 9-33-11)
- 1.0309 Duties of Chief. The Fire Chief shall have sole charge and control over all members of the Fire Department and fires. The Chief shall, at all times, have the general direction and management of all hoses, chemicals, engines, and other apparatus belonging to the Department.

- 1.0310 County Fire Protection Levy. All taxable property located within the limits of the municipality shall be included and subject to the County Tax Levy for County Fire Protection Service in addition to any levy imposed by the municipality for fire protection.
- 1.0311 Fire Zone. The Chief, or acting Chief in command, may prescribe limits around any fire, and it shall be unlawful for any person, except those who reside therein, or firemen, law enforcement officers and those given admission by any officer of the Fire Department, to enter therein.
- 1.0312 Investigation of Cause of Fire. The Chief shall inquire into and investigate the cause of each fire that occurs in the Town as soon as possible, and make a record of such proceedings and file the same or a copy thereof with the Secretary-Treasurer of the Fire Department.
- 1.0313 Financial Estimate. The Chief shall prepare in detail and submit to the Town Clerk on or before the first day of August in each year, an estimate of the entire cost and expense of providing and maintaining the Fire Department during the current fiscal year, and shall present such estimate to the Town Board with an annual budget estimate for the following year.
- 1.0314 Annual Financial Report. The Chief shall report to the Town Board at the first regular meeting of March of each year, the receipts, expenses, and financial condition of the Fire Department, including the amount of funds in the treasury at the time of making the report and where and in what amounts the funds are deposited or invested.
- 1.0315 Command in Absence of Chief. If the Chief is absent from any fire call, the Assistant Chief, then the Secretary-Treasurer (in that order) shall take charge of the organization and shall have and exercise all the powers of Chief.
- 1.0316 Vacancy. In case of a vacancy occurring in the office of Chief, the Assistant Chief shall discharge the duties of the Chief until such vacancy is filled.

CHAPTER 1.04 - FINANCE REGULATIONS

- 1.0401 Revenues and Special Funds. All money belonging to the Town from taxation, licenses, fines, permits, the operation of utilities, or from any other source, shall be paid into the Town treasury, and the Town Board shall designate by ordinance to what fund or funds such money shall be applied. The Town Clerk shall keep full, true and just accounts of all financial affairs of such form and in such manner from time to time as required by the South Dakota Department of Revenue. (SDCL 9-14-18)
- 1.0402 Records Retention and Destruction. The Records Retention and Destruction Schedule Manual, authorized for South Dakota municipalities by the Office of Records Management, Bureau of Administration, State of South Dakota, shall be adopted by the Town Board, and a printed copy of such manual shall be filed with the Town Clerk.

- 1.0403 Annual Reports by Boards. Each of the boards appointed and acting for the Town shall make an annual report of its receipts, disbursements and activities to the Board as soon as practicable after the close of the fiscal year, such report to be filed with the Town Clerk.
- 1.0404 Contracts by Members of Board. No officer or member of the Board shall enter into any contract, make any purchase or create any indebtedness against the Town in excess of \$100.00 without first having submitted the matter of incurring such indebtedness or making such contract to the Board or having previously received such authority from the Board.
- 1.0405 Sale of Personal Property. Whenever the Town deems it necessary in the best interest of the Town that personal property belonging to the Town be sold, said property having been abandoned or about to be abandoned for public use, said property shall be sold to the highest bidder upon such terms as may be determined by the Town Board.
- Notice of such sale shall be given publication once a week for three successive weeks in the official newspaper of the Town, which said notice shall contain a description of the personal property to be sold and the time and place where bids shall be received by the Board for said sale; and the Board may at such time sell said personal property to the highest bidder therefore, or may, in its discretion, reject all bids.
- 1.0406 Claims. All claims against the Town of Sherman shall be in writing and upon forms provided by the Town Clerk and in such form as required by statute of the State of South Dakota. Prior to passage or payment by the Board, claims shall bear the approval of the board member in charge of the department for which such services or supplies are furnished.
- 1.0407 Supplies. The Town Clerk shall purchase all supplies, shall have charge thereof, and shall make all sales therefrom; provided no purchase involving an expenditure of more than \$100.00 shall be made without the consent of the Town Board President or proper committee of the Town Board before being first obtained. Every order for material or supplies shall be made in writing and a duplicate thereof shall be filed with the Town Clerk. All materials and supplies, when received, shall be checked by the officer or agent receiving the same, and a bill with the price thereof shall immediately be filed with the Town Clerk, and shall bear the endorsement of such officer or agent showing in what respect, if any, the material or articles failed to correspond with the material or article ordered.
- 1.0408 Annual Financial Report. The Town Clerk shall report to the Town Board at the first regular meeting of March of each year, the receipts, expenses, and financial condition of the Town, including the amount of funds in the treasury at the time of making the report and where and in what amounts the funds are deposited or invested.

TITLE 2 - BOUNDARIES, WARDS, AND PRECINCTS

Chapter 2.01 - Boundaries

Chapter 2.02 - Wards and Voting Precincts

CHAPTER 2.01 - BOUNDARIES

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

CHAPTER 2.02 - WARDS AND VOTING PRECINCTS

- 2.0201 Wards and Voting Precincts. The Town shall be comprised of one election precinct for the purpose of holding all municipal elections. Town Hall shall be the voting place.

TITLE 3 - HEALTH AND SANITATION

Chapter 3.01 - Nuisances

CHAPTER 3.01 - NUISANCES

3.0101 Definitions. For the purpose of this Chapter, the following terms and words shall have the meaning given herein:

- A. Nuisance. Any condition or use of premises or of building exteriors which is detrimental to the property of others or which causes or tends to cause substantial diminution in the value of other property in the neighborhood in which such premises are located. This includes but shall not be limited to weeds; litter; diseased vegetation; abandoned, wrecked, dismantled or discarded vehicles; open excavations or trenches; open burning, and dangerous or dilapidated buildings.
- B. Weeds. Dense growth of any weeds, vines, brush or other vegetation in the Town which may constitute a health, safety or fire hazard.
- C. Litter. Any waste material including garbage, refuse, and rubbish as defined herein, which if thrown or deposited as prohibited in this Chapter, may create a danger to public health and safety.
 - 1. Garbage shall include any putrescible (likely to rot) animal and vegetation wastes resulting from the handling, preparation, cooking and consumption of food.
 - 2. Refuse shall include any putrescible and nonputrescible solid wastes such as garbage, rubbish, ashes, dead animals, and solid market and industrial wastes.
 - 3. Rubbish shall include any nonputrescible solid wastes consisting of both combustible and noncombustible wastes, including paper, wrappings, rags, vegetation, discarded or unused objects or equipment such as furniture, appliances, cans or containers, and other similar materials.
- D. Vehicle. Any machine propelled by power other than human power designed to transport persons or property or pull machinery and shall include but not be limited to automobiles, trucks, trailers, campers, motorcycles, tractors, and recreational equipment.

3.0102 Duty of Maintenance of Private Property. No persons owning, leasing, occupying, or having charge of any premises within the Town shall maintain or keep any nuisance thereon, nor shall any such person keep or maintain such premises in a manner causing substantial diminution in the value of other property in the neighborhood in which such premises are located.

- 3.0103 Duty to Cut Weeds and Obnoxious Vegetation. It shall be the responsibility of each property owner and/or each occupant to keep and maintain his property (including the boulevard along the street out to the curb and the alley, if any adjoining his property) free of tall weeds, grass or other harmful vegetation greater than seven inches in height and a spread of the same. Failure to keep tall weeds, grass or other harmful vegetation under control from May 1 to October 31 each year shall make the occupant and/or property owner subject to the penalty provisions of this ordinance
- 3.0104 Diseased Vegetation. Any owner, occupant, or person in charge of any property within the Town shall remove at his or her own expense any trees, brush, wood, or debris infected with Dutch Elm disease or other infestations or infectious disease found thereon when so notified by the Town to do so. The Town Board shall cause to be mailed to such owner, occupant, or person, written notice that they may appear before the Town Board at an appointed time not less than ten (10) days from the date of said notice to show cause why the trees, brush, wood, or debris should not be declared a public nuisance. Any removed diseased vegetation shall be properly disposed of by burning or burying in a proper disposal site. (SDCL 9-32-12)
- 3.0105 Litter in Public Places. No person shall throw or deposit litter in or upon any street, sidewalk or other public place within the Town except in authorized public or private receptacles. No person shall sweep into or deposit in any gutter, street, or other public place within the Town, litter from any building or lot or from any public or private sidewalk or driveway. Persons owning or occupying property or places of business shall keep the sidewalk in front of such premises free of litter.
- 3.0106 Litter Thrown or Deposited from Vehicles. No person, while a driver or passenger in a vehicle, shall throw or deposit litter upon any street or other public place or upon private property within the Town. No person shall drive or move any truck or other vehicle within the Town unless such vehicle is so constructed or loaded as to prevent any load, contents, or litter from being blown or deposited upon any street, alley or other public place.
- 3.0107 Litter on Private Property. No person shall throw or deposit litter on any occupied, open or vacant private property within the Town, whether owned by such person or not, except that the owner or person in control of private property may maintain authorized private receptacles for collection in such a manner that litter will be prevented from being deposited upon any street, sidewalk or other public place or upon any private property.
- 3.0108 Abandonment of Vehicles. No person shall abandon any vehicle within the Town for such time and under such circumstances as to cause the vehicle reasonably to appear to have been abandoned on public property.
- 3.0109 Parking and Storage of Vehicles. No person shall park or store any partially dismantled, non-operating, wrecked, or junked vehicle of any kind or type without current license plates, on any street or public property within the Town.

3.0110 Deposition of Wrecked or Discarded Vehicles. No person in charge or control of any property within the Town whether as owner, tenant, occupant, or otherwise, shall allow any partially dismantled, non-operating, wrecked, junked, or discarded vehicle to remain on such property longer than twenty-four (24) hours; except that this Section shall not apply with regard to a vehicle in an enclosed building; a vehicle on the premises of a business enterprise operated in a lawful place and manner, in compliance with all laws, including zoning laws, and for which the owner has a current sales tax license and is actively engaged in such enterprise, when necessary to the operation of such business enterprise; or a vehicle in an appropriate storage place or depository maintained in a lawful place and manner by the Town.

3.0111 Impounding and Disposal.

a. The Town Board shall be authorized to remove or have removed any vehicle left at any place within the Town which reasonably appears to be in violation of this Chapter or is lost, stolen, or unclaimed. Such vehicle shall be impounded until lawfully claimed or disposed of. A daily storage charge as established by the Town Board shall be assessed each vehicle until such vehicle is claimed. The Town may dispose of the vehicle in any lawful manner, or as set forth in 3.0111 b.

b. Notice to Owner. Within ten days after any vehicle has been removed, the Town shall send or cause to be sent written notice by certified mail to the registered owner, if any, of the vehicle and to all readily identifiable lien holders of record at their last known address. The notice shall set forth the date and place of the taking, the year, the make, model and serial number of the abandoned or wrecked motor vehicle and the place where the vehicle is being held, and shall inform the owner and any lien holders of their right to reclaim the vehicle. The notice shall be on a form provided by the S.D. Department of Revenue. (SDCL 32-36-8)

Title to any abandoned or junked motor vehicle shall vest in the Town after a period of 30 days from the date written notice was sent to the registered owner and any lien holders of record, should the registered owner or lienholder fail to claim such vehicle or file written notice of intent to claim such vehicle. (SDCL 32-36-9) The Town shall then apply to the S.D. Department of Revenue for the appropriate title. (SDCL 32-36-11)

If it is impossible to determine with reasonable certainty the identity and address of the registered owner and all lienholders, the notice shall be published once in the official newspaper of the Town. Such publication, once made, shall constitute notice as required by this section.

Disposal of Removed Vehicles. Upon receipt of title for a removed vehicle, the Town shall declare such vehicle surplus property and dispose of it as follows:

Any surplus vehicle shall be appraised according to law and shall be sold at public auction to the highest bidder. Notice of such auction shall be published

twice in the official newspaper of the Town, and any other publication approved by the Town Board, with the first publication occurring not fewer than ten days prior to the date of the sale.

The notice of sale shall contain a description of said vehicle to be sold, including year, make model, serial number, color license number (if any), and a statement that said vehicle was found abandoned. Said notice shall also include the place, date and time at which the vehicle will be sold.

Proceeds of sale. The proceeds of any such disposal shall first be applied to the cost incurred in the enforcement of this Section, with the balance to be deposited to the general funds of the Town. If the proceeds fail to cover the costs incurred in the enforcement of this Section, the Town shall be authorized to take any legal actions necessary to recover said costs.

3.0112 Open Burning. Open burning shall be permitted if contained so as to prevent scattering. Material so burned shall only include leaves, dry grass clippings and small branches. Prior to burning, the individual shall insure that the materials are dry and shall cause the fire to proceed without a significant accumulation of smoke. Such burning shall be conducted on the individual's property.

3.0113 Dangerous or Dilapidated Buildings. No person shall maintain, or cause or permit the same, any building or premises in the Town which is determined to be dangerous or dilapidated. Any building or structure which has any or all of the conditions or defects hereinafter described shall be deemed to be a dangerous or dilapidated building, if such conditions or defects thereby annoy, injure, or endanger the comfort, repose, health or safety of others, or if such conditions or defects exist to the extent that the life, health, property, value of property or safety of the public is jeopardized:

A. Whenever any building or structure is (i) vacant and unoccupied for the purpose for which it was constructed, and (ii) the building is unfit for occupancy as it fails to meet minimum building standards, and (iii) the building has remained substantially in such condition for a period in excess of six (6) months.

B. Whenever any building or structure through lack of maintenance or attention and by virtue of its physical appearance and presence thereby depresses the market value of surrounding properties. (SDCL 9-29-13)

3.0114 Excavations and Trenches. No person shall maintain any excavation, trench or open basement in the Town in which stagnant water is permitted to collect or which may jeopardize the life, limb or safety of the general public. (SDCL 9-29-13)

3.0115 Keeping of Animals and Responsibilities. No person shall create or maintain any condition, or operate any equipment or keep any animal, fowl, livestock or pet under his or her jurisdiction in such a way that such condition or operation causes or is likely to cause a nuisance. The keeping of livestock such as cattle, sheep, hogs, and any fowl not listed as prohibited by Chapter 5.0205 Vicious or

prohibited animals shall be by permission of the Town Board.
No owner, caretaker, or keeper of any animal shall allow such animal to defecate on public or private property in the Town other than his or her own. If such animal does defecate upon public or private property, the owner, keeper, caretaker or attendant shall immediately and thoroughly clean the fecal material from such property. Any violation of this section shall constitute a misdemeanor.

3.0116 Abatement of Nuisances. The Town Board shall cause written notice to be given to any person creating, permitting, or maintaining any nuisance to abate such nuisance forthwith, and if any person shall neglect or refuse to do so within a reasonable time after such notice, or such time as provided herein for a particular nuisance, such person shall be deemed guilty of a violation of this Chapter. The Town Board shall cause to be removed or abated any such nuisance upon the expiration of a reasonable time after the serving of such notice, and the Town may recover the expenses so incurred from the person maintaining such nuisance in a civil suit instituted for such purpose, or may levy an assessment against the property and collect the same. (SDCL 9-29-13)

In the case of violation of 3.0103, the nuisance shall be remedied within 10 days from the date of the notice. In the event a violation under 3.0103 is not remedied within that time, the Town may enter upon such property to remedy the nuisance and may recover the actual expenses incurred to do so together with a \$50.00 penalty. If the amount is not paid when due, the Town may levy an assessment against the property and collect the same.

TITLE 4 - LICENSES

Chapter 4.01 - General Provisions

Chapter 4.02 – Transient Merchants, Peddlers

Chapter 4.03 - Alcoholic Beverages

CHAPTER 4.01 - GENERAL PROVISIONS

- 4.0101 Licenses Required. It shall be unlawful for any person, persons, firm or corporation to engage in any activity for which a license is required without first having obtained such license, as hereinafter provided. The Town Board may at any time expand the general provisions of this Chapter by requiring any person, persons, firm or corporation engaging in any trade, business or occupation within the Town which is not specified by this ordinance to obtain a license, as deemed necessary.
- 4.0102 Application for License. Any person, persons, firm or corporation wishing to obtain a license as herein provided, shall make written application to the Town Board stating the name of the applicant, address, purpose of the activity, the length of time for which said license is wanted, and the particular place at which said license is to be used.
- Fees for all licenses shall be fixed by the Town Board where not specified in this Chapter, and all license fees shall be paid in full at the time of application in such manner as approved by said Board.
- 4.0103 License Expiration. Any licenses granted under the provisions of this Chapter shall expire on the 31st day of December next following the granting thereof, except as otherwise provided, and shall not be granted for any sum less than the annual rate. There shall be no rebate made on the termination of said calling, vocation, or kind of business for which said license was issued.
- 4.0104 Revocation. The Town Board shall have the authority at any time to suspend or revoke any license granted under the provision of this Chapter whenever said Board shall be satisfied upon written complaint that such calling, vocation, or kind of business for which said license has been issued, has been made or conducted in an improper or illegal manner, and in case of such revocation, the Town Board may refund to the holder of such license such proportionate amount of money paid therefore as the said Board shall deem just.
- 4.0105 Issuance of License. Except as otherwise provided, all licenses shall be issued by the Town Clerk after it has been approved by the Town Board and the applicant shall have complied with all requirements for issuance of such license. Unless otherwise provided, all licenses shall be signed by the Town Clerk and shall have affixed thereto the official seal of the Town.

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

CHAPTER 4.02 - TRANSIENT MERCHANTS, PEDDLERS

4.0201 Definitions.

- A. Transient or Itinerant Merchant. Any person, firm, corporation, partnership, association, or agent thereof transacting a temporary business where goods other than goods produced by him are exposed for wholesale or retail sale at any place in this state.
- B. Temporary Business. A business established for temporary operation only, commenced and discontinued within six months thereafter.
- C. Permanent Business. A business operated more than six months in one place by the same person.
- D. Peddler or Solicitor. A person engaged in the selling of personal property or personal services to include, but not limited to spraying, trimming or pruning of trees and shrubs of all species, painting or repairing buildings or structures, and pest or rodent control by going about from place to place, highway or street parking, or house to house either in person or by telephone to sell the same and who carries with him such property for delivery at time of sale or performs such service to the time of contract for such service immediately thereafter is a peddler.
- E. Solicitor. A person engaged in going from place to place, highway or street parking, or house to house either in person or by telephone to solicit orders for, or to offer to sell, personal property for future delivery is a solicitor.

4.0202 Transient Merchant License Required. Every transient merchant or itinerant merchant, as defined herein shall pay to the Town a license fee of twenty-five dollars (\$25) per day that said transient merchant or itinerant merchant shall conduct said business licensed under this Chapter. Said license fee shall be payable in advance, and the license issued under this Chapter shall be posted conspicuously in the place of business named therein.

4.0203 Peddlers License Required. It shall be unlawful for any person to be engaged in the business of peddler or solicitor as defined herein within the corporate limits of the Town without first obtaining a permit and license therefore as provided herein. The fees required for such peddlers for said licenses shall be twenty-five dollars (\$25) per day payable in advance, provided that no fees shall be required of one selling products actually produced by the seller. Peddlers are required to exhibit their licenses at the request of any citizen. (SDCL 9-34-8)

- 4.0204 Application for License. Applicants for license under this Chapter whether a person, firm or corporation shall file a written, sworn application signed by the applicant if any individual or by a partner if a partnership or by an officer if a corporation, with the Town Clerk showing:
- A. The name or names of the applicant for license.
 - B. The name or names of the person or persons having management or supervision of applicant's business during the time it is proposed that it will be carried on in the Town and the permanent address and addresses of such person or persons, the capacity in which such person or persons will act; that is, whether proprietor, agent or otherwise.
 - C. The place or places in the Town where it is proposed to carry on applicant's business and the length of time it is proposed that said business shall be conducted.
 - D. A statement of the nature and character and quality of the goods, wares and merchandise to be sold or offered for sale by applicant whether the same are proposed to be sold from stock in possession or by sample, at auction by direct sale or by taking orders for future delivery, where the goods or property proposed to be sold are manufactured or produced and where such goods or products are located at the time said application is filed.
 - E. At least three references as to the integrity of the applicant.
- 4.0205 Surety Bond. With an application pursuant to Section 4.0204, a transient merchant or peddler must also file with the Town Clerk a bond running to the Town to be approved by the Town Board in the sum of One Thousand Dollars (\$1,000) conditioned for the payment of any license fees to become due the Town should the merchant or peddler continue operation beyond any time for which he/she paid. Also, said bond is conditioned that the transient merchant or peddler shall comply fully with all ordinances of the Town and statutes of the State of South Dakota regulating and concerning the sale of goods, wares and merchandise.
- 4.0206 Revocation of License. Any license issued hereunder may be revoked, after notice and hearing, for any of the following causes:
- A. Fraud, misrepresentation or false statements contained in the application for license.
 - B. Fraud, misrepresentation or false statements made in the course of carrying on the business as a peddler, itinerant merchant, itinerant vendor or transient merchant hereunder.
 - C. Any violation of this Chapter.

- D. Conviction of any crime or misdemeanor involving moral turpitude.
- E. Conducting the business licensed hereunder in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety or general welfare of the public.

4.0207 Approval of License. Any person seeking to obtain a license under the provisions of this Chapter shall have obtained all county and state permits when required, shall have completed an application for municipal license, filed a bond and shall have paid to the Town Clerk the amount provided for by this Chapter for the license. The Town Clerk shall then furnish the applicant a receipt designating the location of business and kind of activity applied for. Upon presentation of said receipt to the Town, the Town Board at its discretion if it deems the applicant a suitable and proper person to have such license, shall approve such license and direct the President to sign the receipt. Said receipt when signed shall be deemed a good and sufficient license. If the Board does not grant said license, the applicant shall be informed of the same and the Town Clerk shall thereupon refund the amount of the license paid and the applicant's receipt shall be the Town Clerk's voucher for the money refunded.

4. 0208 Appeal. Any person aggrieved by the decision of the Town Board in regard to the revocation of license or denial of application for license as provided in Sections 4.0206 and 4.0207 of this Chapter shall have the right to appeal to the Town Board. Such appeal shall be taken by filing with the Town Clerk within ten (10) days after notice of the decision of the Board, a written statement showing the grounds for the appeal. The Town Clerk shall set a time and place for a hearing on such appeal and notice of such hearing shall be given to such person in writing setting forth the grounds of the complaint and the time and place of the hearing. This notice shall be mailed or delivered personally to the licensee/applicant at least five (5) days prior to the hearing date.

4.0209 Penalties. Any person violating any of the provisions of this Chapter, shall, upon conviction thereof be punished by fine not to exceed one hundred dollars (\$100) or by imprisonment not to exceed thirty (30) days or both such fine and imprisonment for each day of operation in violation of this Chapter. Each day in violation of this Chapter shall be deemed a separate offense.

4.0210 Exceptions. Nothing in this Chapter shall extend to any sale of livestock or farm products, or any second hand furniture or household goods by, or for any person or persons who shall have actually used the same in the Town, or to any sale of goods, wares, or merchandise by public officers in the pursuance of legal process, or to goods, wares, or merchandise sold by nonprofit enterprises. (SDCL 9-34-1)

CHAPTER 4.03 - ALCOHOLIC BEVERAGES

4.0301 License Required. No person shall sell, offer for sale, keep for sale, exchange, distill, manufacture, produce, bottle, blend, or otherwise concoct, within the Town any alcoholic beverage as defined by statute, without having a license

therefore as required by South Dakota Laws. (SDCL 9-29-7)

- 4.0302 Application and License Fees. In any instances in which applications may qualify, applications for licenses for the sale of alcoholic beverages in the Town shall be submitted as prescribed by South Dakota Laws. (SDCL 35-4-2)
- 4.0303 License Restrictions. Applications for on-sale and off-sale liquor and malt beverage licenses shall have the necessary fees attached upon being submitted to the Town as required by South Dakota laws, and the granting and retention of such licenses will be as provided by the South Dakota laws, and local regulations. (SDCL 32-303, SDCL 35-2-10)
- 4.0304 Location of Business. The Town Board shall not issue any licenses to any person(s), business or group where the location of such a business would not be considered desirable in accordance with South Dakota Laws and local regulations. (SDCL 35-2-6.1, SDCL 35-26.2)
- 4.0305 Times of Operation. Every public facility on sale dealer in alcoholic beverages, distilled spirits, wines and malt beverages other than low point beer shall flash the lights of his place of business at 1:45 a.m., each day as a warning that within 15 minutes the licensed premises will close. At 2:00 a.m., every such public facility on sale dealer shall clear his premises of all persons except employees and shall lock all doors to said premises. Each such public facility on sale dealer and his employees shall leave the place of business by 2:30 a.m. Every such public facility on sale dealer, after closing his place of business as aforesaid at 2:00 a.m. on Sunday morning shall keep the same closed and locked until 7:00 a.m. on the following Monday morning, provided, however, that the dealer may enter the premises or authorize one of his employees to enter his premises at any time for the purpose of reasonable maintenance of the premises. For the purpose of this section, "reasonable maintenance" shall be construed to mean only such maintenance as is necessary to prevent the deterioration or destruction of said premises or any fixtures located thereon. The purpose of this section is that the premises shall remain vacant during any closed period, except as hereinbefore provided. Provided, however, that any of the said public facility on sale dealers having on their licensed premises a duly authorized restaurant pursuant to and in conformity with SDCL 35-4-2.1 and acts amendatory thereto, and who comply with all ordinances applicable thereto, and which restaurant is operated in a room separate and apart from the room wherein intoxicating liquor is or can be dispensed, may notwithstanding anything to the contrary as hereinbefore set forth, continue to operate exclusively as a restaurant provided that all intoxicating liquor and the facilities for dispensing them be isolated and contained in a separate room devoted principally to the use of dispensing and consuming of alcoholic beverages, and which room with its alcoholic contents is vacated, closed and locked as hereinbefore provided.
- 4.0306 Off-Sale Hours of Sale. It is unlawful for an off-sale package retailer licensee or employee thereof to sell, serve or provide distilled spirits during the following days and/or times:
- A. Any Sunday.

- B. Memorial Day.
- C. After 6:00 p.m. Christmas Eve.
- D. Christmas Day.
- E. Thanksgiving Day.
- F. Between 12:00 a.m. and 7:00 a.m. on any other day of the year.

It is unlawful for an off-sale package retailer licensee or employee thereof to sell, serve or provide malt beverages during the following days and/or times:

- A. After 6:00 p.m. Christmas Eve.
- B. Christmas Day.
- C. Between 12:00 a.m. and 7:00 a.m. on any other day of the year.

4.0307 Violations. Any person, firm, or licensee in violation of any of the provisions of this Chapter shall be deemed guilty of a misdemeanor. For failure to correct any violation when applicable, after notice, each day of failure to do so shall constitute an additional separate offense. Whenever any person acting as clerk, servant, agent, or employee of any other person or establishment violates any of the provisions of this Chapter that person shall also be deemed as guilty as a principal. Failure to comply with all existing requirements, including the provisions in this Chapter, shall provide cause for revocation of any license granted under the provisions of South Dakota Laws. (SDCL 35-2-10)

4.0308 Sanitation Facilities. Every on sale dealer shall maintain upon his licensed premises, toilets with separate facilities for men and women. In each such facility there shall be maintained running water and towels for use by the users of such facilities (or approved sanitary drying facilities). Every licensee shall have such facilities equipped and maintained so as to pass state and/or local health requirements at all times. (34-18-22)

TITLE 5 - OFFENSES

Chapter 5.01 - Offenses Against Public Welfare

Chapter 5.02 - Animals

Chapter 5.03 - Firearms

Chapter 5.04 - Minors

Chapter 5.05 - Public Nudity and Regulating Strip Dancing

CHAPTER 5.01 - OFFENSES AGAINST PUBLIC WELFARE

- 5.0101 Disorderly Conduct. A person shall be guilty of disorderly conduct if, with the purpose of causing public danger, alarm, disorder, nuisance, or if his conduct is likely to cause public danger, alarm, disorder or nuisance, he willfully does any of the following acts in a public place:
- A. Commits an act in a violent and tumultuous manner toward another whereby that other is placed in danger of life, limb or health.
 - B. Commits an act in a violent and tumultuous manner toward another whereby the property of any person is placed in danger of being destroyed or damaged.
 - C. Causes, provokes or engages in any fight, brawl or riotous conduct so as to endanger the life, limb, health or property of another, except in exhibitions duly authorized and licensed by law.
 - D. Interferes with another's pursuit of a lawful occupation by acts of violence.
 - E. Obstructs, either singly or together with other persons, the flow of vehicular or pedestrian traffic and refuses to clear such public way or place when ordered to do so by a law enforcement officer or other authorized official.
 - F. Is in a public place under the influence of an intoxicating liquor or drug in such a condition as to be unable to exercise care for his own safety or the safety of others.
 - G. Resists or obstructs the performance of duties by a law enforcement officer or other authorized official.
 - H. Incites, attempts to incite, or is involved in attempting to incite a riot.
 - I. Addresses abusive language or threats to any law enforcement officer, or any other authorized official of the Town who is engaged in the lawful performance of his duties, or any other person when such words have direct tendency to cause acts of violence. Words merely causing displeasure, annoyance or resentment shall not be prohibited.

- J. Damages, befouls or disturbs public property or the property of another so as to create a hazardous, unhealthy or physically offensive condition.
- K. Makes or caused to be made any loud, boisterous, and unreasonable noise or disturbance to the annoyance of any other persons nearby, or near to any public highway, road or common, whereby the public peace is broken or disturbed or the traveling public annoyed.
- L. Fails to obey a lawful order to disperse by a law enforcement officer or other authorized official, where one or more persons are committing acts of disorderly conduct in the immediate vicinity, and the public health and safety is imminently threatened.

As used above, the following definitions shall apply:

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

This Section shall not be construed to suppress the right of lawful assembly, picketing, public speaking, or lawful means of expressing public opinion. (SDCL 9-29-2 and 22-13-1)

5.0102 Open Containers. It shall be unlawful to consume any beer or alcoholic beverage or to possess any glass, can or other container containing beer or any alcoholic beverage on which the seal has been broken, in any public place, vacant building, automobile, street, alley, sidewalk or place of amusement or business establishment not authorized to sell beer or alcoholic beverages, unless approved by the Town Board. (SDCL 35-1-5.3, SDCL 35-1-9.3)

- 5.0103 Town Parks and Public Buildings Closed to the Public at Specified Times. For the purpose of preservation and protection to the Town park facilities and public buildings it shall be unlawful for any person or persons to enter or remain in such public places after closing hours as specified by the Town Board.
- 5.0104 Injury or Removal of Public or Private Property. No person shall willfully, maliciously, wantonly, negligently, or otherwise injure, deface, destroy, or remove real property or improvements thereto or moveable or personal property belonging to the Town or to any person in the Town. (SDCL 22-34-1)
- 5.0105 Tampering in General. No person in the Town shall tamper with, injure, deface, destroy or remove any sign, notice, marker, fire hydrant, topographical survey marker or monument, or any other personal property erected or placed by the Town. (SDCL 22-34-1)
- 5.0106 Indecency. It shall be unlawful for anyone within the Town to:
- A. Knowingly disseminate, distribute, or make available to the public any obscene materials.
 - B. Knowingly engage or participate in any obscene performance made available to the public.
 - C. Knowingly engage in commerce for commercial gain with materials depicting and describing explicit sexual conduct, nudity, or excretion utilizing displays, circulars, advertisements and other public sales efforts that promote such commerce primarily on the basis of the prurient appeal.
 - D. Appear in any public state in a state of dress intended to make any indecent exposure of his or her person. No person shall appear in any public place nude or expose any genitalia.
 - E. Defecate or urinate on any public or private property within the Town.

As used in this Section, the following definitions shall apply:

- A. Obscene. To the average person applying contemporary community standards, taken as a whole, that the predominant appeal of the matter appeals to the prurient interests and (i) depicts or describes patently offensive representations or descriptions of ultimate sexual acts, normal or perverted, actual or simulated; or (ii) depicts or describes patently offensive representations or descriptions of masturbation, excretory functions, or lewd exhibits of the genitals; and which, taken as a whole, lacks serious literary, artistic, political or scientific value.
- B. Prurient Interest. Shameful or morbid interest in nudity, sex or excretion which goes substantially beyond customary limits of candor in description or representation.

- C. Material. Any book, magazine, newspaper or other printed or written material or any picture, drawing, photograph, motion picture or other pictorial representation or any statue or other figure, or any recording, transcription or mechanical, chemical or electrical reproduction or any other articles, equipment or machines.
- D. Dissemination. To transfer possession of, with or without consideration.
- E. Knowingly. Being aware of the character and content of the material.
- F. Promote. To cause, permit, procure, counsel or assist.

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

A. Definition as used in this Section:

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

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

1. Physically handicapped persons who have been disabled in such a manner as to make it difficult and burdensome to walk and who use a wheelchair or other wheeled device on the sidewalk.
2. A wheeled vehicle used to transport a person under five (5) years of age.

5.0108 Excessive Noise, Including Radios, Television Sets, Musical Instruments, and Such Similar Devices Prohibited. Using, operating, or permitting the use or operation of any radio receiving set, television set, musical instrument, drum, or other machine or device for the production or reproduction of sound in such a manner as to be plainly audible at the property boundary of the source or plainly audible at fifty (50) feet from such device when operated within a vehicle anywhere within the limits of the Town, is prohibited unless allowed for special events by the Town Board.

CHAPTER 5.02 - ANIMALS

5.0201 Definitions. The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

1. At Large.
 - a. An animal when off or away from the premises and not under the control

of the owner, possessor, keeper, agent, servant, or a member of his immediate family by a leash.

- b. An animal when on the premises of the owner, possessor, keeper, agent, or servant if not attended by a competent person unless the animal is chained, restrained, enclosed, or confined in a manner preventing it from leaving the premises.
- 2. Leash. A cord, thong, or chain, not to exceed six feet in length, by which an animal is controlled by the person accompanying it.
- 3. Owner. Any person harboring or keeping an animal and who is the head of the household of the residence or the owner or manager in charge of the establishment or premises at which an animal remains or returns to.

5.0202 Running at Large Prohibited. It shall be unlawful for any person to have any animal which is owned, kept, harbored, or allowed to be habitually in or upon the premises occupied by him or under his or their control to be at large and to go in or upon the private premises of others or upon any public property. The fine for an animal running at large is fifty (50) dollars. It shall be one hundred (100) dollars for each additional offense for same animal.

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

5.0203 Impoundment. The Town Board shall be authorized to enter into a contract with some person, association or Humane Society to establish, operate and maintain an animal shelter for the Town. Such contract shall provide for the enforcement of this chapter, for the impounding, destroying and disposal of animals, for a schedule of fees to be charged for services rendered, and for a monthly amount to be paid by the Town. The Town may, in lieu of the provisions of this section, maintain its own impoundment area or quarters, under the supervision of the Town Board.

An owner reclaiming an impounded animal shall pay the actual cost of impoundment plus the following fee: First impoundment shall be \$25.00; second impoundment within a twelve (12) month period shall be \$50.00; any subsequent impoundment within a twelve (12) month period shall be \$100.00. Upon impounding, the owner of such animal may at any time within five (5) working days after the same shall have been impounded, reclaim the animal by paying the expense of keeping such animal in addition to the fee prescribed by this section. If any animal so impounded shall not be reclaimed within five (5) working days and reasonable efforts to locate the owner have failed, the Town is authorized to destroy, sell, or otherwise dispose of such animal.

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

5.0204 Compulsory Vaccination of Animals for Rabies. Every dog, cat or other animal susceptible to rabies, held as a domestic pet in the Town, six months of age or older, shall be vaccinated against rabies by a licensed veterinarian. Vaccination against rabies shall be given at such intervals that guarantee immunity, and the minimum time period between vaccinations shall be determined by the available vaccine and based upon the recommendations and approval of the State Veterinarian.

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

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

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

5.0205 Responsibility of owner to Place Animal for Observation. When any person owning or harboring a dog, cat, or other animal has been notified that the animal has bitten or attacked any person, the owner shall within twenty-four (24) hours place the animal under the care and observation of the animal control officer or a licensed veterinarian for a period of not less than ten (10) days.

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

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

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

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

Whenever the animal control officer, a law enforcement officer or other authorized official shall have determined that there is danger of the existence or

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

5.0206 Vicious Animals.

- A. An animal may be declared to be vicious by the animal control officer, a law enforcement officer or other authorized official, under the following guidelines:
 - 1. An animal which, in a vicious or terrorizing manner approaches in an apparent attitude of attack, or bites, inflicts injury, assaults or otherwise attacks a person or other animal upon the streets, sidewalks, or any public grounds or places; or
 - 2. An animal which, on private property, in a vicious or terrifying manner, approaches in an apparent attitude of attack, or bites, or inflicts injury, or otherwise attacks a mailman, meter reader, serviceman, journeyman, delivery man, or other employed person, or any person or animal who is on private property by reason of permission of the owner or occupant of such property or who is on private property by reason of a course of dealing with the owner of such private property.
 - 3. No animal may be declared vicious if the injury or damage is sustained to any person or animal who is committing a willful trespass or other tort upon premises occupied by the owner or keeper of the animal, or who was teasing, tormenting, abusing or assaulting the animal or was committing or attempting to commit a crime.
- B. When the animal is declared to be vicious, the Town shall notify the owner of such declaration in writing. Said notice shall be served either in person or by mailing such notice by certified mail.
- C. Any mammal, reptile or fowl which is not naturally found in a domestic setting, and because of its size or other characteristic would constitute danger to human life or property is automatically deemed vicious.
- D. The owner of an animal that has been deemed vicious shall comply with the following:
 - 1. Register the animal as vicious with the Town and present proof of rabies vaccination within five (5) days of receiving the notice and presenting

proof of rabies vaccination on or before March 1 of each and every year thereafter.

2. Whenever the animal is outdoors and attended, the animal shall be muzzled, on a leash no longer than six (6) feet, and under the control of a person over sixteen (16) years of age.
3. When the animal will be outdoors and unattended, the animal must be locked in an escape-proof kennel approved by the Town. Minimum standards shall include the following:
 - a. Fencing materials shall not have openings with a diameter of more than two (2) inches.
 - b. Any gates within such pen or structure shall be lockable and of such design to prevent the entry of children or the escape of the animal.
 - c. The required pen or structure shall have secure sides and a secure top. If the pen or structure has no permanent bottom secured to the sides, the sides shall be imbedded into the ground or concrete.
 - d. The pen or structure may be required to have double exterior walls to prevent the insertion of fingers, hands or other objects.
4. A universal sign denoting a vicious animal shall be displayed on the kennel or enclosure and on a place visible from the sidewalk or road adjacent to the property where the animal is kept.
- E. The vicious animal shall be impounded by animal control at the owner's expense until all provisions of Section D are complied with. If the conditions in Section D are not complied within 10 days after receiving notice, the animal shall be euthanized in a humane manner and proof of euthanasia filed with the Town.
- F. If a vicious animal has been running at large, or bites a person or bites another animal, the animal control officer, a law enforcement officer or other authorized official shall seize the animal by using such means as are necessary and summon the owner to appear in court to show cause why this animal shall not be destroyed. If the animal cannot be captured, it may be destroyed.

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

5.0207 Cruelty to Animals. No person shall maltreat or abuse or neglect any animal or fowl. Any animal control officer, law enforcement officer or authorized official finding an animal or fowl mistreated as described in this section shall have the power to lawfully enter the premises where the animal is kept and demand to examine such animal and to take possession of such animal, when in his opinion, the animal requires humane treatment.

- 5.0208 Poisoning Animals. It shall be unlawful for any person to willfully or maliciously administer or cause to be administered, poison of any sort whatsoever to any animal, the property of another, with the intent to injure or destroy such animal, or to willfully or maliciously place any poison or poisoned food where such is accessible to any such animal. (SDCL 9-29-11)
- 5.0209 Stray, Abandoned, or Unkept Animals. No person shall harbor or keep any stray animals or abandon any animal within the Town. Animals known to be strays shall be immediately reported to the animal control officer, a law enforcement officer or authorized official. (SDCL 9-29-12)
- 5.0210 Number of Pets Limited. It shall be unlawful for any person to have or to keep more than four domestic pets over the age of six months, except birds and fish, on any lot or premises in the Town, unless such person residing on or in the lot or premises has a valid kennel license issued by the Town. Humane societies, veterinarian offices, and retail pet stores are exempt from the provisions of this section.

CHAPTER 5.03 - FIREARMS

- 5.0301 Discharging Weapon. No person shall discharge any pistol, gun, revolver, or other firearm, or any bow and arrow, or any device capable of firing a projectile either by air or compressed gas or any other means which would likely cause injury to any person, or discharge any dangerous weapon, within the town limits. Law Enforcement officers in the performance of their duties are exempted. The Town Board may grant exceptions for special events or activity.

CHAPTER 5.04 - MINORS

[MINORS SDCL Title 26]

- 5.0401 Curfew Hours and Exceptions. It shall be unlawful for any person under the age of eighteen (18) to be on the streets, alleys, or public grounds of the Town between the hours of 10:00 p.m. and 6:00 a.m. [Sunday – Thursday nights] and between the hours of 1:00 a.m. and 6:00 a.m. [Friday – Saturday nights], unless accompanied by the individual’s parent or legal guardian, or unless such person shall be upon some necessary errand by written permission of a parent, guardian, or employer, in which event, the person so permitted to be outdoors shall have with him or her such written permission and shall upon request of any law enforcement officer of the Town exhibit the same to said law enforcement officer. An exception to the curfew will be made in the case of activities officially sponsored by schools, churches, or the Town; the curfew will extend one-half (½) hour beyond the time the activity ends in such cases. (SDCL 9-29-13)
- 5.0402 Responsibility of Officers. It shall be the duty of any law enforcement officer of the Town to arrest and detain any person who violates any of the provisions of

this Chapter and to keep such person detained until his or her parents, guardian, or person in control will appear before the police or other authorized personnel to answer to the charge of having violated this Chapter.

- 5.403 Responsibility of Parents or Guardians. It shall be unlawful for the parents, guardian or other adult person having the care and custody of a minor under the age of eighteen (18) years to knowingly permit such a minor to be or remain in or upon the public streets, alleys, parks, playgrounds, public grounds, public places, public buildings, public places of amusement and entertainment, vacant lots or other unsupervised public places within the Town between the hours of 10:00 p.m. and 6:00 a.m. [Sunday – Thursday] and between the hours of 1:00 a.m. and 6:00 a.m. [Friday – Saturday], except if the minor is accompanied by his or her parent, guardian or other adult person having the care and custody of the minor or when the minor is upon an emergency errand or legitimate business directed or authorized by his or her parent, guardian or other adult person having the care and custody of the minor.

CHAPTER 5.05 - PUBLIC NUDITY AND REGULATING STRIP DANCING

- 5.501 Prohibited Generally. It is a violation of this Chapter for any person to knowingly or intentionally, in a public place:

1. Engage in sexual intercourse; or
2. Engage in deviant sexual conduct; or
3. Appear in a state of nudity; or
4. Fondle the genitals of himself, herself or another person.

- 5.502 Definitions. As used in this Chapter, the following definitions shall apply:

1. Nudity or State of Nudity. The showing of the bare human male or female genitals, anus or pubic area with less than a fully opaque covering; the showing of the female breast with less than a fully opaque covering of the areola; or the showing of the male genitals in a discernibly turgid state.
2. Public Place. Any location frequented by the public, or where the public is present or likely to be present, or where a person may reasonably be expected to be observed by members of the public, public places include, but are not limited to streets, sidewalks, parks, beaches, businesses and commercial establishments (whether for profit or not-for-profit) and whether open to the public at large or where entrance is limited by a cover charge or membership requirement, bottle clubs, hotels, motels, restaurants, night clubs, country clubs, cabarets and meeting facilities utilized by any religious, social, fraternal, or similar organizations. Premises used solely as a private residence, whether permanent or temporary in nature, shall not be deemed to be a public place. Public place shall not include movie theaters, enclosed single sex public restrooms, enclosed single sex functional showers, locker and/or dressing room facilities, enclosed motel rooms and hotel rooms designed and intended for sleeping accommodations, doctor's offices, portions of hospital and similar places in which nudity or exposure is necessarily protected therein; nor shall it include a person appearing in a

state of nudity in a modeling class operated by: (1) a proprietary school licensed by the State of South Dakota; a college, junior college or university supported entirely or partly by taxation; or (2) a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college or university supported entirely or partly by taxation, or an accredited private college.

- 5.503 Operations. It shall be unlawful for any person or entity maintaining, owning or operating any public place to operate and knowingly, or with reason to know, permit or allow any person to appear nude in such public place or to permit unlawful touching as prohibited by Section 5.504 thereof.
- 5.504 Physical Contact. It shall be unlawful for any male or female dancer, stripper or performer to engage in physical contact with patrons or customers while dancing or performing, to include but limited to, placing of money in the dancers' or strippers' wearing apparel. All such dancers or performers shall be confined to a stage or designated area separate and apart from the seating area for patrons and customers.
- 5.505 Refuse Admittance. It shall be a violation of this Chapter for any person or entity to refuse admittance without fee to any on duty police officer at any time when patrons or customers remain in said premises.
- 5.506 Underage Admittance. No person under twenty-one (21) years of age shall be permitted access to any public place defined herein which shall permit nude dancing, which otherwise complies with the provisions hereof.
- 5.507 Conduct. The contents of the Chapter shall constitute contemporary community standards as they pertain to public nudity and obscene live conduct.
- 5.508 Penalty. A violation of this Chapter shall be punishable by a fine of up to Five Hundred and no/100 (500.00), or thirty days in jail, or both for each offense.
- 5.509 Violations. Operation of an establishment in violation of this Chapter shall constitute a public nuisance and in addition to all other remedies provided herein, the Town Attorney may, by civil process, seek permanent abatement of said nuisance.

TITLE 6 - STREETS, SIDEWALKS AND PUBLIC PLACES

Chapter 6.01 - Street Names and Addresses

Chapter 6.02 - Streets, Sidewalks, Curb and Gutter

Chapter 6.03 - Snow Removal

Chapter 6.04 - Moving Buildings

Chapter 6.05 - Municipal Trees

CHAPTER 6.01 - STREET NAMES AND ADDRESSES

- 6.0101 Names of Streets and Avenues. The names of all streets and avenues in the Town shall be fixed and adopted in accordance with the official map of the Town on file in the office of the Town Clerk. Other streets shall be named in accordance with guidelines included in the Town subdivision regulations. Any such act of naming, establishing, or vacating any street, alley or other public way in the Town shall be so designated on such map. (SDCL 9-45-2)
- 6.0102 Numbering Plan. A numbering plan for residences and businesses shall be maintained by the Town Board. A listing of the assigned numbers and a map showing the location of addresses shall be maintained and filed in the Town Clerk Office. The Town Clerk shall be responsible for assigning new numbers and updating the listing of such numbers and the location map. (SDCL 9-45-2)

CHAPTER 6.02 - STREETS, SIDEWALKS, CURB AND GUTTER

- 6.0201 Street Surfacing. The hard surfacing of streets shall be at the expense of the owners of property abutting the street(s) to be surfaced, with materials to be approved by the Town Board. Total cost of the street improvements including legal, engineering, grading and any other costs related to the improvement, shall be assessed against the property on a frontage foot basis. The cost of each street or alley intersection shall be assessed on a front footage basis to all lots or property included within a project area. (SDCL 9-45-31)
- 6.0202 Street Excavations. No person shall make or cause to be made any excavation except as hereafter provided, in or under any street, sidewalk, alley, or public ground or remove any earth, soil, paving, gravel or materials therefrom without first having called One Call and having had any underground utilities identified. Application for such approval shall state where such excavation is to be made, the extent thereof, and the purpose of such excavation.
- 6.0203 Excavation Permits. Applications for excavations other than emergency situations may require a deposit in such sum as deemed necessary by the Town Board to ensure proper replacement and refilling of any such excavation or to

cover the costs of any damages which may be caused by such excavation. Any required deposit shall be paid to the Town before approval of an application is made and any unused portion of said deposit shall be refunded to the applicant upon recommendation and approval of the Town.

- 6.0204 Excavation Repairs. Approval for any excavation covered by this Chapter shall be issued only upon the express condition that the applicant shall refill such excavation in accordance with the requirements of the Town, and shall restore the pavement or surfacing, as the case may be, to its former condition. The Town may adopt and amend as necessary such requirements which shall set forth the manner in which various types of excavations shall be backfilled or refilled and the manner in which any street surfacing shall be replaced. Applicant shall be responsible to the Town for any such excavation for a period of two years.
- 6.0205 Excavation Inspections. It shall be the duty of authorized Town personnel to inspect all authorized excavation work at any stage of construction and to ensure compliance with approved requirements. If all backfilling, refilling, or surfacing is not completed in accordance with approved requirements, notice thereof in writing shall be given to the applicant, who shall put the same in proper order within a maximum of ten (10) days. If the applicant fails after such notice to complete all requirements, the Town Board may authorize the necessary repairs and such applicant shall pay the costs thereof.
- 6.0206 Excavation Barriers. Any person receiving approval to make excavations in or upon any street, alley, sidewalk or public ground shall, during the progress and continuance of the work, erect and maintain around the same both day and night suitable guards, fences, flares, and signals so as to prevent injury to persons, animals, or vehicles on account of such excavations. No open trench shall be left open for any more time than considered absolutely necessary or reasonable.
- 6.0207 Sidewalks. Unless otherwise determined by the Town Board, the inside of the sidewalk shall be the property line. Sidewalk construction shall include base material of three inches in thickness, of approved materials. Sidewalks shall be no less than three and one-half inches in thickness, of Portland Cement Construction, and not less than four (4) feet nor more than five (5) feet wide in residential areas, with slope toward street of one-fourth inch per foot. When considered necessary and advisable for the peace, welfare, and safety of the people, the Town Board may direct that new sidewalk be constructed and assessed to any abutting property owner in accordance with SDCL 9-46.
- 6.0208 Driveway Approaches. No driveway approaches shall protrude or extend into the streets beyond the curb line, unless otherwise so authorized by the Town Board. Concrete driveway approaches shall be of four (4) inch Portland Cement Construction, with the slope gradual to accommodate modern vehicles. On gravel thoroughfares driveway approaches constructed shall permit flow of surface water without drainage interference and shall permit proper blading and maintaining of streets. (SDCL 9-45-1)
- 6.0209 Curb and Gutter. Curb and gutter shall be of Portland Cement Construction, not

less than three thousand (3,000) PSI, with curb six (6) inches in width, and extending six (6) inches above the gutter. Gutter shall be of six and one-half (6.5) inch thickness, extending twenty-four (24) inches into the street. The Town Board may direct that curb and gutter be constructed and the cost assessed against any abutting property owner. (SDCL 9-45-5)

- 6.0210 Permits. When constructed separately from an over all construction project, property owners or their agents shall submit applications for permits for approval by the Town Board for sidewalks, driveway approaches, curbs, or curb and gutter. When these improvements are constructed simultaneously or as one project, only one application is necessary to include all improvements, and where any or all are part of new construction projects, only one permit for the overall construction shall be issued. All improvements, installations, and engineering recommendations shall be in conformance with specifications or recommendations approved by the Town Board.
- 6.0211 Barrier-Free Construction. Whenever any person, firm or corporation makes new installations of sidewalks, curbs or gutters, in both business and residential areas, it shall be required that they install ramps at crosswalks, so as to make the transition from street to sidewalk easily negotiable for handicapped persons in wheelchairs and for blind persons. All such ramps shall be constructed or installed in accordance with design specifications according to the most current American National Standards Specifications published by the American National Standards Institute or according to Americans with Disabilities Act specifications. (SDCL 9-46-1.2)
- 6.0212 Permission to Deposit Materials. No person shall deposit, place, store, or maintain, upon any public place of the municipality, including street rights-of-way, any dumpster, container, stone, brick, sand, concrete or any other materials without permission of the Town Board. Violation of this section shall constitute a Class 2 Misdemeanor.

CHAPTER 6.03 - SNOW REMOVAL

- 6.0301 Duty to Remove. It shall be the duty of the owner, tenant, or person in possession of any property abutting Town right-of-way to keep any sidewalk on such property free from snow and to cause any accumulated snow to be removed within forty-eight (48) hours after the termination of any snowfall, or snow accumulation. (SDCL 9-30-5)
- 6.0302 Disposal of Snow. It shall be the duty of the property owner, tenant, or person in possession of any public or private driveway, parking lot or parking area to dispose of accumulated snow upon such property in such manner that any snow when removed shall not be deposited upon any sidewalk, within or upon any public street or alley, after such public street or alley has been cleared of snow by grading of such snow away from the curb or picking up and carrying away of such snow by the Town, or in a manner that will obstruct or interfere with the passage or vision of vehicle or pedestrian traffic.

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

CHAPTER 6.04 - MOVING BUILDINGS

- 6.0401 Permit Required. No person shall move any building or part of building into, along or across any public street, alley, or grounds in the Town without having obtained a moving permit. (SDCL 9-30-2)
- 6.0402 Applications. Written application for a moving permit shall be filed with the Town Clerk, and shall include the name of the applicant, the name of the owner of the building, a description of the lot on which such building is standing and the lot to which it is to be moved, if such location shall be within the Town. The application shall also specify the route along which it is proposed to move the building, and the length of time likely to be consumed in such moving. Any application so filed shall be considered by the Town Board for approval, and any other conditions to be complied with by the applicant, shall be stated.
- 6.0403 Surety Bond. No license shall be granted until the applicant shall file with the Town Clerk a bond in favor of the Town in the penal sum to be established by the Town Board, with sufficient surety, and conditioned on the applicant promptly repairing and making good, to the satisfaction of the Town Board, any and all damage to any pavement, sidewalk, crosswalk, hydrant, street, alley, or other property, done or caused by the applicant or the applicant's employees, in moving such building or part thereof, or in connection with the moving thereof. The applicant shall indemnify and save harmless the Town against any and all liability for damages, costs and expenses, arising or which may arise or be incurred in favor of any person by reason of any conduct by the applicant or applicant's agents or employees, in connection with the moving of such building or part thereof, or the use of any public ground for such purpose.
- 6.0404 Standing Buildings. No building or part of a building being moved, shall be allowed to stand still in any public street or any public ground for more than twenty-four (24) consecutive hours.
- 6.0405 Permission of Property Owners. No moving license granted by the Town shall authorize the holder thereof to break, injure, or move any telephone, electric light, power or cable TV wire or pole, or to cut, trim or otherwise interfere with any property without the written permission of the owner or owners thereof. (SDCL 9-34-1)

CHAPTER 6.05 - MUNICIPAL TREES

- 6.0501 Authority and Jurisdiction. The Town Board shall have the authority to regulate

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

- 6.0502 Duties of Property Owners. It shall be the duty of any person owning or occupying real property bordering on any street to prune or remove shrubs or trees growing shrubs or trees upon such property, to prune or remove such shrubs or trees in such manner so that they do not obstruct or shade street lights, the passage of pedestrians on sidewalks, view of traffic signs, or of any street or alley intersections. It shall also be the duty of such person to prune or remove shrubs or trees located in the street right-of-way adjacent to their property. Removal shall also be required when any such shrubs or trees are diseased, dead, of a prohibited species, or pose a safety hazard or nuisance. The person owning or occupying such real property described above shall be responsible for pruning shrubs and trees, whether on the property owner's land or in the right-of-way, when the trees or shrubs violate clearance requirements. The minimum clearance of any overhanging portion thereof shall be twelve (12) feet over all streets except truck thoroughfares where the clearances shall be fourteen (14) feet, unless otherwise determined by the Town Board.
- 6.0503 Abuse of Trees. Unless otherwise specifically authorized by the Town Board, no person shall intentionally damage, cut, carve, transplant, or remove any tree; attach any rope, wire, nails, advertising posters, or other contrivance to any tree, allow any gaseous liquid or solid substance which is harmful to such tree to come in contact with them, or set fire to or permit any fire to burn when such fire or the heat thereof will injure any portion of any tree.
- 6.0504 Removal of Hazards. Where any tree branches or hedges protrude or overhang on any thoroughfare within the Town so as to be determined as in violation with this Chapter or affecting motor vehicle traffic and good maintenance practices, notification shall be given by the Town Board to the property owner to remove such obstructions or undesirable branches or hedges within seventy-two (72) hours. If not completed within such time, the Town Board may take immediate action to have such items removed with all costs assessed to the property owner. (SDCL 9-38-2)

TITLE 7 - TRAFFIC CODE

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

CHAPTER 7.01 - GENERAL PROVISIONS

- 7.0101 Duty to Enforce. It shall be the duty of law enforcement officers to enforce these traffic regulations and all state vehicle laws applicable to street traffic in the Town, to make arrests for traffic violations, to investigate accidents and to cooperate with other officials in the administration of these traffic laws. (SDCL 9-29-19)
- 7.0102 Directing Traffic. Law enforcement officers shall direct traffic in conformance with traffic laws and ordinances provided that in the event of a fire or other emergency, or to expedite traffic or to safeguard pedestrians, Fire Department personnel may direct traffic as conditions may require.
- 7.0103 Obedience to Enforcement. No person shall refuse or fail to comply with any lawful order, signal or direction of any law enforcement officer, or refuse to submit to any lawful inspection or fail to comply with the provisions or requirements of any warning ticket issued under this Title. (SDCL 9-29-19)
- 7.0104 Exemptions to Authorized Emergency Vehicles. The provisions of this Title regulating the movement, parking, and standing of vehicles shall not apply to authorized emergency vehicles while the operator of such vehicle is operating the same in an emergency in the necessary performance of public duties. This exemption shall not, however, exempt the driver of any such vehicle from the consequence of a reckless disregard of the safety of others.
- 7.0105 Application to Workers and Equipment. The provisions of this Title shall not apply to persons, motor vehicles and other equipment while actually engaged in work upon the surface of a street, but shall apply to such persons and vehicles when traveling to or from such work; provided however, such persons and vehicles shall not indiscriminately block traffic, but shall allow reasonable room on the traveled portion of the street for other vehicles to pass.
- 7.0106 Authority to Install Traffic Control Devices. The Town Board shall place and maintain traffic control signs, signals, and devices when and as required under this Title to make effective the provisions of said Title, and may place and

maintain such additional traffic control devices as may be necessary to regulate traffic. (SDCL 32-14-5)

7.0107 Definitions. When in this Title the following terms are used they shall have the meanings ascribed to them in this Section.

- A. Authorized Emergency Vehicle. Vehicles of any fire department, police vehicles, and such ambulances and emergency vehicles of municipal department or public service corporations as are designated or authorized by the Town Board.
- B. Law Enforcement Officer. Any police officer or other law enforcement personnel approved by the Town Board to enforce the provisions of the ordinances of the Town.
- C. Motor Vehicle. Every vehicle, as herein defined, which is self-propelled.
- D. Operator. Any person who is in actual physical control of a vehicle.
- E. Parking. The standing of a vehicle whether attended or unattended, upon a roadway or street otherwise than temporarily for the purpose of and while actually engaged in loading or unloading, or in obedience to traffic regulations, signs or signals.
- F. Vehicle. Every device in, upon or by which any person or property is or may be transported or drawn upon a public highway.

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

CHAPTER 7.02 - OPERATION OF VEHICLES

7.0201 Driver's License Required. It shall be unlawful for any person to drive or operate upon any of the streets or highways within the Town any motor vehicle without first having secured and having in their possession a valid license or permit to do so. (SDCL 32-12-22)

7.0202 License Plates. No person shall operate or drive a motor vehicle within the Town without having conspicuously displayed thereon license plates as required by state law, securely fastened, and which shall be kept free from mud, dirt or other obstruction so that the entire license plate shall be clearly legible by other persons upon the highway.

7.0203 Drive on Right Side of Street. The operator of a vehicle shall drive upon all streets on the right half of the street and shall drive a slow-moving vehicle as closely as possible to the right-hand edge or curb of a street unless it is

impractical to do so, and except when overtaking and passing another vehicle, subject to the limitations applicable to overtaking and passing set forth by law. (SDCL 36-26-1)

7.0204 Vehicles Shall Not Be Driven on Sidewalk. The operator of any vehicle except a bicycle shall not operate it within any sidewalk area except at a permanent or temporary driveway. (SDCL 32-26-21.1)

7.0205 Operation of Vehicles on Approach of Authorized Emergency Vehicle. The operator of any vehicle shall, upon the approach of any authorized emergency vehicle or vehicles giving audible signal by lights or siren, immediately drive the same to a position as near as possible and parallel to the right-hand edge or curb of the street, clear of any intersection, and shall stop and remain in such position until the authorized emergency vehicle or vehicles shall have passed, unless otherwise directed by a law enforcement officer. (SDCL 32-31-6)

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

7.0206 Backing Around Corners or into Intersection Prohibited. It shall be unlawful for the operator of any vehicle to back such vehicle around a corner at an intersection or into an intersection of public streets. (SDCL 32-30-20)

7.0207 Reckless Driving. Any person who drives any vehicle upon a street, avenue, or alley carelessly and heedlessly in disregard of the rights or safety of others, or without due caution, and at a speed or in a manner so as to endanger or be likely to endanger any person or property, shall be guilty of reckless driving. (SDCL 32-24-1)

7.0208 Careless Driving. Any person who drives any vehicle carelessly and without due caution, at a speed or in a manner so as to endanger any person or property, not amounting to reckless driving as defined in the previous Section, shall be guilty of careless driving. (SDCL 32-24-8)

7.0209 Exhibition Driving. Any person who drives any vehicle within the limits of the Town in such a manner that creates or causes unnecessary engine noise, tire squeal, skid or slide upon acceleration or stopping; or that simulates a temporary race, or that causes the vehicle to unnecessarily turn abruptly or away, shall be guilty of exhibition driving. (SDCL 32-24-9)

7.0210 Right-of-Way at Intersection. The right-of-way rule as between vehicles at intersections is hereby declared as follows: (SDCL 32-26-13)

A. The operator of a vehicle approaching an intersection shall yield the right-of-way to a vehicle which has fully entered the intersection.

- B. When two vehicles approach an intersection at approximately the same time, the operator of the vehicle at the left shall yield the right-of-way to the vehicle on the right.
- C. The operator of any vehicle traveling at an unlawful speed shall forfeit any right-of-way which he or she may otherwise have hereunder.

7.0211 U-Turn at Intersection. It shall be unlawful for the operator of a vehicle to turn at the intersection in a half circle so as to proceed in the opposite direction at any intersection where warned by a traffic control sign displaying the words “No U-TURN.”. (SDCL 32-26-25)

7.0212 Right-of Way, Left Turn. The operator of a vehicle within an intersection intending to turn to the left shall yield the right-of-way to any vehicle approaching from the opposite direction which is within the intersection, or so close thereto as to constitute an immediate hazard. The operator, having so yielded and having given a signal when and as required, may make such left turn and the operators of all other vehicles approaching the intersection from said opposite direction shall yield the right-of-way to the vehicle making the left turn. (SDCL 32-26-18)

7.0213 Turning Around in Midblock Prohibited. The operator of a vehicle shall not turn such vehicle so as to park in the opposite direction except at an intersection. (SDCL 32-26-25)

7.0214 Action Required at Stop Sign. Except when directed to proceed by a law enforcement officer or traffic control signal, every operator of a vehicle approaching a stop intersection indicated by a stop sign shall come to a full stop at a clearly marked stop line, but if none, before entering the crosswalk on the near side of the intersection, or if none, then at the point nearest the intersection roadway where the driver has a view of approaching traffic on the intersecting roadway before entering the intersection.

After having stopped, the operator shall yield the right-of-way to any vehicle which has entered or is approaching the intersection from another highway and shall not proceed into the intersection until certain that such intersecting roadway is free from oncoming traffic which may affect safe passage. (SDCL 32-29-2.1)

7.0215 Action Required at Yield Sign. The operator of a vehicle approaching an authorized sign bearing the word “Yield” or “Yield Right-of-Way” shall in obedience to such sign slow down to a speed reasonable for the existing conditions, or shall stop if necessary and shall yield the right-of-way to any pedestrian legally crossing the roadway on which such operator is driving, and to any vehicle in the intersection or approaching on another highway so closely as to constitute an immediate hazard. Said operator having so yielded may proceed and the operators of all other vehicles approaching the intersection shall yield to the vehicle so proceeding. (SDCL 32-29-3)

7.0216 Stop Required Before Operator Entering From Alley, Building or Private Road. The operator of a vehicle emerging from an alley, building, private road or

driveway within a business or residence district shall stop such vehicle immediately prior to driving onto a sidewalk or onto the sidewalk area extending across such alley, building entrance, road or driveway, or in the event there is no sidewalk area, shall stop at the point nearest the street to be entered where said operator has a view of approaching traffic thereon. (SDCL 32-29-2.2)

- 7.0217 Pedestrian's Right-of-Way. The operator of any vehicle shall yield the right of way to a pedestrian crossing the roadway within any marked crosswalk or within any unmarked crosswalk at the end of the block, and for any school crossing guard displaying a stop signal, except at intersections where the movement of traffic is being regulated by law enforcement officers or traffic control signals. Whenever any vehicle has stopped at a marked crosswalk or at any intersection or for school crossing guards to permit a pedestrian to cross a roadway, it shall be unlawful for the operator of any other vehicle approaching from the rear to overtake and pass such stopped vehicle. (SDCL 32-27-1)
- 7.0218 Interfering with Snow Removal Equipment. No person shall operate a vehicle within such a distance or follow any municipal, county or state snowplow so as to interfere with the snow removal operations, or in such a manner to cause the snow plow operator to abruptly swerve, steer, stop or divert the snow plow from such snow removal operations.
- 7.0219 Helmets For Minors Required. It shall be unlawful for anyone, under the age of 18 to operate or ride upon a motorcycle, except a moped as defined in SDCL 32-20-1, on the public streets or alleys of this Town, unless such person wears a protective helmet of a type approved by the department of public safety.
- 7.0220 Duty of Motorist to Slow or Stop in Obedience of School Bus Amber or Red Signal. The operator of any motor vehicle driven within the Town, shall, upon meeting or overtaking a school bus, on which amber warning lights are flashing, reduce the speed of the vehicle to not more than twenty (20) miles per hour and proceed past the school bus with caution. An operator who meets or overtakes a school bus on which the red signal lights are flashing, shall bring the vehicle to a complete stop not closer than fifteen (15) feet from the school bus and shall remain stopped until the flashing red signal lights are extinguished.

CHAPTER 7.03 - VEHICLE EQUIPMENT

- 7.0301 Warning Tickets. Any authorized law enforcement officer, upon reasonable belief that a vehicle is being operated in violation of any provision of this Title or applicable state law or is in such unsafe condition as to endanger any person, may require the driver of the vehicle to stop and submit to inspection of the vehicle and its equipment, license plates and registration card, and is hereby authorized to issue a warning ticket to any driver whose vehicle is in such violation.

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

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

- 7.0302 Lights Required. A motor vehicle in motion, during the period from half an hour after sunset to half an hour before sunrise, shall display at least two (2) lighted lamps on the front and one on the rear of such motor vehicle, such lamps to conform to the state law; provided that a motorcycle, moped or motor bicycle shall be required to display one lighted lamp in front and one in the rear. Bicycles shall display a lighted front lamp and a reflector or rear lamp that exhibits a yellow or red light.
- 7.0303 Headlights Dimmed. No person shall use headlights upon any vehicle on any street unless the same are dimmed in such a way as to prevent the light being dazzling or blinding to persons using the streets.
- 7.0304 Warning Devices. Every motor vehicle operated or driven in the Town shall be provided with an adequate horn or other device for signaling which shall be in good working order at all times such vehicle is operated on the streets of the municipality. (SDCL 32-15-10)
- 7.0305 Emergency Vehicle Warning Device. Every law enforcement, Fire Department and ambulance vehicle used for emergency calls shall be equipped with lights and siren. It shall be unlawful for any other vehicle to be so equipped.
- 7.0306 Red and Blue Lights. Except as to law enforcement or Fire Department vehicles, or tow trucks or wreckers operating under such circumstances as may be provided by law, it shall be unlawful for any person to operate a vehicle in the Town with any red or blue light thereon visible from directly in front or to the sides thereof.
- 7.0307 Brakes. Every motor vehicle shall be provided with foot pedal brakes in good working order and sufficient to control such motor vehicle at all times when same is in use.
- 7.0308 Mufflers. No person shall operate a motor vehicle on any street within the Town unless such vehicle is equipped with a muffler in good working order and in constant operation to prevent excessive or unusual noise or annoying smoke. It shall be unlawful for any person to use a muffler cut-out on any motor vehicle within the Town. (SDCL 32-15-17)
- 7.0309 Projecting Loads. No person shall operate a vehicle upon any street with any load or part of a load projecting more than four (4) feet beyond the rear end or front end, or more than two (2) feet beyond the sides of the body, or carrying part of such vehicle, unless there be attached to the extreme ends and sides of such projecting load a warning sign or signal plainly discernible to other drivers which clearly indicates the projecting parts of such load.
- 7.0310 Weight and Size of Vehicle and Loads. No person shall operate any motor vehicle upon any street the gross weight of which does not comply with state law.

- 7.0311 Windshields Must be Unobstructed. It shall be unlawful for any person to drive any motor vehicle upon any street with its windshield or any other window obstructed by any sign, poster, or other non-transparent material other than a certificate or other paper required to be so displayed by law or other temporary driving instruction placed thereon by the manufacturer.
- 7.0312 Protection of Load. No motor vehicle shall be driven or moved on any street unless such vehicle is so constructed or loaded as to prevent any of its load from dripping, sifting, leaking or otherwise escaping therefrom, except that sand may be dropped for the purpose of securing traction, or water or other substances may be sprinkled on a roadway in cleaning or maintaining such roadway. No person shall operate on any street any vehicle with any load unless said load and any covering is securely fastened so as to prevent said covering or load from becoming loose, detached or in any manner a hazard to other users of the highway. (SDCL 32-15-18)

CHAPTER 7.04 - SPEED RESTRICTIONS

- 7.0401 Establishment of Speed Zones.
- A. The Town Board may establish upon any public street limited speed zones which shall constitute the maximum speed at which any person may operate any vehicle.
 - B. The beginning of such limited speed zones shall be conspicuously indicated by signs stating the speed limit.
- 7.0402 Speed Limits. Except as may otherwise be provided by the Town Board, it shall be unlawful for any person to operate or drive any vehicle at a rate of speed greater than the following:
- A. Fifteen (15) miles per hour within any business district.
 - B. Fifteen (15) miles per hour on any alley.
 - C. Twenty (20) miles per hour within any residential district.
 - D. The appropriate maximum speeds established by state law on all other unmarked streets and highways within the Town.
- 7.0403 School Zones. It shall be unlawful for any person to operate any vehicle at a speed greater than fifteen (15) miles per hour when passing a school during the recess or while children are entering or leaving school grounds, between 8:00 a.m. and 4:00 p.m. during days when school is in session.

CHAPTER 7.05 - PARKING, STOPPING

- 7.0501 Obstruction of Traffic. No vehicle shall be operated or allowed to remain upon any street under the jurisdiction of the Town in such a manner as to form an unreasonable obstruction to traffic. Whenever any law enforcement officer finds a vehicle which constitutes an obstruction, such officer shall be authorized to provide for the removal of such vehicle by towing, if necessary, at owner's expense. (SDCL 32-30-1, 2, 3)
- 7.0502 Parking in Streets During Snow Removal. Whenever there is an accumulation of two inches or more of snow on the streets of Sherman, a snow removal emergency shall be declared, and street parking shall be prohibited. Parking on any public street shall be completely prohibited, on both sides and regardless of the directional run of that street, during the existence of a snow removal emergency. The snow removal emergency shall terminate, and parking may resume whenever such street has been cleared of snow completely, until the next snow removal alert is declared. Fines for ticketing vehicles shall be fifty dollars (\$50.00) for each day of violation.
- 7.0503 Towing Vehicles. Any law enforcement official shall be authorized to remove and tow away, or have removed and towed away by any commercial towing service, any vehicle illegally parked in any place where such vehicle creates or constitutes a traffic hazard, blocks the use of a fire hydrant, or obstructs or may obstruct the movement of any emergency vehicle, or in any way is in violation with the provisions of this Title. Vehicles towed away for illegal parking shall be stored in a place designated by the Town Board and shall be restored to the owner or operator of such vehicle upon payment of a fee of twenty-five dollars (\$25.00) plus towing charges, within twenty-four (24) hours after the time such car was removed, plus five dollars (\$5.00) for each additional twenty-four (24) hours or fraction thereof. (SDCL 32-30-13,14)
- 7.0504 Parking Prohibited in Certain Places. It shall be unlawful for the operator of any vehicle to stop, stand, or park it in any of the following places, except when necessary to avoid conflict with other traffic or in compliance with the directions of a law enforcement officer or traffic control device: (SDCL 32-30-6, 6.1, 6.2)
- A. In any intersection.
 - B. In a crosswalk.
 - C. Within fifteen (15) feet of a fire hydrant.
 - D. At any place where the vehicle would block the use of a driveway.
 - E. Within twenty (20) feet of the driveway entrance of the fire station and on the side of the street opposite the entrance to such station within one hundred (100) feet of such entrance.
 - F. On any sidewalk.
 - G. At any place where official signs prohibit parking.

H. In any public alley.

I. Inside of curb, on street right of way. Area between the back of the curb to the property line.

- 7.0505 General Parking Restrictions. No vehicle shall be parked with the left side of such vehicle next to the curb, except on one-way streets. It shall be unlawful to park any vehicle upon any street for the purpose of displaying it for sale, or to park any vehicle upon any business street from which vehicle merchandise is peddled, unless authorized by the Town Board. It shall be unlawful to park any vehicle outside of clearly painted parking lines in the downtown district. Exception: when a larger vehicle parked legally would otherwise block traffic. It shall be unlawful to park any motor vehicle on any private property without the consent of the owner of the property.
- 7.0506 Diagonal Parking. No vehicle shall be parked on Main Street from First Street to Second Street except such vehicle be parked within the areas and at the angle to the curb indicated by angle marks or signs, with right front wheel touching the curb; and also except in front of the Church which has been designated and marked for straight line parking, where the vehicle shall be parked within the areas indicated by such marks.
- 7.0507 No Parking Areas. The Town Board shall cause signs to be posted in all areas where parking is limited or prohibited, indicating such limitations or prohibitions, except that yellow curb painting may be used to indicate "No Parking" in certain street areas. (SDCL 9-31-1)
- 7.0508 Parking and Storage of Certain Vehicles. Automotive vehicles or trailers without current license plates shall not be parked or stored on any public property or right-of-way within the Town.
- 7.0509 Campers, Boats and Trailers Restricted. It shall be unlawful for boats, campers and trailers or any other type of vehicle other than a motor vehicle to be parked on a street or alley within the Town other than temporary.
- 7.0510 Handicapped Parking Areas. Parking in those areas so designated as handicapped parking areas by signs and pavement striping shall be restricted to those vehicles identified, by window sticker and/or license plate, as being operated by handicapped drivers. It shall be unlawful for any person to park in a handicapped area without such identification on his or her vehicle. (SDCL 32-30-11.1, 11.2, 11.3, 11.4, 11.6)

CHAPTER 7.06 - TRUCKS

- 7.0601 Definitions. For the purpose of this article, the terms used in this section shall have the following meanings:
1. *Trucks:* Any motor vehicle designed or operated for the transportation of property, including a vehicle directly connected to a trailer.

2. *Motor Vehicle:* All machines propelled by any power other than muscular used upon the streets or highways for the transportation of property.
3. *Trailer:* A vehicle of the trailer type, without a power unit of its own, designed and used in conjunction with a motor vehicle for the transportation of property.
4. *Truck Route:* Streets and highways designated as truck routes by the Town Board.
5. *Streets:* All other streets with the Town which are not designated as truck routes.

7.0602 Truck Routes. The Town Board is hereby authorized to establish within the Town truck routes and the same shall be identified by signs or markings erected and maintained by the Town. The word “truck” shall mean and include truck, trailer and semi-trailer, tractor and farm wagon.

7.0603 Operation of Trucks. Where any truck route has been established and identified, any person operating a truck having a gross weight of five (5) tons or more shall operate it only on such route or routes and none other, except where necessary to traverse another street or streets to a destination for the purpose of loading or unloading commodities or for the purpose of towing a disabled or damaged motor vehicle to or from public or private property, and then only by such deviation from the nearest truck route as is reasonably necessary.

7.0604 Exceptions to Use of Truck Routes. There shall be the following exceptions to the use of truck routes:

- A. A truck arriving at the end of any designated truck route may be driven over the most direct course to the nearest truck route which extends in the same general direction.
- B. The Town Board shall have the authority, for good cause and upon request, to issue temporary permits for trucks to operate over routes not established as truck routes by the Town or to otherwise deviate from the provisions of this Chapter.
- C. The operator of a “Truck” as referred to in Section 7.0601 (except semi-trailers) may deviate from the truck route for the purpose of taking such truck to the owner’s personal residence or parking facility, but the truck must be parked on the owner’s real property and not on Town streets or Town property. In this instance the vehicle shall make no more than one trip to and from owner’s personal residence or parking facility per day.
- D. The provisions of this Section shall not apply to school buses, emergency vehicles of any Fire Department, not to any public utility vehicles where actually engaged in the performance of emergency duties necessary to be performed by said public departments or public utilities, nor to any vehicle

owned by or performing work for the Town, the United States of America, or the State or any of its political subdivisions.

- 7.0605 Parking of Trucks. All freight, stock, and gas and oil transport trucks shall be parked only at such places and in the manner as designated by the Town Board. This Section shall not apply to a light delivery truck delivering goods from house to house and place to place which requires a stop or parking of no more than a few minutes at a time to receive or deliver merchandise.
- 7.0606 Trucks Standing or Parking in Alleys. Trucks shall not stand or park in any public alley except for the purpose of receiving or delivering property and for no longer time than is necessary to load or unload. Such trucks, when loading or unloading, shall stand or park on the side of the alley. When two or more trucks are thus standing on opposite sides of the same alley the truck last arriving shall be placed in such staggered positions as to leave sufficient space between it and the first truck for the free passage of other vehicles.

CHAPTER 7.07 - SNOWMOBILES

- 7.0701 Definitions. The following words and phrases, when used in this Chapter, shall have the meanings respectively ascribed to them:
- A. Operate. To control the operation of a snowmobile.
 - B. Owner. Any person, other than a lienholder, having the property in or title to a snowmobile and entitled to the use or possession thereof.
 - C. Private Property. Any and all real property, or land within the Town which has not been opened or dedicated for public use or as a public thoroughfare.
 - D. Snowmobile. Any engine-driven vehicle of a type which utilizes sled type runners, wheels, or skis with an endless belt tread or similar means of contact with the surface upon which it is operated.
- 7.0702 Operators License Required. It shall be unlawful to operate a snowmobile on a public street in the Town without having in possession a valid drivers license.
- 7.0703 Traffic Laws Applicable. The operator of a snowmobile is required to obey all traffic laws applicable to the operators of vehicles generally, in addition to those herein set forth.
- 7.0704 Ingress and Egress to Town. Any person operating a snowmobile within the Town shall only use such snowmobile to enter the corporate limits for the purpose of returning to his or her home base or leaving the corporate limits. Such operator shall enter or leave by the most direct route and at a reduced speed so as not to disturb the peace and quiet of the community.
- 7.0705 Permission of Property Owner Required for Operation. No person shall operate a snowmobile on private property of another without the express permission of

the owner or occupant of such property to do so.

- 7.0706 Operation on Public Ground. No person shall operate a snowmobile on any public property, including, but not limited to public sidewalks, school grounds, parks, parking lots, playgrounds, and recreational areas except public roadways and ditches.
- 7.0707 Crossing Streets at Right Angles. Persons operating snowmobiles are permitted to cross streets at right angles but only may do so after stopping and yielding the right-of-way to all approaching traffic and crossing as closely as possible to an intersection or approach.
- 7.0708 Speed. No person shall operate a snowmobile at a speed greater than is reasonable or proper, under all existing circumstances. It shall be unlawful to operate a snowmobile at a rate of speed faster than five (5) miles per hour less than the posted speed limit applicable to other motor vehicles.
- 7.0709 Careless, Reckless or Negligent Operation Prohibited. No person shall operate a snowmobile in a careless, reckless or negligent manner so as to be likely to endanger the person or property of another or to cause injury or damage thereto.
- 7.0710 Loud Noises Prohibited. No person shall operate a snowmobile in such manner as to create any loud, unnecessary or unusual noise likely to disturb or interfere with the peace and quiet of any other person.
- 7.0711 Emergency Use.
- A. The Town Board may declare that road or weather conditions are such as to constitute emergency travel conditions authorizing use of a snowmobile.
 - B. A snowmobile may also be used when such vehicle is necessary as an emergency vehicle to protect the health, safety and welfare of any individual.
 - C. The operator of a snowmobile under emergency conditions shall be subject to all existing traffic ordinances of the Town and traffic laws of the State.
- 7.0712 Equipment Required. All snowmobiles operated in the Town shall have the following equipment:
- A. Mufflers which are properly attached and which reduce the noise of operations of the vehicle to the minimum noise necessary for operating the vehicle, and no person shall use a muffler cutout, bypass or similar device on such vehicle.
 - B. Adequate brakes in good working condition.
 - C. A safety or “deadman” throttle in operating condition, such being a device which when pressure is removed from the accelerator, the throttle causes the motor to disengage from the driving tract.

- D. At least one headlight and one tail light in good working condition.
 - E. A red flag or cloth not less than twelve (12) inches square and hung or suspended five (5) feet above the ground level so that the entire area thereof is visible from all directions while on any roadway street or alley.
- 7.0713 Unattended Vehicles. No owner or operator of a snowmobile shall leave or allow the snowmobile to be or remain unattended on public property or streets while the motor is running, or where the keys for starting the vehicle are left in the ignition.
- 7.0714 Towing. No person operating a snowmobile shall tow any person or object behind such snowmobile except when such person or object is situated upon a conveyance which is attached to such snowmobile by means of a rigid hitch or towbar.
- 7.0715 Exception. Notwithstanding the provisions of any other Section, any governmental official in charge of public school ground, park property, playgrounds, or parking lots shall have authority to supervise and regulate events or programs conducted thereon or to designate areas under his charge and supervision as recreation areas that he shall deem available for use of snowmobiles, and the hours of such use.

CHAPTER 7.08 - MISCELLANEOUS PROVISIONS

- 7.0801 Clinging to Moving Vehicles. No person traveling upon any bicycle, motorcycle, coaster, sled, roller skates, or any other toy vehicles shall cling to or attach himself or such vehicle to any other moving vehicle upon any street.
- 7.0802 Riding on Outside of Vehicle. No person shall ride on any vehicle upon any portion thereof not designated or intended for the use of passengers. This provision shall not apply to persons riding within truck bodies in space intended for merchandise.
- 7.0803 Tampering with Vehicles. It shall be unlawful for any person to tamper with the motor vehicle of another, with intent to injure the same or cause inconvenience to the owner thereof, or to operate the motor vehicle of another without the consent of the owner or person lawfully in charge thereof.
- 7.0804 Immediate Notice of Accident. The operator of a vehicle involved in an accident resulting in injury to or death of any person, or resulting in any property damage, shall immediately by the quickest means of communication give notice of such accident to a law enforcement officer.
- 7.0805 When Driver Unable to Report. An accident report shall not be required from any person who is physically incapable of making such report during the period of incapacity. Whenever the operator of a vehicle is physically incapable of making such report or is physically incapable of giving an immediate notice of an

accident and there is another occupant in the vehicle at the time of the accident capable of doing so, such occupant in the vehicle at the time of the accident shall cause to be given the notice not given by the operator.

- 7.0806 Duty to Give Information, Render Aid. The operator of any vehicle involved in an accident resulting in injury to or death of any person or damage to any vehicle which is driven or attended by any person shall give his name, address and if applicable, the license number of the vehicle he is driving and his operator's or chauffeur's license to the person struck or to the driver or occupant of or to person attending any vehicle with which the operator collides. The operator shall also render to any person injured in such accident reasonable assistance, including the carrying, or the making of arrangements for the carrying of such person to a physician, surgeon or hospital for medical or surgical treatment if it is apparent that such treatment is necessary or if such carrying is requested by the injured person.
- 7.0807 Personal Injury. The operator of any vehicle involved in an accident resulting in injury to or death of any person shall immediately stop such vehicle at the scene of such accident or as close thereto as possible but shall then forthwith return to and remain at the scene of the accident until fulfilling the requirements of Section 7.0806. (SDCL 32-34-7)
- 7.0808 Property Damage. The operator of any vehicle involved in an accident, resulting only in damage to a vehicle which is driven or attended by any person shall immediately stop such vehicle at the scene of such accident or as close thereto as possible and shall forthwith return to and remain at the scene of such accident until fulfilling the requirements of Section 7.0806. Every such stop shall be made without obstructing traffic more than is necessary.
- 7.0809 Unattended Vehicle, Property. The operator of any vehicle which collides with any other vehicle or property which is unattended shall immediately stop and shall then and there either locate and notify the operator or owner of such vehicle of the name and address of the driver and shall attach securely in a conspicuous place in or on the vehicle struck a written notice giving the operator's name and address and a statement of the circumstances thereof. In addition, the operator shall without unnecessary delay notify a law enforcement officer of such accident. (SDCL 32-34-4)
- 7.0810 Duty Upon Striking Fixtures. The operator of any vehicle involved in an accident resulting only in damage to fixtures or other property legally upon or adjacent to a street shall take reasonable steps to locate and notify the owner or person in charge of such property of such fact and of the operator's name and address, the registration number of the vehicle operator and shall upon request and if available exhibit his or her operator's license and shall make report of such accident when and as required in Section 7.0808.
- 7.0811 Duty Upon Striking Animal. The operator of any vehicle which collides with any dog or domestic animal causing injury thereto shall stop and attempt to ascertain the owner of such animal and notify a law enforcement officer of such accident.

7.0812 Manner of Arrest. Except in cases of driving while intoxicated or under the influence of intoxicating liquor or any stupefying or exhilarating drug and except in the more serious and aggravated cases of speeding or careless and reckless driving and except when reasonably necessary to secure appearance, a person charged with a violation of this Title by a law enforcement officer need not be arrested in the regular manner but may first be given an opportunity after notice to appear voluntarily to answer for such traffic violation.

7.0813 Notice to Appear. A person charged with violation of this Title by notice shall be given notice to appear before a court of competent jurisdiction at the time or within the time stated in such notice, and that in event of failure to do so a warrant will be issued for his arrest.

The notice shall state the name, description and address of the offender, if known, the nature and date of the offense and a description of the vehicle involved in the violation by trade name and license number. The notice shall be signed by the law enforcement officer executing it.

The notice shall be made in triplicate, one copy to be given to the owner or driver charged with the offense or to be left in or upon the automobile or vehicle involved in the violation, one copy to be filed with the law enforcement officer and one copy to be filed with the court.

The person charged with the offense, if available, shall be given an opportunity to sign an agreement to appear to answer the charge at the time and place specified in the notice which form of agreement shall be a part of the notice, and if he shall refuse to sign such agreement, then he shall be placed under arrest for the offense in the manner otherwise provided by law.

7.0814 Appearance and Deposit for Fine. A person who has received a notice of traffic violation shall at or within the time specified in such notice, appear before court of competent jurisdiction to answer to the charge set forth therein according to the procedure of that court.

In cases of non-moving violations, and cases of failure to stop at a stop street, sign or signal which are not serious and aggravated cases, the person charged shall appear at the office of the Clerk of Courts and upon making the deposit for fine as authorized by the court and a statement authorizing the Clerk of Courts to enter his plea of guilty to the offense he shall not be required to appear in court.

7.0815 Arrest on Failure to Appear. Anyone who fails to appear in response to a notice of traffic violation, shall be subject to arrest in the manner otherwise provided by law.

TITLE 8 – PLANNING, ZONING AND BUILDING REGULATIONS

Chapter 8.01 - Planning Commission

CHAPTER 8.01 - PLANNING COMMISSION

8.0101

Definitions.

- A. Town or Municipality. Relates to the Town of Sherman.
- B. Town Board. Chief legislative body or governing body of the municipality.
- C. Planning Commission. Body created pursuant to this ordinance.

8.0102

Creation of Sherman Planning Commission.

The Sherman Planning Commission is hereby created for the Town of Sherman, South Dakota.

8.0103

Number, Appointment and Tenure of Planning Commission Members.

The Sherman Planning Commission created under the terms of SDCL 11-6 shall consist of not less than three (3) members appointed by the Town Board. If deemed necessary, the Town Board may appoint one or more of its members to the Planning Commission. The term of each of the appointed members shall be five years except that when the Planning Commission is first appointed, approximately one-half of the members shall be appointed for three years and the balance of the members shall be appointed for five years. Thereafter, appointments of each member shall be for terms of five years so that there will be an overlapping of tenures. Administrative officials of the Town may be appointed as ex-officio members of the Planning Commission; however, all members of the Planning Commission shall serve as such without compensation.

8.0104

Vacancies.

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

8.0105

Organization.

The Planning Commission shall elect a Chairman from among its members for a term of one year with eligibility for re-election, and shall also elect a Secretary. The Planning Commission shall hold meetings as necessary, as

called by the Chairman, or the Town Board. The Commission shall keep minutes and records of its activities, which shall be a public record. The Planning Commission may appoint such employees as it may deem necessary for its work, and may also contract with planners, engineers, architects and other consultants for such services as it may require, provided, however, that such appointments and contracts shall be approved by the Town Board.

8.0106 Removal for cause.

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

8.0107 Powers and Duties of Commission.

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

8.0108 Preparation of Comprehensive Plan.

The Planning Commission of Sherman shall propose a comprehensive plan for the physical development of the Town pursuant to the terms of SDCL 11-4 and 11-6. The general purpose of the comprehensive plan shall be to guide and accomplish a coordinated and harmonious development within the Town.

After the comprehensive plan has been adopted according to law, no substantial amendment or modification thereof shall be made, without the proposed change first being referred to the Planning Commission for its recommendations.

8.0109 Zoning Regulations.

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

8.0110 Subdivision Plats and Regulations.

All plans, plats, or re-plats or subdivisions or resubdivisions of land within the jurisdiction of this ordinance shall first be submitted to the Planning

Commission for its recommendation before approval by the Town Board.

The Planning Commission shall prepare and recommend to the Town Board regulations governing the subdivision of land within its jurisdiction. No amendments or changes thereto shall be made without recommendation by the Planning Commission.

TITLE 9 - TAXATION

Chapter 9.01 – Municipal Sales and Service Tax and Use Tax

CHAPTER 9.01 – MUNICIPAL SALES AND SERVICE TAX AND USE TAX

- 9.0101 Purpose. The purpose of this Chapter is to provide additional needed revenue for the Town by imposing a municipal retail sales and use tax pursuant to the powers granted to the municipality by the State of South Dakota, by SDCL 10-52 entitled Uniform Municipal Non-Ad Valorem Tax Law, and acts amendatory thereto.
- 9.0102 Effective Date. From and after the first day of January, 2006, there is hereby imposed as a municipal retail occupational sales and service tax upon the privilege of engaging in business a tax measured by One Percent (1%) on the gross receipts of all persons engaged in business within the jurisdiction of the Town of Sherman, Minnehaha County, South Dakota, who are subject to the South Dakota Retail Occupational Sales and Service Tax, SDCL 10-45 and acts amendatory thereto.
- 9.0103 Use Tax. In addition there is hereby imposed an excise tax on the privilege of use, storage and consumption within the jurisdiction of the Town of Sherman of tangible personal property or services purchased from and after the first day of January, 2006, at the same rate as the municipal sales and service tax upon all transactions or use, storage and consumption which are subject to the South Dakota Use Tax Act, SDCL 10-46, and acts amendatory thereto.
- 9.0104 Collection. Such tax is levied pursuant to authorization granted by SDCL 10-52 and acts amendatory thereto, and shall be collected by the South Dakota Department of Revenue and Regulation in accordance with the same rules and regulations applicable to the State Sales Tax and under such additional rules and regulations as the Secretary of Revenue of the State of South Dakota shall lawfully prescribe.
- 9.0105 Interpretation. It is declared to be the intention of this Chapter and the taxes levied hereunder that the same shall be interpreted and construed in the same manner as all sections of the South Dakota Retail Occupational Sales and Service Act, SDCL 10-45 and acts amendatory thereto and the South Dakota Use Tax, SDCL 10-46 and acts amendatory hereto, and that this shall be considered a similar tax except for the rate thereof to that tax.
- 9.0106 Penalty. Any person failing or refusing to make reports on payments by this Chapter and the rules and regulations relating to the ascertainment and collection of the tax herein levied shall be guilty of a misdemeanor and upon conviction shall be fined not more than five hundred dollars (\$500.00) or imprisoned for thirty (30) days or both such fine and imprisonment. In addition, all such collection remedies authorized by SDCL 10-45, and acts amendatory thereto, and SDCL 10-46, and acts amendatory thereto are hereby authorized

for the collection of these excise taxes by the Department of Revenue and Regulation.

9.0107 Separability. If any provision of this Chapter is declared unconstitutional or the application thereof to any person or circumstances held invalid the constitutionality of the remainder of the ordinance and applicability thereof to other persons or circumstances shall not be affected thereby.

TITLE 10 - GENERAL PROVISIONS

Chapter 10.01 - Penalties and Repealing Clause

CHAPTER 10.01 - PENALTIES AND REPEALING CLAUSE

- 10.0101 Penalty in General. Except in cases where a different or additional penalty is imposed by this ordinance or by some existing provision of law, every violation of any of the provisions of this ordinance shall be punishable as a Class 2 Misdemeanor under South Dakota statutes, and shall be subject to the maximum fines and imprisonment provided for Class 2 misdemeanor violations.
- 10.0102 Conflicting Ordinances Repealed. All ordinances and parts of ordinances in conflict with the provisions of this ordinance, or relating to the subject matter of this ordinance and not re-enacted as part of this ordinance, are hereby repealed; provided however, that nothing herein shall be construed as repealing any special ordinances, appropriation ordinances, levying ordinances for the issuance of bonds, or other special ordinances of like character, nor shall this ordinance repeal or modify the provisions of any ordinance heretofore adopted by the Town unless provisions of this ordinance in effect, either modify, repeal or amend such ordinances.
- 10.0103 Unconstitutionality. Should any Section, Sub-section, paragraph, sentence, clause or phrase of this ordinance be declared unconstitutional or invalid for any reason the remainder of this ordinance shall not be affected thereby.
- 10.0104 Publication and Effect. This ordinance shall take effect upon its adoption and publication of the notice of such adoption as provided by SDCL 9-19-17.