

ADMINISTRATIVE CODE

Chapter 1.1 In General

1. Debts, Obligations, Liabilities and Contracts.

The City shall continue to own, possess and control all rights and property of every kind and nature owned, possessed or controlled by it at the time this Code takes effect and shall be subject to all its debts, obligations, liabilities and contracts.

2. Vested Rights.

Nothing in this Code shall be so construed as to impair any vested rights or valid obligations existing when it takes effect.

3. Repeal.

All ordinances and parts of ordinances in conflict with the provisions of this Code or relating to the subject matter of this Code and not reenacted as a part of this Code are hereby repealed, except as otherwise specifically provided.

4. Ordinances Saved from Repeal.

Nothing contained in this Ordinance Revision shall be construed to repeal or otherwise affect in any manner:

- a. Any ordinance or act committed or done or any penalty or forfeiture incurred or any contract or right established or accruing before the effective date of this Code;
- b. Any ordinance promising or guaranteeing the payment of money for the city or authorizing the issuance of any bonds of the City or any evidence of the City's indebtedness;
- c. Any contract or obligation assumed by the City;
- d. Any right or franchise granted by the City;
- e. Any budget or appropriation ordinance;
- f. Any ordinance which, by its own terms, is effective for a stated or limited term;
- g. Any ordinance providing for local improvements and assessing taxes therefore;
- h. Any ordinance fixing the salary of any city officer or employee; or

- i. Any ordinance of an administrative character not in conflict with the provisions of the Ordinance; and
- j. All such ordinances are hereby saved from repeal and recognized as continuing in full force and effect to the same extent as if set out at length in the Ordinance.

5. Jurisdiction.

That, as authorized by *SDCL 9-29-1*, the City of Elkton shall exercise jurisdiction for all authorized purposes within one mile of its corporate limits for the purpose of promoting the health, safety, morals and general welfare of the community and of enforcing its ordinances and resolutions relating thereto.

6. Misdemeanor.

Except as in this Ordinance otherwise specifically or additionally provided, any person or persons, firm, or corporation, violating any of the provisions thereof, shall be deemed guilty of a misdemeanor and shall, upon conviction thereof, be punished by a fine not exceeding \$200.00, or imprisonment in jail for a period not to exceed thirty (30) days, or by both such fine and imprisonment. The fine may be served in jail at the rate equal to the rate provided for by State law. Each act of a violation and each day upon which a violation occurs shall constitute a separate offense for which a penalty can be imposed.

7. Corporation may be fined.

For a violation of this Code or any other ordinance of the City of Elkton which, by nature, does not require intent exercisable only by natural persons, a corporation may be fined or punished by appropriate penalties in addition to any punishment provided for its agents who violate this Code or other ordinance while acting as such agents.

Chapter 1.2 Mayor and City Council.

1. Mayor - Duties.

The Mayor shall:

- a. Be the chief executive of the City, and shall hold office for a term of two (2) years; and
- b. Preside at all meetings of the Council but shall have no vote except in case of a tie; and
- c. Perform such other duties as may be prescribed by the laws and ordinances, and take care that such laws and ordinances are faithfully executed; and
- d. Annually and from time to time give the Council information relative to the affairs of the City, and shall recommend for their

consideration such measures, as the Mayor may deem expedient; and

- e. Have the power to sign or veto any ordinance or resolution passed by the Council, and the power to veto any part or item of any ordinance or resolution appropriating money as provided for by State law.

2. Meetings.

Unless otherwise determined and announced, regular meetings of the governing body shall be held in the City Council Chambers, located in the Elkton Community Center, Elkton, on the first Monday of each month at 7:00 o'clock P.M. Special meetings may be called at any time by the Mayor, or any three (3) aldermen, to consider such matters as may be mentioned in the call for the meeting.

3. Notice of Special Meeting.

The City Finance Officer shall issue written notice of each special meeting, stating by what authority the meeting is called, the time and place of holding such meeting, and the matters to be considered. Such meeting shall be called whenever requested by the Mayor or any three (3) aldermen.

Section 1.2.4. Aldermen.

Each ward in the City of Elkton shall be represented on the City Council by two (2) aldermen who shall hold office for a term of two (2) years, or until their successors are elected and qualified, provided, however, that the term of office of the alderman in each ward shall expire successively.

Section 1.2.5. President of Council - Vice President.

Article 1.2.5.1 At the first regular meeting after the annual election in each year and after the qualification of the newly elected aldermen, the Council shall elect from among its own members a president and vice president, who shall hold their respective offices for the municipal year.

Article 1.2.5.2 The President of the council, in the absence of the Mayor, shall be presiding officer of the council; and during the Mayor's absence, shall be acting Mayor and possess all of the powers of the Mayor.

Article 1.2.5.3 In the absence or disability of the Mayor and President of the Council, the Vice-president shall perform the duties of the Mayor and President of the Council.

Section 1.2.6. Appointment of Officers.

At the first regular meeting in May of each year, there shall be appointed by the Mayor a City Attorney, City Finance Officer, and other such officers as may be provided by ordinance, to hold office until the appointment and qualification of

their successors. The Mayor shall make all such appointments with the approval of the Council.

Section 1.2.7. Compensation.

The annual salary of the Mayor and Council members shall be set by resolution of the City Council at the first regular meeting in May. All appointed officers and employees shall have their salaries set by resolution upon a schedule as determined by the Mayor and members of the City Council.

Section 1.2.8. Bonds.

Appointed officers of the City shall furnish bonds to be approved by the City Council in such sum as may be determined by resolution or ordinance conditioned upon the faithful performance of their duties. Appointed officers shall account and pay over and deliver all moneys or property coming into their hands by virtue of their office.

Section 1.2.9. Rate of Pay and Overtime.

The City, in reference to employees of the City of Elkton, South Dakota, shall comply with applicable State or Federal wage and hour laws, and all wages and salaries shall be set on an annual basis by resolution of the City Council.

Section 1.2.10. Employee Benefits.

Employee benefits shall be those as set forth in the City's personnel policy.

TITLE 2. BOUNDARIES, WARDS AND VOTING PRECINCTS

Chapter 2.1 Boundaries

Section 2.1.1. Boundaries.

The City of Elkton shall include all territory embraced within the original town site of Elkton together with all subsequent additions taken into the City since that time, less territory legally excluded there from if any.

Section 2.1.2. Reserved.

Chapter 2.2 Wards

Section 2.2.1. Wards.

The City of Elkton is divided into three wards, designated respectively as the First, Second, and Third Wards.

Article 2.2.1.1. First Ward. The First Ward shall constitute all that portion of the City bounded on the North by the city limits; bounded on the east by the city limits and the centerline of Badger Street from Second Street East to Fourth Street East; bounded on the South by the centerline of First Street West from Cornell Avenue to Beaver Street, by the centerline of Second Street West from Beaver Street to Buffalo Street, by the centerline of Third Street West from Buffalo Street to Elk Street, by the centerline of Fourth Street East from Elk Street to Badger Street, and by the centerline of Second Street East from Badger Street to the city limits; and bounded on the West by the city limits, by the centerline of Cornell Avenue from South Dakota Highway 13 to First Street West, by the centerline of Beaver Street from First Street West to Second Street West, by the centerline of Buffalo Street from Second Street to Third Street West, and by the centerline of Elk Street from Third Street East to Fourth Street East.

Article 2.2.1.2. Second Ward. The Second Ward shall constitute all that portion of the City bounded on the North by the centerline of Fourth Street from Buffalo Street to Badger Street and by the centerline of Second Street East from Badger Street to the city limits; bounded on the East by the city limits; bounded on the South by the city limits and by the centerline of Seventh Street from Buffalo Street to Elk Street; and bounded on the West by the centerline of Buffalo Street from Fourth Street

West to Seventh Street West and the centerline of Elk Street from Seventh Street East to the city limits.

Article 2.2.1.3. Third Ward. The Third Ward shall constitute all that portion of the City bounded on the North by the city limits and by the centerline of First Street West from Cornell Avenue to Beaver Street, by the centerline of Second Street West from Beaver Street to Buffalo Street, by the centerline of Third Street West from Buffalo Street to Elk Street, and by the centerline of Seventh Street West from Buffalo Street to Elk Street; bounded on the East by the centerline of Cornell Avenue from First South Dakota Highway 13 to First Street West, by the centerline of Beaver Street from First Street West to Second Street West, by the centerline of Buffalo Street from Second Street West to Third Street West, by the centerline of Elk Street from Third Street West to Fourth Street West, by the centerline of Buffalo Street from Fourth Street West to Seventh Street West, and by the centerline of Elk Street from Seventh Street West to the city limits; bounded on the South by the centerline of Fourth Street West from Buffalo to Elk Street, and by the city limits; and bounded on the West by the city limits.

Section 2.2.2. Decennial Census.

When the results of the Decennial Census are reviewed, Ward populations will be reviewed by the City Council, and adjusted as may be required by state law.

Chapter 2.3. Voting Precinct.

Section 2.3.1. Voting Precincts.

Each Ward of the City of Elkton shall constitute an election precinct and all three Wards shall have one common polling place, which is hereby established as the City Community Center.

Section 2.3.2. Reserved.

TITLE 3. FIRE REGULATIONS

Chapter 3.1 Adoption of National Code

Section 3.1.1. Adoption of Fire Prevention.

There is hereby adopted by the City of Elkton for the purpose of prescribing regulations governing conditions hazardous to life and property from fire or explosion, that certain code known as the *International Fire Code*, recommended by the International Code Council, being particularly the 2009 edition thereof and the whole thereof save and except such portions as are hereinafter deleted, modified, or amended, and of which code not less than two (2) copies have been and now are filed in the office of the City Finance Officer of the City of Elkton and the same are hereby adopted and incorporated as fully as if set out at length herein, and from the date on which this Ordinance shall take effect, the provisions thereof shall be controlling within the limits of the City of Elkton.

Section 3.1.2. Enforcement.

The Chief of the Fire Department shall enforce the code.

Section 3.1.3. Definition.

Wherever the word “municipality” is used in the code hereby adopted, it shall be held to mean the City of Elkton.

Section 3.1.4. Modifications.

The Chief of the Fire Department shall have power to modify any of the provisions of the code hereby adopted upon application in writing by the owner or lessee or his duly authorized agent, when there are practical difficulties in the way of carrying out the strict letter of the code, provided that the spirit of the code shall be observed, public safety, and substantial justice done. The particulars of such modification when granted or allowed and the decision of the Chief of the Fire Department thereon shall

be entered upon the records of the department and a signed copy shall be furnished by applicant.

Section 3.1.5. Appeals.

Whenever the Chief of the Fire Department shall disapprove an application or refuse to grant a license or permit applied for, or when it is claimed that the provisions of the code do not apply or that the true intent and meaning of the code have been misconstrued or wrongly interpreted, the applicant may appeal from the decision of the Chief of the Fire Department to the City Council within thirty (30) days from the date of the decision of the appeal.

Chapter 3.2. Fire Department

Section 3.2.1. Establishment.

The Fire Department of the City of Elkton shall consist of the City Council, the Chief, the Assistant Chief, the organized Fire Company or Companies now in existence with the limit of said city, and such other Fire Companies as may be hereafter organized.

Section 3.2.2. Council Supervision.

The entire Fire Department and the individual members thereof and all the apparatus shall be under the supervision and control of the City Council.

Section 3.2.3. Officers.

Article 3.2.3.1. The Fire Department shall consist of the Chief, one Assistant Chief, and other officers as the Chief and membership may deem necessary for the effective operation of the Department.

Article 3.2.3.2. The membership shall elect the Chief for a period of time; tenure of office shall depend upon the Chief's good conduct and efficiency. The Chief shall be technically qualified by training and experience and shall have ability to command men and women and hold their respect and confidence. The Chief shall be removed only for just cause and after a public hearing before the City Council.

Article 3.2.3.3. The Chief shall be held accountable to the City Council only and shall make written and verbal reports thereto as the Fire

Department Ordinance may require. All other Department and Company officers shall be accountable to the Chief only.

Article 3.2.3.4. The Assistant Chiefs and the membership shall elect all other Department and Company officers. Such officers shall be accountable only to the Chief, and subject to removal by him, and the majority vote of the membership present and voting.

Section 3.2.4. Duties of the Chief.

Article 3.2.4.1. The Chief shall formulate a set of rules and regulations to govern the Department, and shall be responsible to the City for the personnel, morale, and general efficiency of the Department.

Article 3.2.4.2. The Chief shall determine the number and order of response of the companies of which the Department is to be composed and shall determine the response of such companies to alarms.

Article 3.2.4.3. The Chief shall at least once a month conduct suitable drills or instruction in the operation and handling of equipment, first aid and rescue work, salvage, a study of buildings in the City Limits, fire prevention, water supplies, and all other matters generally considered essential to good firemanship and safety of life and property from fire.

Article 3.2.4.4. The Chief is hereby required to assist the proper authorities in suppressing the crime of arson by investigating or causing to be investigated the cause, origin, and circumstances of all fires.

Article 3.2.4.5. The Chief is hereby empowered to enter any and all buildings and premises at any reasonable hour for the purpose of making inspections and to serve written notice upon the owner or occupant to abate, within a specified time, any and all fire hazards that may be found.

Article 3.2.4.6. Any person so served with a notice to abate any fire hazard or hazards shall comply therewith and promptly notify the Chief.

Article 3.2.4.7. The Chief shall see that complete records are kept of all fires, inspections, apparatus and minor equipment, personnel and other information about the work of the Department.

Article 3.2.4.8. Upon the request of the Mayor and City Council, the Chief shall report the condition of the apparatus and equipment; the number of fires during the timeframe requested, their location and cause, and dates of same and loss occasioned thereby; the number and purpose of

all other runs made; and the number of members responding to each fire or other run, and any changes in membership.

Section 3.2.5. Membership

Article 3.2.5.1. The membership of the Department shall consist of such able-bodied citizens who make application and receive confirmation by the City Council. In a manner prescribed by the Chief, and approved by the Department, the Chief shall make a determination of whether candidates for election are able-bodied.

Article 3.2.5.2. Any member of the Department may be suspended or discharged from the Department by the Chief at any time the Chief may deem such action necessary for the good of the Department. On written request of such member to the Department, he shall be given a public hearing on the charges brought by the Chief. Such hearing shall be had before a majority of the members of the department and after such hearing upon a vote of the members of the department so present, a majority vote shall either permanently suspend or reinstate said member.

Section 3.2.6. Equipment.

Article 3.2.6.1. The Department shall be equipped with such apparatus and other equipment as may be required from time to time to maintain its efficiency and properly protect life and property from fire.

Article 3.2.6.2. Recommendations of apparatus and equipment needed shall be made by the Chief, and after approval by the Council shall be purchased in such manner as may be designated by the Council.

Article 3.2.6.3. All equipment of the Department shall be safely and conveniently housed in such places as may be designated by the City Council. Such places shall be heated during the winter season.

Article 3.2.6.4. Suitable arrangement or equipment shall be provided for citizens to turn in an alarm, and for notifying all members of the Department so that they may promptly respond.

Article 3.2.6.5. A person shall not use any fire apparatus or equipment for any private purpose, nor shall any person willfully and without proper authority take away or conceal any article used in any way by the Department.

Article 3.2.6.6. A person shall not enter any place where fire apparatus is housed, or handle any apparatus or equipment belonging to the Department unless accompanied by, or having the special permission of, an officer or authorized members of the Department.

Article 3.2.6.7. The Chief of the Fire Department is hereby authorized to enter into agreements or contracts with nearby incorporated communities or governing bodies of other organizations to provide the members of such communities or organizations with fire protection or to establish a mutual aid system, provided however, that all such contracts and agreements shall be approved by the City Council.

Article 3.2.6.8. Apparatus shall not be hired out or permitted to leave the City of Elkton without the consent of the Chief, except in response to a call for aid at a fire in a neighboring community. The officer in charge of the Department shall have power to assign equipment for response to calls for outside aid in accordance with *Article 3.2.6.7*, and in other cases only when the absence of such equipment will not jeopardize protection in the city.

Section 3.2.7. General.

Article 3.2.7.1. All motor equipment and all personal cars of Department members shall have the right-of-way over all other traffic when responding to an alarm.

Article 3.2.7.2. No person shall park any vehicle or otherwise cause any obstruction to be placed within twenty (20) feet of the entrance to any fire station or other place where fire apparatus is stored within fifteen (15) feet of any fire hydrant or cistern.

Article 3.2.7.3. No person shall maliciously turn in or cause to be turned in a false alarm.

Article 3.2.7.4. No person shall willfully hinder or resist any officer or member of the Fire Department or any police officer in the discharge of his duties at any fire, nor shall the person conduct himself in a disorderly or noisy way at such fire, nor shall, without reasonable excuse, refuse to obey any necessary and lawful order in the matter of the conveyance of the apparatus or extinguishment of such fire or to the protection of property thereat.

Article 3.2.7.5. No person shall unscrew or take off any cap of any water hydrant, or in any way meddle or interfere with such hydrant, except in such manner as may be provided by ordinance or rule of the Fire Department.

Section 3.2.8. Enforcement.

Article 3.2.8.1. Any person violating the provisions of *Article 3.2.4.6, Articles 3.2.6.5-6, and Articles 3.2.7.1-3* may be convicted for each such offense, and be punished according to the general punishment provisions of the City ordinances.

Article 3.2.8.2. All regularly elected members of the Department are hereby given the necessary special police powers for the purpose of enforcing the provisions of this ordinance.

Article 3.2.8.3. It is hereby made the special duty of the local law enforcement officer and/or other peace officers who may be on duty and available for fire duty, to respond to all fire alarms and assist the Department in the protection of life and property, in regulating traffic, maintaining order, and in enforcing observance of all sections of this ordinance.

TITLE 4. AMBULANCE DEPARTMENT

Chapter 4.1. Ambulance Department

Section 4.1.1. Establishment.

The Ambulance Department of the City of Elkton shall consist of the City Council, the Ambulance Director, the organized Ambulance Company or Companies now in existence with the limit of said city, and such other Ambulance Companies as may be hereafter organized.

Section 4.1.2. Council Supervision.

The entire Ambulance Department and the individual members thereof and all the apparatus shall be under the supervision and control of the City Council.

Section 4.1.3. Officers.

Article 4.1.3.1. The Ambulance Department shall consist of the Ambulance Director, and other officers as the Director and membership may deem necessary for the effective operation of the Department.

Article 4.1.3.2. The membership shall elect the Ambulance Director for a period of time; tenure of office shall depend upon the Director's good conduct and efficiency. The Director shall be technically qualified by training and experience and shall have ability to command men and women and hold their respect and confidence. The Director shall be removed only for just cause and after a public hearing before the City Council.

Article 4.1.3.3. The Director shall be held accountable to the City Council only and shall make written and verbal reports thereto as the Ambulance Department Ordinance may require. All other Department and Company officers shall be accountable to the Director only.

Article 4.1.3.4. The membership shall elect all other Department and Company officers. Such officers shall be accountable only to the Director, and subject to removal by him, and the majority vote of the membership present and voting.

Section 4.1.4. Duties of the Director.

Article 4.1.4.1. The Director shall formulate a set of rules and regulations to govern the Department, and shall be responsible to the City for the personnel, morale, and general efficiency of the Department.

Article 4.1.4.2. The Director shall determine the number of members and the type of equipment the Department is to be composed of, and shall determine the response of such members and equipment to calls for service.

Article 4.1.4.3. The Director shall at least once a month conduct suitable drills or instruction in the operation and handling of equipment, first aid and rescue work.

Article 4.1.4.4. The Director shall see that complete records are kept of all calls to service, inspections, apparatus and minor equipment, personnel and other information about the work of the Department.

Article 4.1.4.5. The Director shall report monthly to the Mayor and City Council the condition of the apparatus and equipment; the number of calls to service during the month; the number and purpose of all other runs made; and the number of members responding to each call to service or other run, and any changes in membership. At no time shall an ambulance be deployed with less than two medics onboard.

Section 4.1.5. Membership

Article 4.1.5.1. The membership of the Department shall consist of such properly certified and able-bodied citizens who make application and receive confirmation by the State of South Dakota. The Director shall make a determination of whether candidates for election are able-bodied after a medical and physical examination has been made in a manner prescribed by the Director and approved by the Department.

Article 4.1.5.2. Any member of the Department may be suspended or discharged from the Department by the Director at any time the Director may deem such action necessary for the good of the Department. On written request of such member to the Department, he shall be given a public hearing on the charges brought by the Director. Such hearing shall be had before a majority of the members of the department and after such hearing upon a vote of the members of the department so present, a majority vote shall either permanently suspend or reinstate said member.

Section 4.1.6. Equipment.

Article 4.1.6.1. The Department shall be equipped with such apparatus and other equipment as may be required from time to time to maintain its efficiency and properly save and rescue lives.

Article 4.1.6.2. Recommendations of apparatus and equipment needed shall be made by the Director, and after approval by the Council shall be purchased in such manner as may be designated by the Council.

Article 4.1.6.3. All equipment of the Department shall be safely and conveniently housed in such place as may be designated by the City Council. Such place shall be heated during the winter season.

Article 4.1.6.4. Suitable arrangement or equipment shall be provided for citizens to turn in a call to service, and for notifying all members of the Department so that they may promptly respond.

Article 4.1.6.5. A person shall not use any ambulance apparatus or equipment for any private purpose, nor shall any person willfully and without proper authority take away or conceal any article used in any way by the Department.

Article 4.1.6.6. A person shall not enter any place where ambulance apparatus is housed, or handle any apparatus or equipment belonging to the Department unless accompanied by, or having the special permission of, an officer or authorized members of the Department.

Article 4.1.6.7. The Director of the Ambulance Department is hereby authorized to enter into agreements or contracts with nearby incorporated communities or governing bodies of other organizations to provide the members of such communities or organizations with ambulance service or to establish a mutual aid system, provided however, that all such contracts and agreements shall be approved by the City Council.

Article 4.1.6.8. Apparatus shall not be hired out or permitted to leave the City of Elkton without the consent of the Director, except in response to a call for aid at a EMS emergency in a neighboring community. The officer in charge of the Department shall have power to assign equipment for response to calls for outside aid in accordance with *Article 4.1.6.7*, and in other cases only when the absence of such equipment will not jeopardize protection in the city.

Section 4.1.7. General.

Article 4.1.7.1. All motor equipment and all personal cars of Department members shall have the right-of-way over all other traffic when responding to an alarm.

Article 4.1.7.2. No person shall park any vehicle or otherwise cause any obstruction to be placed within twenty (20) feet of the entrance to any ambulance garage or other place where ambulance equipment is stored.

TITLE 5. PUBLIC AND PRIVATE NUISANCES

Chapter 5.1 Definitions

- a. “Abandoned Property” – includes, without being so restricted, deteriorated, wrecked, partially dismantled or inoperative motor vehicles.
- b. “Building” – Any structure designed or intended for the support, enclosure, shelter or protection of persons or property.
- c. “Building Official” – That person designated by the City Council from time to time to serve as the City official authorized to assist in the enforcement of this Ordinance.
- d. “City” – The City of Elkton, Brookings County, South Dakota.
- e. “City Council” – City Council of the City of Elkton, Brookings County, South Dakota.
- f. “Designated Official” – Person designated by the City Council of the City from time to time to care for the removal of noxious and unhealthful vegetation.
- g. “Garbage” – All organic refuse from the preparation of food and decayed or spoiled animal or vegetable food from any source.
- h. “Inoperable Vehicle” – Any vehicle which is not in operating condition due to damage, removal or inoperability of one or more tires, wheels, the engine or other essential parts required for the operation of the vehicle, or which does not have lawfully affixed thereto, a valid state license plate or which constitutes an immediate health, safety, and fire or traffic hazard.

- i. “Litter” – A disorderly accumulation of objects, especially carelessly discarded trash.
- j. “Noxious and Unhealthful Vegetation”- Weeds as defined by the federal or state government as being noxious.
- k. “Nuisance” – Consists in unlawfully doing an act, or omitting to perform a duty, which act or omission either:
 1. Annoys, injures or endangers the comfort, repose, health or safety of others; or
 2. Offends decency; or
 3. Unlawfully interferes with, obstructs, or tends to obstruct, renders dangerous for passage any lake or navigable river, bay, stream, canal, or basin or any public park, square, street, or highway; or
 4. In any way renders other persons insecure in life or in the use of property; or
 5. Whatever is dangerous to human health; whatever renders the ground, the water, the air, or food hazardous; or an injury to human health.
- l. “Patio Fire Pit” – Called a chiminea, patio fire place, patio heater, fire pit, brazier, etc.
- m. “Premises” – A lot or parcel of land improved or unimproved, parking areas thereon, walkways and sidewalks.
- n. “Public & Private Nuisance” – A public nuisance is one which affects at the same time an entire community or neighborhood, or any considerable number of persons, although the extent of the annoyance or damage inflicted upon the individuals may be unequal. Every other nuisance is private.
- o. “Refuse” – Includes unwanted or discarded waste materials in a solid or semi-liquid state, consisting of garbage, rubbish, or a combination thereof.
- p. “Rubbish” – Includes non-putrescible solid waste consisting of combustible and noncombustible waste materials from residential units, commercial, industrial, and institutional establishments, including yard waste and items commonly referred to as “trash.”

- q. “Sidewalk” – A strip of property lying in front of and between the curb line and property line of the adjoining or abutting lot, piece, or parcel of land within the City.
- r. “Solid Waste” – Refuse, rubbish, garbage, trash, and bulky refuse.
- s. “Trash” – Includes earth, soil, wood, tree leaves, dead leaves, small branches, clay, sand, bricks, plaster, Portland cement, chips, shavings, grass cuttings, sticks, rocks, old papers and magazines, paper or wood cartons, rags, sawdust, old clothing, and other combustible materials of a like nature which are not included in the definition of garbage.

Chapter 5.2 General

Section 5.2.1. Violation of this Ordinance.

It is a violation of this ordinance for any person to maintain a public nuisance as defined herein. Anyone found guilty of doing so is punishable as provided for by *Section 1.1.6 – Misdemeanor*.

Section 5.2.2. Acts Under Statutory Authority Not Deemed Nuisance.

Nothing which is done or maintained under the express authority of a statute can be deemed a nuisance.

Section 5.2.3. Damages for Past Injury Recoverable after Abatement.

The abatement of a nuisance does not prejudice the right of any person to recover damages for its past existence.

Section 5.2.4. Liability of Successive Owners for Continuing Nuisance.

Every successive owner of property who neglects to abate a continuing nuisance upon, or in the use of, such property, created by a former owner, is liable therefore in the same manner as the one who first created it.

Section 5.2.5. Public Nuisance Not Legalized by Lapse of Time.

No lapse of time can legalize a public nuisance, amounting to an actual obstruction of public right.

Section 5.2.6. Remedies Against Public Nuisances Enumerated.

Remedies against any nuisances are: 1) a civil action; or 2) abatement using the procedures set forth in **Chapter 5.4**; and in cases of public nuisance only, the additional remedy of complaint, indictment, or information as prescribed by statute and rules relating thereto.

Section 5.2.7. Persons Entitled to Maintain Civil Action Against Nuisance, Injunction and Damage Recoverable.

The remedy by civil action against public nuisance may be maintained by any public body or officer authorized by law or official duty, or by any private person if it is specifically injurious to that person. Such remedy also may be used by any person whose property is injuriously affected or whose personal enjoyment is lessened by any nuisance public or private. In all such actions the nuisance may be enjoined, or ordered abated, and damages recovered in addition.

Section 5.2.8. Abatement of Nuisance, Notice Required Before Abatement.

A public nuisance may be abated without civil action by any public body or officer authorized by law. Any private person may likewise abate a public nuisance which is specially injurious to that person or any private nuisance injurious to that person in any manner by removing, or if necessary, destroying the thing which constitutes the nuisance, without committing a breach of the peace or doing unnecessary injury. Where a private nuisance results from a mere omission of the wrongdoers, and cannot be abated without entering upon someone's land, reasonable notice must be given to that person before entering to abate it.

Section 5.2.9. Complaints.

In enforcing this Title, priority will be given on the following basis:

1. Receipt of a formal complaint filed by any resident, property owner or occupant;
2. At the request of the City Council.

Chapter 5.3 Nuisances.

Section 5.3.1. Enumeration.

Nuisances may include but are not limited to:

- a. Garbage & Refuse. Depositing, maintaining, or permitting to be maintained or to accumulate upon any public or private property, any household waste water, sewage, garbage, tin cans, offal, or excrement, any decaying fruit, vegetables, fish, meat, or bones or any foul, putrid or obnoxious liquid substance.
- b. Noxious and Unhealthy Vegetation. No property owner or tenant may allow noxious and unhealthy vegetation to grow within the city. Cultivated and useful grasses in pastures are not nuisances, except that it shall be a nuisance to refuse to provide fire breaks as deemed necessary by the City Council, within seven days after notification by the Council for the necessity therefore.
- c. Disturbance. No owner of any dog, cat or other animal licensed or unlicensed, shall permit such animal to disturb the peace and quiet of the neighborhood by continuous barking or making other loud or unusual noises, or by destroying or defacing property or causing injury to persons or domestic animals.
- d. Undressed Hides. Undressed hides kept longer than twenty-four hours, except in an appropriate enclosed storage facility.
- e. Manure. The accumulations of manure, unless it is in a properly constructed fly-proof pit, bin or box.
- f. Breeding Places for Flies. The accumulation of manure, garbage, or anything whatever in which flies breed.
- g. Stagnant Water. Any excavation in which stagnant water is permitted to collect.
- h. Dead Animals. For the owner of a dead animal to permit it to remain undisposed of longer than twenty-four hours after its death.

- i. Garbage Handling Improperly. Throwing or letting fall on or permitting to remain on any street, alley, or public ground any manure, garbage, rubbish, filth, fuel or wood.
- j. Throwing Litter on Streets. Throwing or depositing paper, ashes, rubbish or litter of any kind on the streets, alleys, public grounds, or private property without the permission of the occupant, or within the corporate limits of the City of Elkton
- k. Rodents. Accumulation of junk, old iron, automobiles or parts thereof, or anything whatever in which rodents may live, breed or accumulate.
- l. Bonfires in Public Places. Burning, causing or permitting to be burned anywhere within the City, any filth, manure, garbage, sweeping, leaves, ashes, paper, rubbish or material of any kind except that patio fire pits shall be permitted.
- m. Abandoned, Deteriorated, Wrecked or Derelict Property. Any abandoned, deteriorated, wrecked or derelict property such as, but not limited to, trailers, boats, machinery, household appliances, plumbing fixtures, furniture and other articles in unusable condition, having no value other than nominal scrap or junk value, if any, and which has been left unprotected from the elements, and which constitutes fire, health or safety hazard or is unsightly shall not be permitted to be kept within the city limits.
- n. Unofficial Sign, Signal or Device. Placing, maintaining, or displaying upon or in view of any street any unofficial sign, signal or device which purports to be or is an imitation of or resembles an official traffic sign or signal, or which attempts to direct the movement of traffic.
- o. Failure to Maintain Lawn. Maintaining a lawn in such a manner that grass and/or weeds are permitted to grow more than six inches (6") in height.
- p. Failure to Remove Snow and Ice from Sidewalks:
 - 1. The owner or person in possession of any property abutting on any sidewalk shall keep such sidewalk free from snow and ice and shall remove any snow or ice

from the sidewalk within 72 hours after the termination of any snow fall, snow or ice accumulation.

2. The owner or person in possession of any property abutting upon any sidewalk that ends at an intersection or crosswalk shall maintain the sidewalk free from snow and ice to the edge of the street. Snow and ice deposited on the sidewalk in the street removal process shall be removed within 48 hours of being deposited.

Section 5.3.2. Maintenance and Sanitation of Premises and Building.

Article 5.3.2.1. Purpose. The purpose of this Section is to protect, promote and enhance the welfare, safety, health and property of the general public by prohibiting the keeping or maintaining of properties at variance with and inferior to the level of maintenance of surrounding properties.

Article 5.3.2.2. Application. The provisions of this Section shall apply to buildings and premises located in areas zoned for residential use.

Article 5.3.2.3. Condition. It shall be unlawful for any person owning, leasing, occupying, or having charge or possession of any buildings or premises in the City to keep or maintain such building or premises in a manner, which is at variance with, and inferior to the level of maintenance of surrounding properties.

Article 5.3.2.4. Declared Nuisance. A building or premises is maintained or kept in a manner which is at variance with and inferior to the level of maintenance of surrounding properties and is hereby declared to constitute a public nuisance where there exists upon any building or premises any of the following condition or conditions:

- a. Buildings that are abandoned, boarded up, partially destroyed or partially constructed and uncompleted subsequent to the expiration of building permit.
- b. Buildings with deteriorating or peeling paint that allows the exterior building coverings to deteriorate or to permit the effects of sun and water penetration so as to encourage decay, dry rot, warping and cracking.
- c. Broken windows, doors, attic vents and under-floor vents.

- d. Overgrown vegetation that is unsightly and/or likely to harbor rats or vermin.
- e. Dead, decayed or diseased trees, weeds and other vegetation.
- f. Trash, garbage or refuse cans, bins, boxes, bags or other such containers stored in front yards visible from public streets except when placed for pickup and, in that event, for no longer than 48 hours.
- g. Garbage, rubbish, solid waste, trash or refuse as defined, junk, tires, and debris or salvage materials visible from a public street, alley, or adjoining property.
- h. Premises having a topography, geology or configuration which as a result of grading operations or improvements to the land causes erosion, subsidence, unstable soil conditions or surface or subsurface drainage problems as to pose a threat to or be injurious to adjacent premises.
- i. Building exteriors, walls, fences, driveways or walkways that are in serious disrepair or defaced.
- j. Any other like and similar condition or conditions.

Article 5.3.2.5. Act or Omission. It shall be unlawful to permit by act or omission the following specific acts, conditions and things that are hereby also declared to be public nuisances:

- a. Failing, refusing or neglecting to keep the sidewalk in front of a house, place of business or premises in a clean and safe condition.
- b. Maintaining upon a premise any unsightly, partly complete or partly destroyed buildings, structures or improvements in the City, as this may endanger or injure neighboring properties including the value thereof or the public health, safety and general welfare.
- c. Maintaining any such premises or upon the sidewalk abutting or adjoining such lot, parcel, tract or piece of land, loose earth, mounds of soil, fill material, asphalt, concrete rubble or waste material of any kind (all such materials shall hereinafter be

referred to as "waste materials"), except for waste materials used for construction or landscaping upon premises in which case it shall be the duty of the owner, lessee, occupant, or persons in possession of premises wherein the waste materials exist, to maintain weed control during construction and to level or remove waste materials after construction is completed, or in any event, within eight (8) months from time of placement of waste materials upon premises.

Article 5.3.2.6. For sites where filling, grading or excavation activities have or will span more than one year it shall be the duty of the owner, lessee, occupant or person in possession of said premises to level or remove the waste materials from said premises at least once each year during the months of either June, July or August for the purpose of maintaining weed and rodent control.

Chapter 5.4 Administrative Proceedings.

Section 5.4.1. Nuisances – General.

In addition to proceeding with a civil action in Circuit Court, the City Council may proceed to abate a nuisance as set forth in the following articles.

Article 5.4.1.1. Written Notice. If a nuisance exists, the City Council directing abatement shall issue a written notice of violation except as provided for by Section 5.4.2.

Article 5.4.1.2. Serving Notice. Notice may be served by personal service, sending by certified mail or publication one time in the official newspaper of the City.

Article 5.4.1.3. Appeal to Council. Within seven (7) days after service of notice, an appeal may be made to the City Council. The appeal shall be heard before the City Council at its next scheduled meeting. All persons who fail to appear or respond shall be deemed to have waived all objections.

Article 5.4.1.4. Response to Appeal. After hearing the appeal, the City Council may either accept the appeal or uphold the original declaration of nuisance. If the declaration is upheld, a date for completing abatement shall be established by the City Council and be included in their response to the appellant.

Article 5.4.1.5. Abatement not Complete. If abatement is not completed within the timeframe established by the City Council, they shall have authority to cause the nuisance to be abated and shall file an account of the expense thereof with the City Finance Officer.

Article 5.4.1.6. Hearing. At least seven (7) days after filing the account, the City Council shall hold a hearing at their meeting. Notice shall be posted or mailed to the person to whom the charges are to be assessed, announcing the time of the City council meeting and the proposed cost to assessed.

Article 5.4.1.7. Lien. The City Council shall hear the matter and if the account is accepted, the amount thereof shall become a lien on the property of the violator and may be specially assessed against same as provided by law.

Article 5.4.1.8. Civil Action to Recover Costs. The City Council shall have the option, in lieu of special assessment, to seek a civil judgment for charges incurred in abating the nuisance.

Section 5.4.2. Nuisance – Other. No criminal penalty or billing shall be imposed under this article unless the City causes notice to be given to all owners, tenant or persons in possession of said property.

Article 5.4.2.1. Notice – Lawn Maintenance. *(See Section 5.3.1., Subparagraph o.)* Notice shall be given to property owners whose property within said City on which that the height of the grass and/or weeds has exceeded the height of six inches (6”) and that any grass or weeds that exceed said height shall be removed within forty-eight hours. The notice need not be given personal but may be given generally through the official newspaper annually. The published notice shall constitute notice as required by this Section.

Exception. Property owners with parcels of land that exceed one (1) acre in size may petition the City Council for relief from the requirements of this Chapter. The Council may approve or disapprove the petition and establish other criteria that must be complied with. If the exception is approved, minimum upkeep standards shall require 1) the property, including boulevards, must be mowed at least twice a year, and 2) the control of the noxious weeds.

Article 5.4.2.2. Notice – Cleaning Sidewalks. *(See Section 5.3.1, subparagraph p.)* The city shall notify all owners or persons in possession of property abutting on sidewalks to keep such sidewalks free from snow and ice and to remove the same within 72 hours after every fall or accumulation of snow or ice. The notice need not be given personally but may be given generally through the official newspaper annually. The notice shall provide that each owner or person in possession is required to keep the sidewalk in front of the premises free and clear from snow and ice. It shall further provide that if the owner or person in possession fails to remove the snow or ice within 72 hours of the falling or accumulation hereof, that the city may cause said snow or ice to be removed and charge the cost to the abutting property.

Article 5.4.2.3. City may remove. If the owner or person in possession of property fails to abate the nuisance within of the time specified, the city may take remedial action to abate the nuisance and to charge the cost thereof against the abated property. A separate charge will be incurred each time this action is initiated.

Article 5.4.2.4. City’s Cost Assessed. The City Finance Officer shall cause an account to be kept against each lot for the abatement and shall mail to the owner or occupant a bill for such abatement.

Section 5.4.3. Hearing for approval of Assessment.

In the event that the bill is not paid within 30 days of billing, the City Finance Officer shall prepare an assessment against such lot or lots for lawn mowing or the removal of snow or ice. The assessment shall be submitted to the City Council for its approval. A notice shall be published in the official newspaper advising the property owner of the time and place the City Council will meet for the purpose of approving such assessment. Such notice shall be published at least one (1) week prior to the date set for said hearing.

Section 5.4.4. Approval of Assessment.

Upon the day named for the hearing at which the assessment of costs incurred by this City under **Section 5.4.2** shall be submitted for approval, the City Council shall meet. If they find said assessment to be reasonable and correct, the City Council shall approve the same, with or without modification or amendment, as they may deem proper, and file such assessment with the City Finance Officer.

Section 5.4.5. Lien Declared.

From the date of approval and filing of the assessments made under this Section, the same shall be a special lien against the various pieces of property described in said assessment and shall be collected in like manner as special assessments are now collected for public improvements.

Section 5.4.6. Recovery by City.

In lieu of spreading the cost of abatement as a special assessment against property under this Section, at the discretion of the City Council, said amount may be recovered in a civil action against the owner or occupant of said property.

Section 5.4.7. Liability of Offenders.

Any person whose duty it shall be to abate these nuisances as provided in this Section, in addition to the penalties prescribed for the violation of this Ordinance shall be liable to the City for any damage caused by the neglect.

Section 5.4.8. Penalty for failure to comply with Section.

Any person, whose duty it is to abate these nuisances as provided in this Section within the time prescribed shall, for a violation thereof, be subject to the penalties that may be imposed for a violation of this Ordinance in addition to the other penalties described in this Section.

TITLE 6. KEEPING ANIMALS

The purpose of this chapter is to describe the conditions and requirements allowing citizens to keep animals within the City of Elkton, and to describe the City's responsibilities to its citizens regarding the humane and appropriate keeping of animals within the City.

Chapter 6.1. Definitions.

- a. "Animal" – Any live creature, both domestic and wild, except humans
"Animal" includes fowl, fish and reptiles. (New language.)
- b. "Animal Control Officer" – Some person or agency appointed to be responsible for the care and maintenance of the animal shelter and who shall work with other law enforcement officials in the enforcement of the Ordinance.
- c. "Animal Shelter" – A building and facilities therein which is approved by the City Council for the impoundment of animals.
- d. "Cruelty" – Any act or omission whereby unjustifiable physical pain, suffering or death of an animal is caused or permitted, including failure to provide proper drink, air, space, shelter or protection from the elements, a sanitary and safe living environment, veterinary care or nutritious food in siphoned quantity. In the case of activities where physical pain is necessarily caused, such as medical and scientific research, food processing, customary and normal veterinary and agricultural husbandry practices, pest elimination, and animal training and hunting, "cruelty" shall mean a failure to employ the most humane method reasonably available. (New language.)
- e. "Disturbance" – The act of disturbing the peace and quiet of the neighborhood by continuous barking or making other loud or unusual noises.
- f. "Impound" – Taking into custody of an animal by any police officer, animal control officer, or any authorized representative thereof. (New language)
- g. "Leash" – A cord, thong or chain by which an animal is controlled by the person accompanying it.
- h. "Nuisance" – The act of destroying or defacing property or causing injury to persons or domestic animals.

- i. “Owner” – Any person keeping, maintaining or having in their custody or control an animal. The occupant of any premises on which an animal remains or to which it customarily returns daily for a period of the (10) days is presumed to be keeping the animal within the meaning of this Ordinance.

- j. “Running at Large”
 - 1. 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.

 - 2. An animal when on the premises of the owner, possessor, keeper, agent, or servant if not attended by a competent person unless the animal is chained, restrained, enclosed, or confined in a manner preventing it from leaving the premises.

- k. “Vicious Animal” – Any 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 whether on public or private property, provided that the animal has not been provoked to do so by teasing, tormenting, abusing or assaulting the animal.

Section 6.2 Keeping of animals.

Section 6.2.1 Be a responsible pet owner.

Article 6.2.1.1. Keep vaccinations up-to-date for all dogs, cats and ferrets. This requirement is important not only to keep your pets from getting rabies, but also provide a barrier of protection to you, if your animal is bitten by a rabid wild animal.

Article 6.2.1.2. Keep your pets under direct supervision so they do not come in contact with wild animals. If your pet is bitten by a wild animal, seek veterinary assistance for the animal immediately.

Article 6.2.1.3. Call your local animal control officer to remove any stray animals from your neighborhood. They may be unvaccinated and could be infected by the disease.

Article 6.2.1.4. Spay or neuter your pets to help reduce the number of unwanted pets that may not be properly cared for or regularly vaccinated.

Section 6.2.2 Allowable Animals.

Animals that can be bought from a commercial pet store in the State of South Dakota; except alligator, crocodile, cayman, raccoon, skunk, fox, bear, sea mammal, poisonous snake, hybrids, member of the file species other than domestic cat (*felis domesticus*), member of the canine species other than domestic dog (*canine familiaris*) or any other animal that would require a standard of care and control greater than that required for customary household pets; are allowable animals authorized by this Ordinance and can be kept in the city.

Section 6.2.3. Number of Animals.

It is unlawful for any person to own on any premises more than four animals (except birds and fish) over the age of six month.

Section 6.2.4. Running at Large Prohibited.

No owner of any animal shall permit such animal to run at large.

Section 6.2.6. Defecation Removal.

No owner of any animal shall allow such animal to defecate on public or private property other than his own. If such animal does defecate on public or private property, the owner must immediately and thoroughly clean the fecal matter from such property.

Section 6.2.7 Abandonment Prohibited.

No person shall abandon an animal in the city.

Section 6.2.8. Rabid Animals.

No person shall knowingly keep any animal infected with rabies or any animal that has been bitten by an animal that has been infected with rabies.

Section 6.2.9. Transmission of Disease.

No person shall create or maintain any condition or operate any equipment or keep any animal, fowl, pet or insect under his jurisdiction in such a way that such condition or operation causes or is likely to cause the transmission of diseases from animals or insects to man.

Section 6.2.10. Poison.

Unless recommended by the health authority, it shall be unlawful for any person to:

- a. Willfully administer or cause to be administered, poison of any sort whatsoever to any animal, that is the property of another with the intent to injure or destroy such animal, or
- b. Willfully place any poison or poisoned food where the same is accessible to any such animal.

Section 6.2.11. Chickens

It shall be unlawful for any person to keep more than six (6) chickens at a residence within the City of Elkton, and in doing so, shall comply with the following regulations:

- a. No roosters shall be allowed and all chickens shall be a breed that cannot fly or must be wing-clipped to prevent flight.
- b. Chickens may be kept only as an accessory use of a personal residence within either a Single Family Residential District (R-1) or General Residential District (R-2).
- c. There shall be no outside slaughtering of chickens.
- d. Chickens shall be provided with sufficient good and wholesome food and water.
- e. All chickens shall have an enclosed coop/roost that is constructed with a minimum of four (4) square feet per chicken and shall otherwise comply with regulation of accessory buildings. The coop/roost shall be kept in the side or rear yard and is not permitted in the front yard area. When outside of the coop/roost, chickens shall be confined within a fenced area not exceeding ten (10) square feet per chicken.
- f. The coop/roost shall not be located closer than twenty-five (25) feet to any residential structure on an adjacent lot.

- g. The coop/roost structure shall be well ventilated and provide protection from the weather and predators. The coop/roost area must be kept in a neat and sanitary condition at all times, and must be cleaned on a regular basis so as to prevent offensive odors and the attraction of flies or vermin.
- h. Manure may be stored for composting purposes in an enclosure which contains odors.
- i. Any person who wants to keep chickens in the City of Elkton shall obtain an animal license prior to acquiring the chickens by making application to the Elkton City Finance Office and paying the applicable license fee of \$10.00, or other fee set by the City Council. The license period shall run from the date of application to the following May 31, and shall be renewed annually by June 1 of each year thereafter. The license may be denied or revoked upon a finding that there has been any violation of this or any other applicable ordinance in connection with the keeping of chickens. In case of denial or revocation, written notice thereof shall be given, and applicant may appeal said decision to the City Council within the time frame and as provided for by Chapter 5.4, section 5.4.1, subsections 1 through 3.
- j. With respect to the application for a license, or any time after a license has been granted, the City reserves the right to have a person designated by the Mayor inspect the premises for compliance with this ordinance.

Chapter 6.3 Requirements.

Section 6.3.1. License.

Any owner of a dog shall make application to the City Finance Officer for a license. Such application shall be in writing stating the name, sex, color and other distinguishing characteristics of said dog, and the name of the owner thereof, and that said dog has no vicious propensities so far as known to the application. The application shall be made on a printed blank furnished by the City Finance Officer, and shall be filed with said City Finance Officer. Licenses

issued pursuant to this Section are valid from June 1 through May 31. Costs will be prorated by quarter.

Section 6.3.2. Fee, Tag.

The applicant shall pay to the City Finance Officer as a license fee the sum of Ten Dollars (\$10.00) for unspayed or unneutered dogs of one (1) year of age or older. They shall pay the sum of Four Dollars (\$4.00) for spayed or neutered dogs under the age of one (1) year. In the case of spayed or neutered animals, the applicant must furnish a registered Veterinarian's statement confirming that fact. A certificate by a registered Veterinarian showing that such dog has been inoculated or has a continuing immunity against Rabies within six (6) months of such application shall accompany the application. It shall be the duty of the City Finance Officer at the time of the issuance of the license herein provided for, to furnish and deliver to said applicant, a metallic fiber or plastic tag for each dog for which such license is issued. The tag shall be stamped or engraved with the registered number of the dog and the year when registered. It shall then be the duty of the owner of the dog to place a collar around the neck of such animal so owned and kept by him, on which collar shall be securely fastened a tag so furnished by the City Finance Officer. In case of the loss of any tag so issued, the said City Finance Officer is authorized to issue a duplicate thereof upon payment of actual cost of same upon application being made therefore, and upon satisfactory proof that such tag has been lost.

Section 6.3.3. Immunizations.

Every animal, except fowl, fish and reptile, authorized by this Ordinance held as a domestic pet in the city, three (3) months of age or older, is hereby required to be immunized against rabies by a licensed veterinarian or qualified person.

Immunization against rabies shall be given by such intervals to 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 an animal authorized by this Ordinance by purchase, gift, birth or other method shall have such animal immunized against rabies immediately after acquisition or when the animal reaches the age of three (3) months. In the event no immunization serum is available for a particular animal, then it need not be immunized.

Section 6.3.4. Immunization Tag.

All veterinarians or other qualified persons designated by the health officer to immunize animals against rabies shall provide the owner at the time of

immunization with a metallic tag bearing the date of the immunization. All animals shall wear the above tag on a collar, harness or chain when off the premises of the owner.

Chapter 6.4 Vicious Animals

Section 6.4.1. Who May Declare

The Mayor, animal control officer, a law enforcement officer or an attending physician of any victim of an animal bite or scratch may declare an animal vicious.

Section 6.4.2. Willful Trespass or other Tort.

No animal may be declared vicious if the injury or damage is sustained to any person or animal that is committing a willful trespass or other tort or criminal act upon premises occupied by the owner or keeper of the animal.

Section 6.4.3. Notification.

When an animal is declared to be vicious as provided for above, the City shall notify the owner or keeper of such declaration in writing that such animal is vicious which notice shall be serviced either in person or by mailing such notice by certified mail.

Section 6.4.4. Compliance Required.

The owner or keeper of an animal that has been declared vicious then must comply with the following:

- a. If the animal is kept indoors, the animal shall be under the control of a person over 18 years of age.
- b. If 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 18 years of age.
- c. If the animal is outdoors and unattended, the animal must be locked in an escape proof kennel approved by the Chief of Police or his representative.

Section 6.4.5. Animals off Premises may be seized.

Any vicious animal found off the premises of its owner, other than as provided for in this Ordinance, shall be seized by the animal control officer or any police officer and impounded. If the animal cannot be captured, it may be destroyed. If the animal has been running at large, or bites a person, or bites another animal, the animal control officer or any police officer may order the owner to deliver the animal to the animal shelter within 24 hours. The owner shall be ordered to appear in court to show just cause why this animal shall not be destroyed. If the owner of the animal fails to deliver the animal as ordered, the animal control officer or any police officer shall use such means as is necessary to impound the animal.

Section 6.4.6. Kennel Standards.

Minimum standards shall include the following:

- a. Fencing materials shall not have openings with a diameter of more than two (2) inches, and in the case of a wooden fence the gaps shall not be 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 a top and bottom with both secured to the side.
- d. The pen or structure shall protect the animal from the elements.
- e. The pen or structure may be required to have double exterior walls to prevent the insertion of fingers, hands or other objects within reach of the animal.
- f. A 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.

Section 6.4.7. Insurance

The owner shall carry a minimum of \$250,000 in liability insurance for the purpose of covering the medical and/or veterinary costs resulting from the vicious actions or any other damages the animal may do or cause to be done. Proof of such insurance shall be filed with the City Finance Officer.

Section 6.4.8. Licensing Requirements.

The owner shall comply with the licensing requirements of the City Ordinances and present proof of a current rabies vaccination.

Section 6.4.9. City may Impound.

The City at the owner or keeper's expense may impound the vicious animal until such time as all provisions outlined above are complied with.

Section 6.4.10. Euthanization.

If the conditions outlined above are not complied with, the owner shall euthanize the animal in a humane manner. Proof of euthanasia shall be filed with the City Office.

Section 6.4.11. Prosecution.

The owner may be subject to prosecution for failure to comply. Animals impounded under this section shall be dealt with as provided herein.

Chapter 6.5 Enforcement

Section 6.5.1. Authority.

The Animal Control Officer, any law enforcement officer, or other person of proper authority is hereby authorized and empowered to enforce all provisions of this Title.

Section 6.5.2. Interference Prohibited.

No person shall hinder, delay or obstruct any person in their ability to enforce the provisions of this Title.

Section 6.5.3. Allowable Enforcement Activities.

Any person authorized to enforce the provisions of this Title shall, having reasonable basis to believe a violation of this ordinance has occurred, have the power to:

- a. Lawfully enter the premises where the animal(s) is (are) kept;
- b. Examine such animal; and

- c. Take possession and impound such animal(s), when in the officer's opinion, a violation has occurred. Any animal impounded under this section shall be dealt with as provided herein.

Section 6.5.4. Impounded Animal.

Any impounded animal shall not be released by the Animal Control Officer to any person until such animal has been immunized against rabies; provided no animal so impounded shall be immunized if the owner can present a certificate of current immunization having been previously performed.

Article 6.5.4.1. Notice to Owner. The owner of any animal impounded under the provisions of this Ordinance, if his identity and location can be obtained by reasonable means, shall be notified within twenty-four (24) hours that his animal has been impounded.

Article 6.5.4.2. Costs.

1. Before any person may redeem any animal impounded under the provisions of this Ordinance, that person shall pay to the person or proper authority an impoundment fee as set by the City Council. The person redeeming such impounded animal under the provisions of this Ordinance shall receive a dated receipt signed by the City Finance Officer or Animal Control Officer. The receipt for payment of impoundment and boarding costs must be presented to the person, association or corporation housing the impounded animal before such animal may be redeemed.
2. The owner of any impounded animal that has not been vaccinated or licensed under this Title, upon satisfactory proof of ownership, may redeem the animal by payment of the fees determined by the City Council. In addition, by making a deposit of fifty dollars (\$50.00), the owner shall be allowed forty-eight (48) hours to get such animal vaccinated and properly licensed. If the owner fails to produce a certificate of vaccination and city license within forty-eight (48) hours, the deposit shall be forfeited and turned over to the City Finance Officer to be placed in the general fund and the animal may be impounded again. Upon presentation within forty-eight (48) hours of a license being issued and certificate of vaccination, the deposit shall be refunded.

3. If the owner of any impounded animal shall fail to redeem the animal within five (5) days, including Sundays and holidays, unclaimed animals will be put up for adoption or disposed of.

Chapter 6.6 Rabid Animals

Anytime the Animal Control Officer or any law enforcement officer suspects an animal within the City is infected with rabies, the City may require it to be impounded for observation as hereinafter provided.

Section 6.6.1. Report of Suspected Cases.

Any person who shall suspect that any animal in the city is infected with rabies shall report said animal to the Animal Control Officer, or the local law enforcement, describing the animal and giving the name and address of the owner if known.

Section 6.6.2. Impoundment for Observation.

Article 6.6.2.1. When any owner of an animal has been notified that the animal has bitten or attacked any person, the owner must within 24 hours place the animal under the care and observation of the Animal Control Officer or a licensed veterinarian. The period of observation shall be a period of not less than ten days except in those cases when an animal has bitten or attacked while on the premises of the owner and the owner has a current rabies vaccination for the animal. The Animal Control Officer, or any law enforcement officer, may, if he feels the facilities are adequate and if the owner is a responsible person, quarantine the animal on the owner's premises. In this case the owner must sign a statement and understand the responsibility and assume the liability that is involved with the quarantine of an animal that has bitten. The quarantined animal must at all times be available for inspection during the quarantine.

Article 6.6.2.2. At the end of the ten-day observation period the animal shall be examined by a licensed veterinarian and, if cleared, may be reclaimed by the owner and the owner must pay the expenses incurred incident thereto.

Article 6.6.2.3. Any animal impounded or placed for observation, showing active signs of rabies, suspected of having rabies or known to have exposed to rabies shall be confined under competent observation for such time as may be deemed necessary to determine a diagnosis.

Article 6.6.2.4. Any animal that has bitten or attacked that cannot be

captured may be destroyed in such a manner that the head is not damaged and can be submitted for a rabies examination to a laboratory.

Section 6.6.3. Destruction of Rabid Animals.

Any animal reasonably believed to have rabies, and if, under the circumstances, it is not reasonable to impound or to attempt to seize that animal for the purpose of further observation, a law enforcement officer or the Animal Control Officer may destroy the animal. The owner shall pay any expense incident to the impoundment destruction of diagnosis of rabid animals thereof. Neither the City nor any person authorized by this section shall be liable for the destruction of any animal when done under circumstances as set forth in this section.

Chapter 6.7 General Provisions

Section 6.7.1. Contracting for Care.

The City Council is hereby authorized to enter into any contract with any person, association or corporation for the housing, care, disposition or destruction of animals impounded under the provisions of this Ordinance.

Section 6.7.2. Penalties.

Violation of this Ordinance may result in the impoundment of the animals if such is required by this Ordinance and upon conviction thereof; the owner of any animal may be punished according to the general punishment provisions of the City's revised Ordinance.

Section 6.7.3. Conflict.

All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

TITLE 7. OFFENSES

Chapter 7.1. Offenses against Public Welfare

Section 7.1.1. Carrying a concealed Weapon.

No person shall carry concealed about his person:

- a. Any pistol or other firearm, slingshot, brass knuckle or knuckles or other similar material, or
- b. Any sand bag, dagger, bowie knife, dirk knife, or other dangerous or deadly weapon, or
- c. Any instrument or device which when used is likely to produce death or great bodily harm.

Article 7.1.1.1. Persons who have been issued a valid permit to carry a pistol or revolver by a duly authorized officer shall be exempt from the operation of the section insofar as it refers to pistols or other firearms.

Article 7.1.1.2. Any peace officer may wear or carry such weapons as may be necessary and proper for the discharge of his official duties.

Section 7.1.2. Resisting, Escaping from or assaulting an Officer.

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

Section 7.1.3 Impersonating Officer.

No person, unless duly authorized, shall exercise the duties conferred by law upon a law enforcement officer; wear a law enforcement officer's badge or represent himself as being a law enforcement officer or peace officer, or attempt to exercise the duties of a law enforcement officer or peace officer.

Section 7.1.4. False Emergency Alarms Prohibited.

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

Section 7.1.5. Discharge of Weapons.

It shall be unlawful for any person except a public officer or specially appointed officer in the discharge of his duty or at the direction or with permission of any such officer, as hereafter provided, to discharge or fire any firearm, air rifle, sling shot, paintball, or other dangerous weapon within the city limits of, or on any property owned by, the city of Elkton. The chief law enforcement officer for the City may grant permission in writing to any resident of the City to discharge or fire any gun, air rifle, slingshot, or other dangerous weapon within the limits of, or on any property owned by, the city of Elkton upon showing of a necessity for doing so provided that such discharge is upon the resident's leased or owned property.

Chapter 7.2 Offenses as to Public Places

Section 7.2.1. Obstructing Streets.

It shall be unlawful for persons:

- a. To gather in crowds or groups or for any person to stand on any public street or sidewalk in such a manner as to obstruct free passage thereon; or
- b. To place an obstruction on any public street or sidewalk in such a manner as to obstruct free passage thereon; or
- c. To annoy other persons passing along the same.

Section 7.2.2. Hindering or Molesting Persons.

No person shall:

- a. Wrongfully hinder, impede, or molest any person, or
- b. Use any rude, obscene, vulgar, indecent or threatening language to any passerby, or
- c. By any indecent act, gesture, or noise molest, annoy or insult, or
- d. Put in fear any person.

Section 7.2.3. Crowd Dispersion.

Any policeman is authorized to disperse any crowd or group, or to cause the removal of any person violating the provisions of this section. The officer may summarily arrest any person in case of refusal to obey any reasonable direction given by such officer for the purpose of clearing the way or preventing annoyances to any passerby on any public street or sidewalk.

Section 7.2.4. Begging.

No person shall beg upon any public street or in any public place.

Article 7.2.4.1. For the purposes of this section “beg” means solicit money or other valuable consideration without giving valuable consideration in return. Solicitation consists of communication by words, signs or other conduct of a desire to receive charity. Begging shall not include solicitations by a bona fide veterans’, religious, charitable, educational or fraternal organization, local civic or service club, political party or volunteer fire department or political committee; provided, however, that the proceeds therefrom do not inure to the benefit of any individual, and the person making the solicitation identifies, prior to the solicitation, the organization for which he is soliciting.

Article 7.2.4.2. It is unlawful for any person to falsely identify himself as soliciting on behalf of any bona fide organization as designated in **Article 7.2.4.1.** of this Section.

Section 7.2.5. Certain Activities Prohibited.

Article 7.2.5.1 No person shall put up, erect, hang, post or suffer to remain so placed, any sign, poster, notice or other advertising matter, upon any city owned property in the city.

Article 7.2.5.2. No person shall paint, print, write, post or in any manner place upon any public sidewalk or crosswalk in the city, any letters, words, figures, signs, pictures, notices or advertisement of any kind.

Article 7.2.5.3. No person shall deface, remove, change, mar or in any way interfere with or obliterate either wholly or in part any sign, signboard, or card placed, posted, extended or erected by the City.

Article 7.2.5.4. No person shall climb or in any manner interfere with any building, water tower, bridge or structure belonging to the city, without being authorized so to do by the city; and no person shall in any manner injure or deface any such structure.

Section 7.2.6. Possession of Open Container Prohibited.

No person shall have an unsealed package or an open receptacle containing an alcoholic beverage, including a malt beverage, in his or her possession in any public place within the city limits of the City of Elkton, other than a duly licensed on-sale business. The City may grant an exception to this prohibition and issue a special permit upon written request when good and sufficient cause or reason therefore is shown. The City shall be the sole judge of whether or not the grounds stated in the application for special permit meet the prerequisites for issuing such a permit, and shall also determine the appropriate limitations to time and location.

Chapter 7.3. Minors.

Section 7.3.1. Minors, Loitering Prohibited.

It shall be unlawful for any minor person under the age of seventeen (17) years between the hours of 10:00 p.m. and 5:00 a.m. of the following day, official city time on the days Sunday through Thursday, and between the hours of 12:00 a.m. and 5:00 a.m. of the following day, official city time on Friday and Saturday to :

- a. Loiter, idle, wander, stroll, or play, ride or be in any motor vehicle in or upon the public streets, highways, roads, alleys, parks, public buildings, places of amusement and entertainment, vacant lots, or other unsupervised places, or
- b. Be or remain in any dance hall, restaurant, café, theatre, or other public place.
- c. The provisions of this section do not apply to a minor accompanied by his or her parents, legal guardian or other adult person having the care and custody of the minor. Nor does it apply where the minor is upon an emergency errand or legitimate business, directed by his or her parent or legal guardian or other adult person having the care or custody of the minor.

Section 7.3.2. Minors, Responsibility of Parents.

It shall be unlawful for the parent, guardian or other adult person having the care and custody of a minor under the age of seventeen to knowingly permit such minor to violate **Section 7.3.1.**

Section 7.3.3. Responsibility of Others.

It shall be unlawful for any person, firm or corporation operating places of amusement and entertainment, restaurants, cafes, theatres or other public places to permit minors to enter or remain in such places or other public places during the hours prohibited under this chapter. No owner or operator of any motor vehicle shall knowingly permit or allow any minor under age 17 to violate the provisions of **Section 7.3.1.**

Section 7.3.4. Penalties.

Any minor violating the provisions of this chapter may:

- a. be detained by law enforcement and brought before the Circuit Court of Brookings County, South Dakota and dealt with in accordance with the Juvenile Law and Procedure; and, or
- b. be fined \$25.00 per each such violation.

Chapter 7.4 Fireworks.

Section 7.4.1. Definitions.

The term fireworks under this chapter shall refer to fireworks that are authorized by state law to be used by or sold to the general public.

Section 7.4.2. Sale and Use Prohibited.

It shall be unlawful to keep for sale, display or use any fireworks within the city of Elkton, South Dakota, except hereinafter permitted.

Section 7.4.3. Authorized Period of Sale.

The fireworks as set out in this section shall only be sold during the period beginning June 27th and extending through July 5th and during the period beginning December 28th and extending through January 1st. The sale of fireworks is not permitted after 12:00 a.m. or prior to 7:00 a.m. from the 27th day of June through the 5th day of July and from the 28th day of December through the 1st day of January. The sale of toy cap pistols and toy caps may be sold at any time.

Section 7.4.4. Use and Sale.

The use and sale of the following described fireworks and firecrackers will be permitted as hereinafter set forth: sparklers, Vesuvius fountains, spray fountains, torches, color fire cones, star and comet type color aerial shells, without explosive charge for the purpose of making a noise, roman candles, rockets, star mines, color wheels, Chinese-made soft shell firecrackers not exceeding one and five-eighths inches in length and one-fourth inch outside diameter, toy cap pistols and and toy caps where the caps used therein do not contain more than thirty-five hundreds grain of explosive material in each one.

Article 7.4.4.1. It shall be unlawful for any person to use any fireworks described in this chapter within the City of Elkton except during the period beginning June 27th and extending through the end of the first Sunday after July 4th, and during the period beginning December 28th and extending through January 1st.

Article 7.4.4.2. Fireworks may only be discharged within the City of Elkton between the hours of 6:00 a.m. and 10:00 p.m. Sunday through Thursday, and between the hours of 6:00 a.m. and 11:59 p.m. on the 4th of July, the 31st of December, and on those Friday and Saturdays occurring during the timeframe specified in Article 7.4.4.1.

Article 7.4.4.3. No fireworks shall be fired on or from any public property, including all City streets, boulevards and alleys, located within the City of Elkton.

Section 7.4.5. Special Exceptions.

Application for a special exception to this section for a fireworks display at any other time may be made to the City Council and the council may grant the application setting forth any conditions and restrictions, as they may deem appropriate.

Chapter 7.5 Public Nudity.

Section 7.5.1. Definitions.

As used in this Ordinance:

- a. *“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 and nipple, or the showing of the covered male genitals in a discernibly turgid state.
- b. *“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, business 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.

- c. *“Places not considered Public”* - 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 hospitals and similar places in which nudity or exposure is necessarily and customarily expected outside of the home and the sphere of privacy constitutionally 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.

Section 7.5.2. Appearing Nude.

It is a violation of this Ordinance, for any person in a public place to knowingly or intentionally, to appear personally in a state of nudity.

Section 7.5.3. Operating Public Place.

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.

Section 7.5.4. On-duty Police Officer.

It shall be a violation of this Ordinance 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.

Section 7.5.5. Public Nuisance.

Operation of an establishment in violation of this Ordinance shall constitute a public nuisance and in addition to all other remedies provided herein, the City may, by civil process, seek permanent abatement of said nuisance.

TITLE 8. STREETS, SIDEWALKS, CURB, GUTTER, DRIVEWAYS AND PUBLIC PLACES.

Chapter 8.1 General.

Section 8.1.1. Applicability.

All construction of sidewalks, curb and gutter and driveways that cross boulevards and affect curbing, shall be done only with the approval of the City. Grades and curb lines of reinstalled curbs and gutters shall be in accordance with adjacent installations. Installations in new subdivisions shall be in accordance with engineering specifications approved by the City.

Section 8.1.2. Supervision of Construction.

The building and construction of all sidewalks, driveways and curbing within the limits of the streets and alleys of the City of Elkton shall be done under direct supervision of the City of Elkton and its duly appointed officers and agents.

Section 8.1.3. Construction.

Permit Required. Before any sidewalk, driveway or curb and gutter is constructed, altered or removed within the limits of the City of Elkton by any owner, contractor or person for the owner, said contractor or person must first secure a permit therefore from the City Finance Officer.

Chapter 8.2. Sidewalks.

Section 8.2.1. Authority.

As authorized by **SDCL 9-46-3**, if deemed necessary, the City Council may construct, rebuild or repair any sidewalk. Owners of lots adjoining such sidewalk shall be notified that they must construct, rebuild or repair the sidewalk at their own expense within a time designated. Such notice shall be in writing and be served by return receipt mail. It shall set forth the character of the work and the time within which it is to be done. Such notice may be general as to the owners but shall be specific as to the description of such lots.

Section 8.2.2. Specification.

The following specifications shall be applied to all sidewalks constructed within the City of Elkton, South Dakota:

- a. Material to be used in construction of all sidewalks shall be Portland Cement Concrete, and shall be four inches thick (5 ½ bag mix).
- b. The base will be a minimum of 2 inches of compacted gravel.
- c. Sidewalks shall have a 1/4-inch per foot of width slope toward street so water will not stand.
- d. Sidewalks shall have expansion joints at a minimum of 50-foot intervals.
- e. The width of all residential sidewalks shall be not less than four feet or more than eight feet and shall conform to the width, grade and curb lines of the adjoining sidewalks, provided that the existing sidewalks are at least four feet wide. Any sidewalk not the same grade as adjoining property will be sloped in such a manner as not to cause a hazard to traffic.
- f. The corners of all new sidewalks at intersections shall be constructed or reconstructed in such a manner so as to make the sidewalks accessible to the disabled. Application may be made to the City Council through the City Finance Officer for a grant not exceeding \$2.50 per square foot for the cost of construction or reconstructing such corners from the sidewalk to the curb. The application must include actual costs or written cost estimates of construction for making such changes and only such costs as are directly related to making the changes necessary to make the sidewalks accessible for the disabled will be considered for reimbursement.

Section 8.2.3. Replacement of Asphalt.

Replacement of asphalt (blacktop) at intersections where ramps for the disabled are installed will be the responsibility of the City. Blacktop that is removed for the installation of private drives will be the responsibility of the owner.

Section 8.2.4. Nonconformance.

Any proposed sidewalk not conforming to these specifications must be approved by the City Council prior to construction.

Section 8.2.5. Acceptable Sidewalks.

The City Council shall appoint an official to inspect sidewalks. The intent of this

ordinance is to provide safe passable sidewalks for the citizens of Elkton.

Article 8.2.5.1. Purpose. It shall be the responsibility of the appointed official to inspect all sidewalks in the city limits and determine which sidewalks are unsafe and need to be repaired or replaced. The appointed official will report there findings to the City Finance Officer so that proper notification can be made to property owners. Whenever possible, the appointed official will make sidewalk inspections during the spring of the year.

Article 8.2.5.2. Interference with Appointed Official. It shall be unlawful for any person to prevent, delay, or interfere with the appointed official while engaging in sidewalk inspections.

Section 8.2.6. Unsafe Sidewalks Defined.

Unsafe sidewalks are defined as any sidewalk on which a person may trip or fall due to excessive cracks or excessive unevenness, or a sidewalk that has cracked or settled more than three quarters of an inch.

Section 8.2.7. Removal of Existing Sidewalks.

Anyone desiring to remove a sidewalk and not replace it shall first make application for permission to do so through the City Finance Officer. Said application will be considered by the City Council at its next meeting following filing of the application.

Chapter 8.3. Driveways.

Section 8.3.1. Crossing Boulevards & Affecting Curbs.

When property owners desire to install a driveway that will cross the public right-of-way, inspection and approval by the Superintendent of Utilities and Public Works is required. With the approval of the Superintendent, a permit may be issued.

Section 8.3.2. Reserved.

Chapter 8.4. Enforcement.

Section 8.4.1. Enforcement.

In enforcing this Chapter, priority will be given on the following basis:

- a. A formal complaint filed with the City Finance Officer; or
- b. When directed to take specific action by the City Council.

Section 8.4.2. Notice to Property Owners.

Upon determination that an unsafe sidewalk, noncompliant curb & gutter or driveway exists, the City Finance Officer shall deliver a written notice to property owners to be served personally or by return receipt mail.

Section 8.4.3. Compliance.

Property owners after receiving written notice of an unsafe sidewalk, noncompliant curb & gutter or driveway will have ninety (90) days in which to reach compliance unless extended by the City. If not accomplished within the time described, the City Council by resolution may cause the same to be done. The costs thereof shall be assessed as provided for by **SDCL Chapters 9-45 & 9-46**, as appropriate.

Section 8.4.4. Letting of Bids.

Once the city has let bids and entered into a contract for repair as provided for above, thereafter the property owners do not have the option to making repairs at their own expense, but shall permit the City to proceed to do so.

Chapter 8.5. Use of Streets.

Section 8.5.1. Obstruction on Streets.

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

Section 8.5.2. Materials in Streets, Permits.

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

Section 8.5.3. Cleaning Streets or the Sidewalk of Rubbish.

Every person granted permission, as provided in the last section, to place and keep building material in the street, road or alley, shall cause all such material and the rubbish resulting there from, to be removed from such sidewalk, street, road or alley at the expiration of the permit. The City Council may extend the time at their discretion. Any person keeping any building material on such sidewalk or in such street, road or alley under a permit from the City Council, shall keep one or more lighted lanterns or flares so placed that such material may be easily seen by persons passing along such sidewalk, street, road or alley at night.

Section 8.5.4. Excavation near Street.

It shall be unlawful for any person, owner or occupant of any lot or parcel of land within the City of Elkton, to make or cause to be made any excavation on said lot or parcel of land, except the same be securely guarded so as to prevent the injury or any person or persons or animals passing upon or along said sidewalks, street, alleys or public grounds or traveled path or roadway.

Section 8.5.5. Garbage in Streets.

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

Section 8.5.6. Animals and Vehicles on Sidewalks.

No person shall ride, drive or lead any animal upon any public sidewalk in the City of Elkton other than dogs, cats or other pets on a leash; or drive or operate, or cause to be driven or operated, any vehicle including bicycles and skateboards upon any sidewalk in the central business district in said City of Elkton, except that the same may be driven across any sidewalk in entering or leaving the premises of any person if there shall be constructed a drive-way across said sidewalk at said premises.

Chapter 8.6. Moving Building on Streets.

Section 8.6.1. Permission to Move Building on Streets.

It shall be unlawful for anyone to move any building into, along or across any public street, alley or highway within the City of Elkton without having obtained permission to do so in compliance with the provisions of this chapter.

Section 8.6.2. Application must state.

Anyone desiring to move any building into, along or across any public street, alley or highway within the City of Elkton, shall first apply in writing for permission to the office of City Finance Officer, fully stating the name of the applicant, the name of the owner of the building, the description of the lot on which such building is standing and the lot to which it is to be moved, the street along which it is proposed to move such building, the time when such removal will take place and the size of the building; which application shall be accompanied with the sum of at least One Hundred Dollars (\$100.00) to be deposited with the City Finance Officer as a pledge or guarantee fund to protect the City against loss or damage to crossings, sidewalks, or other public or private property, or expense for protecting such property against the injuries that may be caused by the removal of such building; said deposit or balance thereof, after deducting the amount of damages or expenses, if any, caused by such removal, shall be returned to the person depositing same upon an official inspection of the conditions of the streets, sidewalks, crossings, or other public or private property after such removal, made by the Supervisor of Streets.

Section 8.6.3. Guarantee Fund.

Whenever the Supervisor of Streets shall decide from any examination of the application and from such other information as he may obtain, that the sum of one hundred dollars (\$100.00) is not sufficient as a guarantee fund for ample protection of the city against the probable damages and expenses that may be caused by the removal of such building, he is hereby authorized and it shall be his duty to require the deposit of a larger sum than one hundred dollars (\$100.00), but not to exceed five hundred dollars (\$500.00.)

Section 8.6.4. Permit Contents.

Upon the receipt of the application and the guarantee fund as hereinbefore provided, the Supervisor of Streets may personally investigate the application and if such investigation is satisfactory, he shall deposit said guarantee fund with the City Finance Officer to be by him held subject to the order of the Supervisor of Streets, who shall thereupon issue to the said applicant a permit in writing for the removal of such building along or across the streets, highways or alleys to be

designated by the Supervisor of Streets, said removal to be finished prior to the time stated in such permit.

Section 8.6.5. Refunding Guarantee Fund.

Before refunding said guarantee fund or any part thereof, it shall be the duty of the Supervisor of Streets to examine the report of the Local Law Enforcement Officer and pay out of said fund or set aside for such purposes the amount claimed as ascertained as the damages for injuries to the public or private property, including the expenses of protection to electric and telephone wire as aforesaid, caused or occasioned by the removal of such building as aforesaid.

Section 8.6.6. Applicant must Serve Notice to Owners of Wires, etc.

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

Chapter 8.7.1. Excavation in Public Places.

Section 8.7.1. Permit Required.

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

Section 8.7.2. Application and Bonds.

Application for such permit shall be made to the City Finance Officer, who shall secure the approval of the Supervisor of Streets before issuing any such permit. Such application shall be accompanied by a fee of Five (\$5.00), which amount shall be considered compensation to the City for the granting of such permit and the necessary investigation prior thereto. In addition to the hereinbefore described fee, the applicant shall deposit with the City Finance Officer not less than Twenty-five Dollars (\$25.00) or such larger sum as deemed necessary by the Supervisor of Streets to insure the replacement and refilling of any such excavation. In lieu of such deposit, a bond for the same purpose in the amount of Five Hundred Dollars (\$500.00) to be approved by the City Council may be given covering all

excavations for the year for which such bond is given. Before any such permit is issued, the person requiring the same shall state in his application therefore where such excavation is to be made, the extent therefor, in front of what lot or lots, for that purpose said excavation is to be made, and whether or not such person has a bond on file with the City Finance Officer for making such excavation. If such applicant has not filed such bond, then before a permit shall be issued, such applicant shall furnish a bond or make the deposit as above provided with the City Finance Officer as a guarantee for the proper refilling of and guarding of such trenches and excavations while in the course of excavating or refilling and the maintenance of the same in good condition for one year thereafter.

Section 8.7.3. Deposit Forfeited.

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

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

Section 8.7.4. Supervision of Excavations.

The Supervisor of Streets shall supervise all excavations made for any purpose in the streets, alleys, or public grounds, and he shall require that all excavations be backfilled in the manner specified.

Section 8.7.5. Guarding Excavations.

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

Section 8.7.6. Refilling Excavations.

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

Article 8.7.6.1. In refilling any excavation the earth shall be thoroughly settled as the refilling progresses by using water to compact earth; or the earth shall be thoroughly tamped in successive layers of approximately six inches, in such a manner that all the earth shall be replaced in the excavation leaving the surface in its original condition.

Article 8.7.6.2. In making connection to fire hydrants for flushing excavations, all rules and regulations of the Water Department relating thereto shall be observed.

Article 8.7.6.3. In all cases where excavations are made in the paved district, the earth shall be replaced in the manner above specified, and the Department of Streets shall replace the pavement.

Section 8.7.7. Cutting Pavements.

Where it is necessary to cut the street pavement in making any street excavation, there shall be deposited with the City Finance Officer before a permit is issued an amount equal to the estimated cost to the city for the replacement of the pavement removed. The actual cost shall be determined after the pavement is replaced and any surplus shall be refunded and any costs not covered by the deposit shall be paid immediately. The cost to the City for pavement removal and replacement shall be determined from time to time and a schedule thereof maintained at the City Office.

Section 8.7.8. Excavations near Street.

It shall be unlawful for any person, owner or occupant of any lot to make or cause to be made any excavation on said lot adjacent to any street, alley, public ground, or travelled road, or roadway, except the same be securely guarded so as to prevent the injury of any person or animal passing upon or along the same.

TITLE 9. TRAFFIC CODE

Chapter 9.1. Definitions.

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

- a. “Alley” – Shall mean every highway, roadway, street or alley set apart for public travel except for footpaths.
- b. “Bicycle” – Shall mean every vehicle propelled solely by human power upon which any person may ride, except scooters and similar devices.
- c. “Boulevard” – Shall mean the area of right of way between curb and adjacent lateral property line.
- d. “City” – Shall mean the City of Elkton.

- e. “Crosswalk” – Shall mean:
1. That portion of a roadway included within the connections of the lateral lines of the sidewalks on opposite sides of the highway measured from the curbs or, in the absence of curbs, from the edges of the traversable road; and in the absence of a sidewalk on one side of the roadway, that part of the roadway included within the extension of the lateral lines of the existing sidewalk at right angles to the center line; or
 2. Any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface of the roadway.
- f. “Driver” – Shall mean every person who drives, operates or is in actual physical control.
- g. “Driveway” – Shall mean every way or place in private ownership and used for vehicular travel by the owner and those having express or implied permission from the owner, but not by other persons.
- h. “Equipment or Devices” – Include but are not limited to: seat belts and attachments; safety harnesses and attachments; child restraint and seating devices and attachments; flares, headlights, auxiliary driving lamps, rear lamps, spotlights, identification lamps, clearance lamps, signal lamps, and all other lighting devices; brake fluid, brake hoses, brake linings, and other brake systems and equipment; eye protective devices and motorcycle helmets for motorcycle operators; safety glass or safety glazing in all partitions, doors, windows, windshields, or wind deflectors; windshield wipers, rear vision mirrors; horns; trailer hitches; driver’s license; and license plates.
- i. “Highway” – Shall mean every highway, roadway, street or alley set apart for public travel except for footpaths.
- j. “Intersection” – Shall mean 1) the area embraced within the prolongation or connection of the lateral curb lines or, if none, then the lateral boundary lines of the roadway of two highways which join one another at or approximately at right angles, or the area within which vehicles traveling upon different highways joining at any other angle may come in conflict; 2) where a highway includes two roadways thirty (30) feet or more apart, then every crossing of two roadways of such highways shall be regarded as a separate intersection; 3) the junction of an alley with a street or highway shall not constitute an intersection.

- k. “Jacobs Brakes” – Dynamic braking device mean a device used primarily on trucks for the conversion of the engine from an internal combustion engine to an air compressor for the purpose of braking without the use of wheel brakes.
- l. “Law Enforcement Officer” – Shall mean any officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations.
- m. “Manual on Uniform Traffic Control Devices” - Shall mean that publication by the U.S. Department of Transportation governing traffic control devices.
- n. “Moped” – Shall mean a motor driven cycle equipped with two or three wheels. If a combustion engine is used, the maximum piston or rotor displacement shall be fifty cubic centimeters regardless of the number of chambers in such power source. The power source shall be equipped with a power drive system that functions directly or automatically only, not requiring clutching or shifting by the operator after the drive system is engaged.
- o. “Motorcycle” – Shall mean every motor vehicle having a seat or saddle for the use for the rider and designed to travel on not more than three wheels that make contact with the ground, but excluding a tractor.
- p. “Motor Vehicle” – Shall mean every vehicle, as herein defined, which is self-propelled.
- q. “Occupant” – Shall mean any person who lives or resides on any property.
- r. “Operator” – Shall mean and include every individual who is in actual physical control of a vehicle as the owner thereof or as the agent, employee or permittee of the owner.
- s. “Park or Parking” - Shall mean the standing of a vehicle, whether occupied or not, other than temporarily for the purpose of and while actually engaged in loading or unloading property or passengers.
- t. “Pedestrian” – Shall mean any person afoot.
- u. “Person” – Shall mean every natural person, firm, partnership, association, or corporation.
- v. “Private Property” – Shall mean and include any and all real property or land within the City of Elkton that has not been opened or dedicated for public use or as a public thoroughfare.

- w. “Residential District” – Shall mean the territory contiguous to and including a highway not comprising a business district when the frontage of such highway for a distance of three hundred feet or more is in the main improved with residences or residences and buildings not in use for business.
- x. “Right-of-Way” – Shall mean the right of one vehicle or pedestrian to proceed in a lawful manner in preference to another vehicle or pedestrian.
- y. “Roadway” – Shall mean that portion of the street or highway between the regularly established curb lines or that part devoted to vehicular traffic.
- z. “Sidewalk” – Shall mean that portion of a street between the curb lines, or the lateral lines of the roadway, and the adjacent property lines, intended for use by pedestrians.
- aa. “Snowmobile” – Shall mean 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.
- bb. “State” – Shall mean the State of South Dakota.
- cc. “Stop or Stopping” – When prohibited, shall mean any halting, even momentarily of a vehicle, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic control sign or signal.
- dd. “Street” – Shall mean every highway, roadway, street or alley set apart for public travel except footpaths.
- ee. “Traffic” – Shall mean pedestrians, ridden or herded animals, vehicles, streetcars and other conveyances either singly or together while using any street or highway for the purpose of travel.
- ff. “Traffic Control Devices” – Shall mean all signs, signals, markings, and devices not inconsistent with this chapter, placed or erected by the authority of a public body or official having jurisdiction, for the purpose of regulating, warning or guiding traffic.
- gg. “Trailer” – Shall mean every vehicle with or without motive power designated for carrying persons or property wholly on its own structure and being drawn by a motor vehicle.

hh. “Vehicle” – Shall mean every device in, upon, or by which any person or property is or may be transported or drawn upon any street or highway, excepting devices used exclusively upon stationary rails or tracks.

Chapter 9.2. General.

Section 9.2.1. Traffic Control Devices.

All signs and signals required hereunder for the particular purpose shall be uniform as to the type and location throughout the City, so far as practicable. All traffic control devices so erected and not inconsistent with the provisions of state law or this chapter shall be official traffic control devices.

Section 9.2.2. Powers and Duties of Law Enforcement.

It shall be the duty of law enforcement of this County to enforce all city ordinances. Officers are hereby authorized to direct all traffic personally or by means of visible or audible signals in conformance with the provisions of this chapter. In the event of a fire or other emergency or to expedite traffic or safeguard pedestrians, law enforcement officers or fire department personnel may direct traffic, as conditions may require, notwithstanding the provisions of this chapter.

Section 9.2.3. Applications of this chapter to pushcarts, bicycles, motorcycles, mopeds, and animals – exceptions.

Any person propelling a pushcart, bicycle, moped, motorcycle, animal, animal-drawn vehicle or any conveyance in the city shall be subject to the provisions of this chapter applicable to the operator of the vehicle, except those provisions with reference to equipment of vehicles and which by their nature can have no application.

Section 9.2.4. Duty of Law Enforcement to Investigate Accidents.

Immediately upon the report of any accident, officers shall have the duty of investigating such accident in accordance with the policy set by law enforcement. Any report filed shall be kept on file and available for inspection by the parties or their duly authorized representatives.

Section 9.2.5. Law Enforcement Authorized to Remove Vehicles in Violation of This Chapter – Payment of Costs of Removal.

Any vehicle parked or allowed to remain in violation of any of the provisions of this chapter may be removed or caused to be removed by law enforcement of the County and towed to an area designated by County law enforcement. Any towing and storage charges resulting from removal of a vehicle shall be paid by the owner or person parking such vehicle in addition to the fine and other penalties prescribed.

Section 9.2.6. Traffic Control Devices – No Violation if Not in Place.

No provisions of this chapter for which signs are required shall be enforceable against an alleged violator, if, at the time and place of the alleged violation, the sign or signal herein required is not in proper position, sufficiently legible, or in proper working order to be seen by an ordinary observant person.

Section 9.2.7. Failure to Comply with Lawful Order or Warning.

It shall be unlawful for any person to refuse or fail to comply with any lawful order or direction of a law enforcement officer.

Section 9.2.8. Unlawful to Display or Attach Anything Resembling or Imitating Official Signal or Device – Removal as Nuisance.

Article 9.2.8.1. It shall be unlawful for any person to place or maintain or to display upon or in view of any street any official sign, signal or device which purports to be or is an imitation of or resembles an official traffic sign or signal or which attempts to direct the movement of traffic.

Article 9.2.8.2. It shall be unlawful for any person to place, attach to, or display upon an official sign or signal any sign, signal or device. Every such prohibited sign, signal or device is hereby declared to be a public nuisance and law enforcement is hereby empowered to remove the same or cause it to be removed without notice.

Section 9.2.9. View Obstruction at Intersection or Right-of-Way.

It shall be unlawful for the owner or occupant of any property to allow, maintain or fail to remove any wall, fence, foliage, or objects which obstructs the view at any intersection of streets or alleys or to place or allow any sign or object on the boulevard or right-of-way adjacent to his property which obstructs the view from any alley, driveway or roadway.

Chapter 9.3. Vehicle Operation.

Section 9.3.1. Jurisdiction – Speed Limits.

The City of Elkton shall enact, maintain, and enforce its speed limits upon all alleys, streets, highways, and public places under its jurisdiction as located within and one mile outside of the City’s boundaries.

Section 9.3.2. Exhibition Driving.

Any person who drives a vehicle in such a manner that creates or causes unnecessary engine noise, tire squeal, skid or slide upon acceleration or stopping, or that simulates a temporary race or that causes the vehicle to unnecessarily turn abruptly or sway shall be guilty of exhibition driving.

Section 9.3.3. Speeding Limits and Operator’s Duties.

On any street, the speed limit shall be twenty-five miles an hour, unless otherwise posted. It shall be unlawful to exceed the twenty-five mile per hour limit or any posted limit, or to exceed any of the following limitations:

- a. Ten miles per hour in any alleys unless otherwise posted.

Section 9.3.4. Speed Over Reasonable and Prudent.

It shall be unlawful for any person to operate a vehicle on any alley, street, highway, or in any public place at a speed that is greater than reasonable and prudent under the conditions then existing, or at speeds in excess of those ordained by the City of Elkton; and any speeds in excess of such limit shall be prima facie evidence that the speed is not reasonable or prudent.

Section 9.3.5. Unlawful to Enter Street Without Stopping.

The operator of any vehicle emerging from an alley, driveway, private drive or any entrance to the roadway shall stop such vehicle prior to driving onto a sidewalk area or the roadway.

Section 9.3.6. Stop Sign Violation.

The operator of any vehicle traversing a street upon which a stop sign has been erected, in accordance with the provisions of this chapter, shall bring such vehicle to a full stop at a place within fifteen feet of the nearest line of the intersection of said streets or street alley. After having stopped, the operator of any vehicle shall yield right of way to any vehicle which has entered or is approaching the intersection from another street and shall not proceed into the intersection until

certain that such intersecting street is free from oncoming traffic which may affect safe passage.

Section 9.3.7. Illegal U-Turn.

A driver of any vehicle shall not make a U-turn as follows:

- a. At an intersection where warned by an official traffic control sign displaying the words “No U-turn.”

Section 9.3.8. Opening and Closing Vehicle Doors in Traffic.

No person shall open any door on a motor vehicle unless and until it is reasonably safe to do so and can be done without interfering with the movement of traffic. Further, no person shall leave a door open on a side of a vehicle available to moving traffic for a period of time longer than is necessary to load and unload passengers.

Section 9.3.9. Unlawful Avoidance of Intersection.

It shall be unlawful for any person to operate any vehicle upon any sidewalk, driveway, filling station or any other commercial driveway or other similar surface located at the corner of any intersection protected by a traffic sign, for the purpose of evading the regulations governing the movement of any vehicle at an intersection.

Section 9.3.10. Unlawful to Operate Vehicle on Sidewalk.

The driver of a vehicle shall not drive on any sidewalk area, except at a permanent or temporary driveway.

Section 9.3.11. Unlawful to Operate Vehicle in Public Park, Recreation Area or School Ground.

It shall be unlawful to operate any vehicle in any park, recreation area or school ground except on the normally traveled roadways or in specifically designated areas.

Section 9.3.12. Operation of Motor Vehicle on Bicycle Path.

No person shall operate a motor vehicle or moped within an established and

officially designated bicycle lane or path except when necessary to park where parking is permitted, for the purpose of ingress or egress to and from driveways or for the purpose of intersectional travel.

Section 9.3.13. Unlawful to Roller Skate or Operate Any Toy or Similar Vehicle Upon Any Street – Exceptions.

It shall be unlawful for any person on roller skates or riding in any toy vehicle or similar device, to go upon any roadway except while crossing a street or crosswalk.

Section 9.3.14. Unlawful to Allow Unreasonable Noise From Vehicle.

It shall be unlawful for any person to cause or allow any loud, unreasonable noise to emit from a vehicle under his control that annoys, disturbs or endangers the peace or safety of others. Unreasonable noises include but shall not be limited to the following:

- a. The sounding of any horn or signaling device of any automobile, motorcycle, truck or other vehicle on any street or public place except as a danger warning; the creation by means of any such signaling devices of any unreasonable, loud, or harsh sound; the sounding of such devices for any unnecessary and unreasonable period of time other than by accident or mechanical, electrical or other difficulty or failure; and the use of any such signaling device where traffic is held up.
- b. The use or operation of any radio or other sound producing machine, in such a manner as to disturb the peace of any other person on or adjacent to the roadway upon which the vehicle is being operated, or in such a manner as to dangerously distract the operator of said vehicle or any other vehicle.
- c. The operation of any vehicle or vehicle engine in a manner that produces unnecessary engine or exhaust noise.
- d. Operating any motor vehicle with a dynamic braking device (Jacobs Brakes) engaged except for the aversion of imminent danger shall be prohibited.

- e. Any public emergency response vehicle equipped with a dynamic braking device will be allowed to use such device during a response to an emergency situation.

Section 9.3.15. Failure to Obey School Crossing Guard.

It shall be unlawful for the operator of any vehicle or pedestrian to fail to obey the “stop” or “caution” signal of any school crossing guard.

Section 9.3.16. Uncovered or Unsecured Load Violation.

It shall be unlawful to operate a vehicle in such a manner as to cause spillage of refuse or solid wastes on the streets or road.

Section 9.3.17. Parades and Processions.

Article 9.3.17.1. All funeral processions, parades, and similar events may be conducted under the supervision of the County law enforcement. At least 24 hours’ notice shall be given County law enforcement prior to any parade or procession.

Article 9.3.17.2. No driver of any vehicle shall drive through or otherwise interfere with any funeral or other authorized procession or parade on any of the streets. It shall be the duty of the driver of any vehicle to stop when reaching a street on which such a procession is passing and wait until the procession has entirely passed or otherwise been given a signal to proceed by a law enforcement officer.

Chapter 9.4. Pedestrian Rights and Duties.

Section 9.4.1. Unlawful Soliciting of Rides.

It shall be unlawful for any person to stand or walk in the roadway for the purpose of soliciting a ride from the operator of any vehicle.

Section 9.4.2. Pedestrians Yield to Authorized Emergency Vehicle.

Upon the immediate approach of an authorized emergency vehicle making use of audible and visual signals as required by state law, every pedestrian shall yield right of way to the authorized emergency vehicle.

Section 9.4.3. Pedestrian Right-of-Way.

Article 9.4.3.1. The driver of any vehicle operating on or crossing a sidewalk shall yield the right of way to any pedestrian.

Article 9.4.3.2. A pedestrian traveling on the sidewalk shall have right of way over any other traffic on the sidewalk.

Chapter 9.5. Bicycles.

Section 9.5.1. Applicability of Traffic Laws.

Every person riding or operating a bicycle upon a roadway shall be granted all the rights and shall be subject:

- a. To all the duties applicable to the driver of a motor vehicle by the laws of the State of South Dakota, and
- b. To the provisions of this chapter declaring rules of the road applicable to the driver of a vehicle except as to those provisions of laws and ordinances which by their nature have no application.

Section 9.5.2. Regulations for Operation of Bicycles Generally.

It shall be unlawful for any person to operate a bicycle in any of the following described manners:

- a. At a speed greater than is reasonable and prudent under conditions the existing.
- b. Whenever a usable path for bicycles has been provided adjacent to the roadway or as part of the roadway, bicycle riders shall use such paths and shall not use the remaining portion of the roadway. Wherever the City has provided sidewalks and bituminous ramps adjacent to streets for the accommodation of bicycle riders, such sidewalks and ramps shall be regarded as usable paths for bicycles.
- c. The operators of a bicycle shall stop prior to emerging from any alley, public or private driveway or building upon any street or sidewalk or sidewalk area and shall yield right of way to all vehicles and pedestrians approaching upon any street, highway, sidewalk or sidewalk area.
- d. Attaching the bicycle or the rider in any manner to any other vehicle.

- e. Towing or drawing any coaster, sled, or person on roller skates, toy vehicle or other similar vehicle upon any roadway.
- f. Riding more than two (2) abreast.
- g. Carrying any package, bundle or article which prevents or interferes with the rider keeping both hands upon the handlebars.
- h. Riding with both hands removed from the handlebars or both feet from the pedals or practicing any acrobatic riding upon any bicycle on any roadway, sidewalk or bicycle path. As defined in this section.
- i. Before turning or changing the direction of any bicycle upon any street highway, parkway or public place, it shall be the duty of the bicycle rider to give a proper hand signal by the extension of the left hand to indicate the direction of the intended turn.

Section 9.5.3. Obedience to Traffic Devices and Signs.

Article 9.5.3.1. Any person operating a bicycle shall obey the instructions of traffic control devices unless otherwise directed by law enforcement.

Article 9.5.3.2. On any street or intersection where U-turns or other turns are prohibited and signs are erected and in place so indicating, no person operating a bicycle shall disobey the direction of any such sign. Except that where such person dismounts from the bicycle to make such turn, the person shall obey the regulations applicable to pedestrians.

Section 9.5.4. Manner of Riding.

Article 9.5.4.1. Any person operating a bicycle shall not ride other than upon or astride the permanent and regular seats attached thereto, nor carry any other person upon such bicycle other than on a firmly attached and regular seat.

Article 9.5.4.2. No bicycle shall be used to carry more persons at one time than the number for which it is designed and equipped, except on a baby seat attached to the bicycle. In that case, the seat must be equipped with a harness to hold the child securely to the seat and protection must be provided to prevent the child's feet hitting the spokes of the wheels.

Section 9.5.5. Equipment Required. Every bicycle shall be equipped with a brake adequate to control the movement and to stop the bicycle whenever necessary.

Article 9.5.5.1. Every bicycle when used between thirty (30) minutes after sunset and thirty (30) minutes before sunrise shall be equipped with a light and reflectors of a type approved by law enforcement. A white light must be visible from a distance of at least three hundred – (300) feet to the front. An amber reflector shall be located on the frame or the front wheel so that it is visible from fifty – (50) to three hundred – (300) feet on each side of the bicycle when directly in front of the lawful upper beams of headlamps on a motor vehicle. A red reflector facing the rear must be visible at fifty – (50) to two hundred – (200) feet when directly in front of the lawful upper beams of the headlamps on a motor vehicle.

Article 9.5.5.2. A bicycle shall not be equipped with, nor shall any person upon a bicycle use, except law enforcement, any siren.

Section 9.5.6. Riding on Sidewalks.

Article 9.5.6.1. Whenever any person is riding upon a sidewalk in a location other than the business district, such person shall yield the right-of-way to any pedestrian and shall give audible signal or call before overtaking and passing such pedestrian.

Article 9.5.6.2. Wherever the City has provided sidewalks and bituminous ramps adjacent to the streets for the accommodation of bicycle riders, such sidewalks and ramps shall be regarded as usable paths, except within the business districts as stated in this Section.

Section 9.5.7. Parking and Parking Spaces.

Article 9.5.7.1. No person shall park a bicycle against any window or parking meter or on the main travelled portion of the sidewalk or in such manner as to constitute a hazard to pedestrians, traffic and/or property.

Article 9.5.7.2. Notwithstanding **Article 9.5.7.1**, when bicycle parking spaces have been established and designated, no person shall park a bicycle in the vicinity thereof except in such bicycle parking spaces.

Chapter 9.6. Parking.

Section 9.6.1. Method of Parking.

Article 9.6.1.1. All vehicles in the city shall be parked parallel to the curb,

headed in the direction of traffic with the curb-side wheels of the vehicle within twelve inches of the curb and no closer than four feet to any other vehicle, front or rear. Provided, however, that certain streets or portions of streets may be designated for diagonal parking by placing appropriate signs or marks on the street or curb indicating diagonal parking. Where diagonal parking is required as herein before provided, vehicles shall be parked at a forty-five degree angle with the front wheels touching the curb.

Article 9.6.1.2. Provided, however, motorcycles may be parked diagonally with either the front or rear wheel touching the curb at any location. No parking space shall be occupied by more than one automobile or by more than 4 motorcycles, provided that said motorcycles do not exceed the space normally occupied by one automobile. All motorcycles will be cited if violation occurs.

Section 9.6.2. Overtime Parking.

It shall be unlawful for any person to park any vehicle on a street, alley or public place for a longer period than twenty-four (24) hours, except that currently licensed motor vehicles may be parked for not more than seventy-two (72) hours. After seventy-two (72) hours, notice shall be given to remove the vehicle within twenty-four hours. If the vehicle is not removed, the city may cause the vehicle to be removed at the owner's expense.

Section 9.6.3. Parking – Street Cleaning and Snow Removal.

Article 9.6.3.1. There shall be no parking on the streets from two o'clock to six o'clock on Friday mornings to facilitate street cleaning operations.

Article 9.6.3.2. There shall be no parking on the streets from two o'clock to six o'clock on any other day of the week where there has been an accumulation of two (2) inches or more of snow within a twenty-four hour period, to facilitate snow removal operations. Said streets shall be posted accordingly.

Section 9.6.4. Truck Parking.

Article 9.6.4.1. It is unlawful to park a semi-trailer, whether or not attached to a truck-tractor, upon any street, City-owned parking lot or other public property. It shall also be unlawful to park such trailer on any private property within any area zoned as a residential district, except for the purpose of loading or unloading the same.

Article 9.6.4.2. It is unlawful to park a commercial vehicle of more than three-fourths (3/4) ton capacity upon any street in the business district which has been

duly sign-posted prohibiting the same. However, parking of such vehicle for a period of not more than twenty (20) minutes shall be permitted in such space for the purpose of necessary access to abutting property for loading or unloading when such access cannot reasonably be secured from an alley or from an adjacent street where truck parking is not so restricted.

Section 9.6.5. Designation of Time Zones for Parking – Overtime Parking.

The Council may limit the time which a vehicle may be parked on certain streets or sections of streets by erecting appropriate signs marking the area or parking spaces affected which clearly state the time limit for parking and the hours of the day which the limit is in effect. It shall be unlawful for any person to park any vehicle in any zone so designated for a longer period than stated on said signs.

Section 9.6.6. Unlawful to Park in Alleys.

It shall be unlawful for any person to park any vehicle in any public alley except that trucks and other vehicles may stop in such alleys for the purpose of loading or unloading merchandise or materials.

Section 9.6.7. Unlawful to Double Park.

It shall be unlawful for the operator of any vehicle to stop, stand or park such vehicle on the roadway side of any other vehicle stopped or parked at the edge or curb of a street except when temporarily engaged in the loading or unloading of passengers or materials.

Section 9.6.8. Unlawful for Certain Trucks to Park Diagonally.

It shall be unlawful for the operator of any truck exceeding twenty feet in overall length to park such vehicle diagonally on any street within the city limits.

Section 9.6.9. Places Designated as Unlawful for Parking, Standing or Stopping – Exceptions.

It shall be unlawful for the operator of a vehicle to stop, stand or park such vehicle on any of the following places, except when necessary to avoid conflict with other traffic or in compliance with the directions of law enforcement or traffic control sign or signal:

- a. On a crosswalk;
- b. Outside the first line of cars parked next to the curb;

- c. Within 25 feet of the intersection or curb lines;
- d. Within 15 feet of the driveway entrance to the fire station;
- e. Within 15 feet of a fire hydrant;
- f. In front of a private driveway;
- g. On a sidewalk;
- h. Alongside or opposite any street elevation or obstruction when such stopping, standing or parking would obstruct traffic.

Section 9.6.10. Off-street Parking.

No off-street parking of motor vehicles, recreational vehicles, watercraft or trailers should be permitted in the front yard of any residence except as follows:

- a. Upon a driveway providing direct access to the garage or rear yard.
- b. Upon any other driveway provided that it is no wider than twenty-two (22) feet.
- c. Upon the yard area between the driveway and the nearest side lot line.

Section 9.6.11. Handicapped Parking.

It shall be unlawful for any person to park at any parking space on public or private property designated by the international wheelchair insignia as reserved for the physically disabled unless that vehicle displays a serially numbered certificate or special license plate indicating that the vehicle is used in transporting a handicapped person.

Chapter 9.7. Snowmobiles.

Section 9.7.1. Registration.

No snowmobile shall be operated within the City of Elkton unless registered in accordance with the provisions of **Chapter 182 of the 1971 Laws of the State of South Dakota** and identification numbers must be displayed as required thereby.

Section 9.7.2. Authorized Operation.

Article 9.7.2.1. No person may operate a snowmobile on a city street:

- a. At a rate of speed greater than is reasonable and proper having due regard for conditions then existing and in no event in excess of twenty-five (25) miles per hour.
- b. While under the influence of intoxicating liquor or narcotic drugs, barbitol or any derivative of barbitol.
- c. Except while proceeding to and returning from the City limits by the most direct route from his home or place where said snowmobile is garaged.
- d. In any cemetery.
- e. On private property without consent of the property owner or his agent.
- f. With more than one (1) passenger on a snowmobile.

Article 9.7.2.2. Any person operating a snowmobile on a City Street must:

- a. Come to a complete stop at all traffic controlled intersections.
- b. Travel as close to the right edge of the plowed area of the street as practical.
- c. Obey all traffic signals, signs and devices.
- d. Yield the right-of-way to all other traffic and pedestrians.

Section 9.7.3. Crossing Streets.

No snowmobile shall be operated to cross any street except at a street intersection of a street.

Section 9.7.4. Careless Operation.

No person shall operate a snowmobile in the City of Elkton in a careless or negligent manner likely to endanger any person or property.

Section 9.7.5. Sidewalk Operation Prohibited.

No person shall operate a snowmobile upon any public sidewalk in the City of Elkton.

Section 9.7.6. 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 that is attached to such snowmobile by means of rigid hitch or tow bar.

Section 9.7.7. Equipment.

No snowmobile shall be operated in the City of Elkton:

- a. Unless it has at least one (1) headlight and one (1) taillight turned on at all times during operation.
- b. Unless it has adequate brakes capable of producing deceleration of fourteen (14) feet a second on level ground at twenty (20) miles an hour.
- c. Unless it is equipped with a muffler in good working order in constant operation to prevent excessive or unusual noise.

Section 9.7.8. Notice of Accident.

The operator of a snowmobile involved in an accident resulting in injuries to or death of any person or property damage in an estimated amount of One Hundred Dollars (\$100.00) or more, or some person acting for him, or the owner of the snowmobile having knowledge of the accident shall immediately by the quickest means of communication notify the law enforcement of the City of Elkton, a State Police Officer or Officers, or the Sheriff's Office of Brookings County.

Section 9.7.9. Damage to Property – Owner's Liability.

Article 9.7.9.1. It is presumed that any snowmobile operated within the City of Elkton is operated with the consent of the owner.

Article 9.7.9.2. The owner of the snowmobile will be held jointly and severally liable with the driver thereof for damages arising out of the negligent or improper operation of his snowmobile.

Article 9.7.9.3. The owner of a snowmobile may be held jointly and severally liable to a property owner for three (3) times the amount of damages to trees, shrubs, landscaping, or personal property, occurring on private property and caused by said snowmobile where the snowmobile is operated without the consent of the property owner or agent.

Section 9.7.10. Confiscation of Snowmobiles.

Any machine operated contrary to or in violation of any provisions of this ordinance by one other than the owner of the snowmobile who can prove such ownership, or being operated with defective equipment may be confiscated at the direction of law enforcement. In the event a snowmobile is confiscated, the owner of the snowmobile must pay the cost of transportation, towing and storing of the snowmobile before it will be released to him.

Section 9.7.11. Violation Misdemeanor.

Any person who violates the provisions of this ordinance act is guilty of a misdemeanor and is punishable according to the general provision of this ordinance.

TITLE 10. TREE ORDINANCE

Chapter 10.1. Definitions.

- a. “Street Trees” – Trees, shrubs, bushes and all other woody vegetation on boulevards.
- b. “Boulevard” – Is all land lying between the sidewalk line and the curb line of streets, avenues, or right-of-ways within the City. In the absence of a sidewalk and curb line, the boulevard shall consist of all land between the street line and the border of the right-of-way.
- c. “Park Trees” – Trees, shrubs, bushes and all other woody vegetation in public parks having individual names, and all areas owned by the City, or to which the public has free access as a park.
- d. “Private Trees” – All trees and other woody vegetation on private lots and residences within the City.
- e. “Small Trees” – Trees less than twenty (20’) tall at maturity.
- f. “Medium Trees” – Trees between twenty or forty feet (20’ – 40’) tall at maturity.
- g. “Large Trees” – Trees larger than forty feet (40’) tall at maturity.
- h. “Pests” – An insect or disease agent that attacks a tree or woody vegetation.
- i. “Parks” – Public parks having individual names.
- j. “Property Owner” – The person owning such property as shown by the records on file at the Elkton City Office or the Brookings County Register of Deeds.
- k. “Trees and Shrubs” – All woody vegetation now or hereafter growing on any public or private property.
- l. “Plants” – All ‘non-woody’ vegetation now or hereafter growing on any public or private property.
- m. “City” – The elected and/or designated official, authorized agent, or employees of the City of Elkton lying within the County of Brookings, State of South Dakota, assigned to carry out the enforcement of this ordinance.

- n. “Tree Removal” – The removal of all braches, vegetation, and trunk from small, medium, and large trees, but not including the grinding or removal of tree stumps, the restoration of soil elevation, or repairs to sidewalks.
- o. “Tree Stump” – That portion of the tree from eighteen inches (18”) above the soil down to the root system of the tree.

Chapter 10.2. Intent.

The intent of this ordinance is to protect and preserve the trees, plants, and shrubs of Elkton, thereby enhancing the aesthetic and property value, safety and general welfare of the citizens of Elkton. It will define responsibilities of the property owner, the City and the administrators of his ordinance.

Chapter 10.3. Planting.

Section 10.3.1. Responsibility.

The City is herein responsible for tree planting in all City parks and establishing control of street tree planting on boulevards. Private plating of trees is not subject to City control but the City should encourage desirable species and planting practices.

Section 10.3.2. Desirability.

The City will issue a desirable species list for tree planting in the City. The list will contain a minimum of ten (10) species in order to provide a diversity of tree types.

Section 10.3.3. Spacing.

No street trees may be planted closer together than the following: small trees, twenty (20’); medium trees thirty five (35’); except in special plantings designed or approved by the City.

Section 10.3.4. Distance from Curb to Sidewalks.

No trees shall be planted where the distance between the curb and sidewalk is less than four feet (4’). No trees may be planted closer to any curb or sidewalk than the following: small trees, two feet (2’) and medium trees, three feet (3’).

Section 10.3.5. Distance from Street Corners and Fireplugs.

No street tree shall be planted closer than twenty feet (20') of any property corner adjacent to an intersection. No street trees shall be planted closer than ten feet (10') of any fireplug.

Section 10.3.6. Utilities.

No street trees, except small trees may be planted under or within ten feet (10') of overhead utility wires. No trees shall be planted over or within five feet (5') of any underground water, sewer or other service line.

Section 10.3.7. Tree Care.

Article 10.3.7.1. The landowner will herein be responsible for the maintenance, trimming, and care of all street trees.

Article 10.3.7.2. The landowner will be responsible for the maintenance, trimming, and care of all private trees situated upon their property, but said maintenance, trimming, and care shall be subject to City requirements regarding pest control or trimming when such actions are necessary to prevent hazards to life and property.

Article 10.3.7.3. Overhanging Branches.

- a. Every owner of a tree which overhangs any sidewalk within the City shall trim such tree to a minimum of ten feet (10') above the surface of the sidewalk.
- b. Every owner of a tree which overhangs any municipal arterial street or right-of-way within the City shall trim such tree to a minimum of twelve feet (12') above the surface of the street or right-of-way.
- c. Every owner of a tree which overhangs any county road or portion of the state trunk highway within the City shall trim such tree to a minimum of sixteen feet (16') above the surface of county road or state highway.

Section 10.3.8. Tree Removal.

Article 10.3.8.1. Tree removal will be the responsibility of the City for park

trees. The City shall have the right to cause the removal of any dead or diseased private trees on private property within the City. The landowner will be responsible for removing private and street trees that constitute a hazard, to life and property, or harbor insects or disease, which constitute a potential threat to other trees within the City. The City will notify in writing or in person the owners of such trees.

Article 10.3.8.2. Dead trees shall be removed. Trees will also be removed if they cannot be returned to an acceptable condition after treatment for disease or sustaining storm damage as determined by the City or any of its authorized agents. Trees harboring contagious pests for which there is not established control shall be removed.

Article 10.3.8.3. The City or acting authority will make a determination of a pest problem. If the pest cannot be determined at the site with reasonable certainty by the City or other authority, a sample will be taken for diagnosis to determine the pest.

Article 10.3.8.4. Confirmed arrangements for removal shall be made within thirty (30) days from the date of notification for trees found to be harboring a contagious disease and thirty (30) days for a dead or substantially dead tree from the time declaring the tree a hazard or dead.

Article 10.3.8.5. Wood from dead, substantially dead or infected trees may be used as firewood as long as that wood does not harbor a contagious pest or can be treated to prevent harboring contagious pests.

Article 10.3.8.6. Private landowners may request the City's removal of a living and healthy street tree from the boulevard immediately neighboring the landowner's property, but such removal is subject to the City's permission and all costs associated with the removal will be at the landowner's expense.

Section 10.3.9. Abatement.

Article 10.3.9.1. The failure of owners to comply with planting, spacing minimum distance, utilities, trimming and tree removal provisions of this ordinance shall constitute a nuisance and the City shall have the authority to abate the nuisance which may include removal of it.

Article 10.3.9.2. The City shall keep a record of the costs of abatements done under this ordinance and shall report monthly to the Finance Officer all work done for which billings and assessments are to be made. The report shall state and

certify the description of the land, lots, parcels involved and the amount chargeable to each.

Article 10.3.9.3. The payment of monies to the City for the abatement of nuisances from private property shall be handled in accordance with the provisions contained in Title 5 – Nuisances.

Section 10.3.10. Interference with City.

It shall be unlawful for any person to prevent, delay or interfere with the City while engaging in the inspection or removal of any street trees, parks trees or private trees, as authorized in this ordinance.

Section 10.3.11. Appeal.

Any individual who receives an order or is denied permission to plant, care for, or remove a tree shall have the right to appeal within seven days to the City Council.

Section 10.3.12. Penalty.

Any person violating any provision of this ordinance shall be, upon conviction or a plea of guilty, subject to a fine not to exceed one hundred dollars (\$100.00).

Section 10.3.13. Desirable Tree Species.

Article 10.3.13.1. Street.

- a. Small trees: Flowering Crabapple, Canada Red Cherry, Serviceberry, Showy Mountain Ash;
- b. Medium trees: Ohio Buckeye, European Mountain Ash, Littleleaf Linden, Greenspire;

Article 10.3.13.2. Park and other Areas.

- a. Small trees: Hawthorn, Russian Olive, Apricot, Apple, Plum, Pear;
- b. Medium trees: Amur Cork Trees, May Day Tree, Black Cherry, Horse Chestnut;

- c. Large trees: Northern Catalpa, Black Walnut, Kentucky Coffee Tree, European Larch, Ponderosa Pine, Blue Spruce, Black Hill Spruce, Scotch Pine and Austrian Pine.

Chapter 10.4. Shade Tree Disease.

Section 10.4.1. Declaration of Policy.

The governing body of the City of Elkton recognizes that loss of established public and private trees through contagious diseases would substantially depreciate the value of property within the City and impair the safety, good order, general welfare and convenience of the public. It is declared to be the intention of the governing body to control and prevent the spread of all contagious diseases and this ordinance is enacted for that purpose.

Section 10.4.2. Shade Tree Disease Program.

It is the intention of the governing body of the City of Elkton to conduct a program of plant pest control pursuant to the authority granted by **South Dakota Codified Laws as amended, Chapter 38-24, 38-24A and 41-21**. This program is directed specifically at the control and elimination of Dutch elm disease fungus and elm bark beetles but may be applied to other contagious diseases that threaten public and private trees within the City of Elkton.

Section 10.4.3. Nuisances Declared.

The following things as set forth in the subdivisions are public nuisances whenever they may be found within this municipality:

- a. Any living or standing elm tree or part thereof, infected to any degree with the Dutch elm disease fungus Ceratocystis Ulmi (Buisman) Moreau.
- b. Any elm tree or part thereof, suffering from dieback, or any other disease or harmful condition, which, in the opinion of the City Coordinator, or his agents renders that tree or any parts thereof possible breeding or harboring sites of the elm bark beetles Scolytus Multistriatus (Eichh.) or Hylurgipinus Rufipes (Marsh).

- c. Any dead elm tree or part thereof, including logs, branches, stumps, firewood or other elm material from which the bark has not been removed. Termed Hazardous Wood.
- d. Any other tree suffering from any contagious diseases that pose a threat to other established trees.

Section 10.4.4. Street Superintendent.

Article 10.4.4.1. The powers and duties of the Street Superintendent as set forth herein and hereinafter defined.

Article 10.4.4.2. It is the duty of the Street Superintendent to coordinate, under the direction and control of the governing body, all activities of the municipality relating to the control and prevention of shade tree diseases. He shall recommend to the governing body the details of the program for the control of Dutch elm disease, and perform the duties incident to such a program adopted by the governing body.

Section 10.4.5. Inspection and Investigation.

Article 10.4.5.1. The Street Superintendent or duly authorized agents may enter upon private premises at any reasonable time for the purpose of carrying out any of the duties assigned under this ordinance.

Article 10.4.5.2. The Street Superintendent shall, upon finding conditions indicating Dutch elm infestation or other contagious diseases, immediately send appropriate specimens or samples to the Department of Agriculture or SDSU at Brookings for analysis, or take such other steps for diagnosis as may be recommended by the governing body.

Section 10.4.6. Abatement of Shade Tree Disease Nuisances.

In abating contagious shade tree disease nuisances, the Street Superintendent shall cause the infected tree or wood to be sprayed, removed, burned or otherwise effectively treated so as to destroy and prevent as fully as possible the spread of contagious shade tree diseases. Such abatement procedures shall be carried out in accordance with current technical and expert opinions and plans as may be designed by the governing body. Whenever the Street Superintendent finds with reasonable certainty that a contagious disease infestation exists in any tree or

wood in any public or private place in this municipality, the procedures shall be as set forth in the subdivisions which follow.

Article 10.4.6.1. If any tree, or any parts thereof, determined to be a nuisance is discovered on public or private property within the municipal limits of the City, it shall be condemned , removed and disposed of or rendered incapable of spreading the disease. This shall hereby be termed proper disposal.

Article 10.4.6.2. For shade tree disease infected trees and portions thereof found on private property, the property owner shall be given no more than seven (7) days for proper disposal from the date of notification. Notification shall be given in the form of a written notice to be presented personally or by mail by the Street Superintendent.

Article 10.4.6.3. Failure to abate the nuisance (or properly dispose of the infected trees or portions thereof) by the property owner within the time limit stated shall authorize the Street Superintendent to have the nuisance abated. The Street Superintendent may then charge all costs of the abatement to the property owner and bill him directly or have the monies due assessed to his taxes.

Article 10.4.6.4. The Street Superintendent shall keep a record of the costs of abatement done under this section and shall report monthly to the Finance Officer all work done for which billings and assessments are to be made stating and certifying the description of the land, lots, parcels involved and the amount chargeable to each.

Article 10.4.6.5. The payment of monies to the City for the abatement of nuisances from private property shall be handled in accordance with the provisions contained in **Title 5 – Nuisances**.

Article 10.4.6.6. The City also has the option of collecting the assessment through Small Claims Court.

Section 10.4.7. Action by the City.

Article 10.4.7.1. The governing body recognizing the problem of the spread of shade tree disease from infected trees to adjacent, healthy trees through root systems and common natural connections intends to the best of its ability, to control and prevent this means of spread of the disease.

Article 10.4.7.2. If any damage or distortion to the property is caused when placing barriers to control the spread of the disease, the City shall be responsible

for the reasonable restoration of the property to the condition that existed before the placement of the barrier.

Article 10.4.7.3. The governing body, recognizing the potential of therapeutic pruning (the “amputation” of infected branches) as a possible tool in the control of shade tree disease authorizes the Street Superintendent to enter upon private property and carry out this procedure on private trees for the protection of public trees.

Article 10.4.7.4. The governing body, recognizing the value of chemically treating trees either with approved fungicides or insecticides as a possible tool in the management of shade tree disease, and recognizing that the treatment of a private tree may help to protect other private and public trees, authorizes the Street Superintendent to enter upon private property and chemically treat the private tree.

Section 10.4.8. Duties of the Public.

Article 10.4.8.1. Elm wood must be covered with plastic from April 1 until the first snowfall to prevent the spread of disease by beetles. Woodpiles should be small enough to cover with one piece of plastic with an excess of twelve (12) to eighteen (18) inches of plastic around the bottom of the pile which has been securely sealed with dirt, sand, rock or bricks. All bark should be stripped from the wood.

Article 10.4.8.2. It is unlawful for any person to prevent, delay or interfere with the Street Superintendent or his agents while they are engaged in the performance of duties imposed by this ordinance.

TITLE 11. HEALTH AND SANITATION

Chapter 11.1 Garbage and Refuse.

Section 11.1.1. Definitions.

- a. “City” – The elected and/or designated official, authorized agent, or employee of the City of Elkton, lying within the County of Brookings, State of South Dakota, assigned to carry out the enforcement of this ordinance.
- b. “Construction and Demolition Debris” – Shall mean waste building materials resulting from construction, remodeling, repair, and demolition operations on pavements, houses, commercial buildings, and other structures.
- c. “Disposal” – The discharge, deposit, injection, dumping, spilling, leaking, or placing of solid waste into or on the land so that the solid waste or any of its constituents may enter the environment, be discharged to any waters, including groundwater, or be emitted into the air.
- d. “Electronic Devices” – Shall mean and include, but not be exclusively limited to, such items as desktop and laptop computers, monitors, mainframe computers, battery backup uninterruptible power supplies, printers, scanners, copy machines, fax machines, televisions, microwaves, toasters, video cassette recorders, laser disc players, digital video disc players, stereo receivers, video game consoles, MP3 players, cellular phones, radios, and digital and electronic cameras.
- e. “Family Domestic Unit” – Shall be deemed to be and mean any single independent family unit, irrespective of the number of persons constituting such family, but shall not include a situation where more than one family lives together in any single residence or abode, but in such situation, each of the independent families shall be deemed and regarded as a separate and distinct family domestic unit. Each independent family unit living in a multiple dwelling residence, apartment house or any type of residence, including trailer houses, shall each be deemed a family domestic unit for the purposes of this Title. A roominghouse that supplies lodging only for hire and which does not serve meals to any lodgers and does not permit cooking and eating on the premises shall be deemed a family domestic unit for the purposes of this title.
- f. “Garbage” – Solid and semi-solid putrescible animal and vegetable wastes resulting from the handling, preparing, cooking, storing, serving and consuming of food or of material intended for use as food, and all offal,

excluding useful industrial by-products, from all public and private establishments and from all residences.

- g. “Hazardous Materials” – Shall mean solid waste, and/or combination of solid waste which because of quantity, concentration, or physical, chemical or infectious characteristics, may cause, or significantly contribute to an increase in mortality or an increase in serious, irreversible or incapacitation reversible illness, or pose a substantial present or potential hazard to human health or to the environment when improperly treated, stored, managed, transported or disposed of, but hazardous waste does not include radioactive material or mining wastes which are exempt pursuant to federal or state.
- h. “Household Garbage”- Shall mean and include such items as refuse, sweepings, cleanings, trash, litter and domestic solid waste. Household refuse shall not include any household hazardous waste, as defined by state or federal regulations.
- i. “Litter” – Shall mean garbage, rubbish, waste material or animal waste improperly disposed of by discarding, abandoning, allowing to accumulate, scattering or depositing the same outside an approved container.
- j. “Plastic” – Shall mean any synthetic material made of polymeric organic compounds and additives that can be shaped by flow.
- k. “Recreational Fire” – Shall mean any fire, other than the fire described as a refuse fire or incinerator fire, but not limited to fire places, grills, fire pits, other burning apparatus approved by the underwriter’s laboratory and fueled by wood, wood pellets, grain, newspaper, natural or propane gas, or any other combustible material used in the preparation of food or enjoyment of an open flame.
- l. “Refuse” – Shall be deemed putrescible and nonputrescible wastes, including, but not limited to, garbage, rubbish, ashes, incinerator ash, incinerator residues, street cleanings, market and industrial solid wastes, and sewage treatment wastes in dry or semisolid form.
- m. “Restricted Use Landfill” – Shall be a permitted solid waste disposal site that receives certain non-putrescible waste limited to yard debris, garden vines, trees, scrap lumber, untreated wood products and similar type wastes, and permits the temporary storage of white goods and waste tires.
- n. “Rubble” – Shall include such items as stone, brick, concrete, or similar inorganic material.

- o. “Trees” – Shall mean trunks, limbs, stumps, shavings or branches from trees or shrubs.
- p. “White Goods” – Shall mean and include such major residential and commercial appliances as air conditioners, clothes dryers, clothes washers, dishwashers, freezers, kitchen ranges, refrigerators, and water heaters.
- q. “Waste Oil” – Shall mean any oil after use that is contaminated through storage or handling before the oil is recycled.
- r. “Waste Tires” – Shall mean tires that are no longer suitable for their original intended purpose because of wear, damage, or defect.
- s. “Yard Debris” – Shall include such items as grass, lawn clippings, and leaves.

Section 11.1.2. Litter.

Article 11.1.2.1. Littering Prohibited. It shall be unlawful for any person to throw, drop, cast, or deposit upon any street, alley, sidewalk, or any yard or premises, public or private, any filth of any kind, or cans, paper, trash, paper containers, rubbish, bottles or any other form of litter or waste matter.

Article 11.1.2.2. Duty of Business Owners, Occupants. The owner or occupant of any store or other place of business situated within the City of Elkton shall exercise reasonable diligence at all time to keep their premises clean of wastepaper, wrapping paper, paper napkins, cartons, package containers, and other used or waste materials thrown or left on said premises by any person and shall also take reasonable measure to prevent the same from drifting or blowing onto adjoining properties.

Section 11.1.3. Burning.

Article 11.1.3.1. Burning Prohibited. It shall be unlawful, unless authorized by ordinance, to burn refuse, garbage, hazardous materials, plastics, electronic devices, waste oil, waste tires, trees, and yard debris within the City of Elkton.

Article 11.1.3.2. Recreational Fire Permitted. Recreational fires, as defined in Section 11.1.1., are permitted within the City of Elkton provided the following requirements are met:

- a. If the recreational fire is contained within a structure, the equipment or apparatus shall be approved by either the underwriter's laboratory or by the Fire Chief as safe for the conduction of said activity.
- b. Such recreational fire may be within ten feet (10') of a structure and located upon either a deck or patio.
- c. Shovels, garden hose, or fire extinguisher with a minimum of a 4-A rating shall be readily available for use. Such attendant shall supervise the recreational fire until the fire has been extinguished.
- d. The Fire Chief is authorized to require a recreational fire be immediately extinguished if, in the opinion of the Fire Chief, the fire constitutes a hazardous condition.

Section 11.1.4. Restricted Use Landfill.

Article 11.1.4.1. Designation. The City Council shall from time to time designate an area or areas to be known as a restricted use landfill for the receipt and deposit of trees, scrap lumber, untreated wood, and yard debris.

Article 11.1.4.2. Rules and Regulations. The City Council may promulgate rules and regulations to carry out the intent of this Section, and any such rules and regulations so adopted shall be filed with the Finance Officer prior to the effective date thereof and published in accordance with Article 11.1.4.3 of this Section.

Article 11.1.4.3. Publication of Rules and Regulations. The publication of rules and regulations for the use of the restricted use landfill shall consist of approval by the city Council and filing with the City Finance Officer.

Article 11.1.4.4. Disposal Fees. Each individual, firm, or business desiring to make use of any restricted land fill shall pay to the City, or its authorized agent, the appropriate fee according to the rate schedule adopted by the City Council.

Article 11.1.4.5. Certain Materials Excluded. At the discretion of the Mayor, City Council, or landfill caretaker, certain materials may be excluded from the landfill. All such prohibited materials shall be so indicated in the City's rules and regulations as established under this Section.

Article 11.1.4.6. Unlawful Dumping. It shall be unlawful to dump or deposit any materials not so permitted by the City's rules and regulations as established under this Section. For each act of unlawful dumping, a fine shall be imposed, and

depending upon the severity of the act, the party may be banned from further use of the restricted use landfill.

Article 11.1.4.7. Removal of Material. It shall be unlawful for any person to remove or cause to be removed from the restricted use landfill any article or material of any kind that has been lawfully deposited there.

TITLE 12. WATER AND SEWER

Chapter 12.1 General Provisions

Section 12.1.1. Application.

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

Section 12.1.2. Deposit.

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

Section 12.1.3. Rates.

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

Section 12.1.4. Consumer's Bills.

All utility bills rendered are net, due and payable on receipt and delinquent if not paid by the fifteenth day of the following month. If bills are not paid by the due date, a ten percent additional charge shall be assessed. Provided, however, when a due date falls on a weekend or holiday, bills will not be delinquent until the close of business the next following work day. Bill payments mailed to the City must be received by the City on the day after the due date. Postmarks shall not be considered.

Section 12.1.5. Unpaid Bills.

If a bill for utility services is not paid in full as provided in 12.1.4., the customer shall be given notice by mail or by personal service to such owner, occupant or person, or by posting on the property that service shall be terminated within five working days of the date of mailing, personal service or posting unless the customer shall:

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

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

Section 12.1.6. Disconnect.

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

- A. Failure to pay all charges and penalties;
- B. Default on an agreement to liquidate a continuing debt;
- C. Failure to grant the City access to read and inspect meters; and
- D. Customer tampering.

Section 12.1.7. Extension.

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

Section 12.1.8. Restoration of Service.

All utilities disconnected for nonpayment must pay a reconnect fee as set by resolution by the City Council plus payment in full of the account before any utilities will be reconnected. Reconnections will be made only during business hours, 7:00 a.m. to 4:00 p.m., Monday through Friday. Utilities voluntarily disconnected shall also require a reconnect fee as set by resolution by the City Council and on file in the office of the Finance Officer.

Section 12.1.9. Owner, Lessee Liable.

The owner of property, which is serviced by municipal utilities from the City, shall, as well as the lessee or occupant of the property, be liable to the City for the utility bills, which may be recovered in an action against such owner, lessee or occupant or against any or all of them, jointly or severally. The provisions contained in 12.1.4. shall equally apply to the owner of the property as they do to the consumer/lessee or occupant.

Section 12.1.10. Tampering with City Equipment.

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

Should the City Council find that a violation of this section has occurred and that there is no justification for said violation, the City Council may order immediate

termination of service and service shall be reinstated only upon conditions established by the City Council. In addition to any criminal penalty, the City of Elkton, shall be entitled to collect a civil penalty of \$200.00, plus the actual costs of damages, if the person has obstructed with or tampered with any of the municipal owned utilities whether or not such person received additional services without payment or whether or not the City of Elkton sustained any actual damages as a result of the obstruction or tampering.

Section 12.1.11. User Responsible for Operation and Maintenance of Water and Sewer Lines.

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

Section 12.1.12. City Not Liable for Damage.

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

Section 12.1.13. Construction of Sewer and Water Connections.

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

Section 12.1.14. Written Notice for Owners.

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

Section 12.1.15. City Initiated Work and Assessment of Property Owners.

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

Section 12.1.16. Providing Underground Utility Services When Frost Exists; Fee.

When any utility customer of the City requests underground utility services for water and sewer, and at the time of installation there is frost present, the City shall, in addition to the usual and customary charges established by the City Council for providing such services, charge the customer requesting such service the following:

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

Chapter 12.2 Water

Section 12.2.1. Connection with City Water Main.

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

Section 12.2.2. City Prescribing Connections.

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

Section 12.2.3. Meter Installation.

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

Section 12.2.4. Meter Requirements.

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

Section 12.2.5. Meter Tests.

Customers may have their meters tested upon payment of the actual cost for test. If the meter is found to be in error, the fee shall be refunded. If the test of the meter shows that it fails to register correctly within two percent, the City shall make a charge or allow a credit in proportion to the error, for all water registered in excess of the minimum amounts allowed by the established rates, the same to be retroactive for three billing periods only.

Section 12.2.6. Unnecessary Waste of Water.

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

Section 12.2.7. Connection to Water Mains.

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

Section 12.2.8. Exceptions.

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

Section 12.2.9. Standard Workmanship.

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

Chapter 12.3 Sewer

Section 12.3.1. Definitions.

- A. “Biochemical oxygen demand (BOD)” shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at 20° degrees Centigrade, expressed in milligrams per liter.
- B. “Building drain” shall mean that part of the lowest horizontal piping of a drainage system which receives the discharge from the soil, waste and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five feet (1.5 meters) outside the inner face of the building wall.
- C. “Building sewer” shall mean the extension from the building drain to the public sewer or other place of disposal also called house connection.
- D. “Combined sewer” shall mean a sewer intended to receive both wastewater and storm or surface water.
- E. “Director of Public Works” shall mean the superintendent of wastewater facilities and/or of wastewater treatment works and/or of water pollution control of the City of Elkton, or his authorized deputy, agent or representative.
- F. “Easement” shall mean an acquired legal right for the specific use of land owned by others.
- G. “Floatable oil” is oil, fat or grease in a physical state such that it will separate by gravity from wastewater by treatment in an approved pretreatment facility. A wastewater shall be considered free of floatable fat if it is properly pretreated and the wastewater does not interfere with the collection system.
- H. “Garbage” shall mean the animal and vegetable matter resulting from the handling, preparation, making of foods.
- I. “Industrial wastes” shall mean the wastewater from industrial processes, trade or business as distinct from domestic or sanitary wastes.
- J. “Natural outlet” shall mean any outlet, including storm sewers and combined sewer overflows, into a watercourse, pond, ditch, lake or other body of surface or groundwater.

- K. “May” is permissive (see “shall”, S).
- L. “Person” shall mean any individual, firm, company, association, society, corporation or group.
- M. “pH” shall mean the logarithm of the reciprocal of the hydrogen ion concentration. The concentration is the weight of hydrogen ions, in grams, per liter of solution. Neutral water, for example, has a pH value of 7 and a hydrogen ion concentration of 10^{-7} .
- N. “Properly shredded garbage” shall mean the wastes from the preparation, cooking and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than ½ inch (1.27 centimeters) in any dimension.
- O. “Public sewer” shall mean a common sewer controlled by a governmental agency or public utility.
- P. “Sanitary sewer” shall mean a sewer that carries liquid and water-carried wastes from residences, commercial buildings, industrial plants and institutions together with minor quantities of ground, storm and surface waters that are not admitted intentionally.
- Q. “Sewage” is the spent water of a community. The preferred term is “wastewater” see Subsection Y.
- R. “Sewer” shall mean a pipe or conduit that carries wastewater or drainage water.
- S. “Shall” is mandatory (see “may”, Art. K).
- T. “Slug” shall mean any discharge of water or wastewater which is concentration of any given constituent or in quantity of flow exceeds for any period of duration than fifteen minutes more than five times the average twenty-four hour concentration or during normal operation.
- U. “Storm drain” (sometimes termed “storm sewer”) shall mean a drain or sewer for conveying water, groundwater, subsurface water or unpolluted water from any source.
- V. “Superintendent” shall mean the superintendent of wastewater facilities and/or of wastewater treatment works and/or of water pollution control of the City of Elkton, or his authorized deputy, agent or representative.

- W. “Suspended solids” shall mean total suspended matter that either floats on the surface of or is in suspension in water, wastewater or other liquids and that is removable by laboratory filtering as prescribed in “Standard Methods for the Examination of Water and Wastewater” and referred to as non-filterable residue.
- X. “Unpolluted water” is water of quality equal to or better than the effluent criteria in effect or water that would not cause violation of receiving water quality standards and would not be benefited by discharge to the sanitary sewers and wastewater treatment facilities provided.
- Y. “Wastewater” shall mean the spent water of a community. From the standpoint of source, it may be a combination of the liquid and water-carried wastes from residences, commercial buildings, industrial plants and institutions together with any groundwater, surface water and storm water that may be present.
- Z. “Wastewater facilities” shall mean the structures, equipment and processes required to collect, carry away and treat domestic and industrial wastes and dispose of the effluent.
- AA. “Wastewater treatment works” shall mean an arrangement of devices and structures for treating wastewater, industrial wastes and sludge. Sometimes used as synonymous with “waste treatment plant” or wastewater treatment plant” or “water pollution control plant”.
- BB. “Watercourse” shall mean a natural or artificial channel for the passage of water either continuously or intermittently.
- CC. “City” shall mean the City of Elkton, South Dakota.

Section 12.3.2. Use of Public Sewers Required.

Article 12.3.2.1. It shall be unlawful for any person to place, deposit or permit to be deposited in any unsanitary manner on public or private property within the City or in any area under the jurisdiction of said City, any human or animal excrement, garbage or other objectionable waste.

Article 12.3.2.2. It shall be unlawful to discharge in the City or in any area under the jurisdiction of said City, any sewage or other polluted waters, except where suitable treatment has been approved in accordance with subsequent provisions of Chapter 12.3.

Article 12.3.2.3. It shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool or other facility intended or used for the disposal of wastewater unless a public sanitary sewer system is not available within 200 feet of the property line and the private sewer system is approved by the State of South Dakota.

Article 12.3.2.4. The owner(s) of all houses, buildings or properties used for the human occupancy, employment, recreation or other purposes situated within the City and abutting on any street, alley or right-of-way in which there is now located or may in the future be located a public sanitary sewer of the City, is hereby required at the owner(s) expense to install suitable toilet facilities therein and to connect such facilities directly with the proper public sewer in accordance with the provisions of Chapter 12.3 within thirty days after date of official notice to do so.

Section 12.3.3. Sanitary Sewers, Building Sewers and Connections.

Article 12.3.3.1. No unauthorized person shall uncover, make any connections with or opening into, use, alter or disturb any public sewer or appurtenance thereof without first obtaining permission from the City.

Article 12.3.3.2. There shall be two classes of building sewer permits: (a) For residential and commercial service and (b) for service to establishments producing industrial wastes. In either case the owner(s) or his agent shall make application on a special form furnished by the City. The permit application shall be supplemented by any plans, specifications or other information considered pertinent in the judgment of the City. A permit and inspection fee shall be established by resolution by the Elkton City Council.

Article 12.3.3.3. All costs and expense incidental to the installation, connection and maintenance of the building sewer shall be borne by the owner(s). The owner(s) shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

Article 12.3.3.4. A separate and independent building sewer shall be provided for every building; except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer, but the City does not and will not assume any obligation or responsibility for damage caused by or resulting from any such single connection afore mentioned.

Article 12.3.3.5. Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the City, to meet all requirements of Chapter 12.3.

Article 12.3.3.6. The size, slope, alignment, materials of construction of all sanitary sewers including building sewers and the methods to be used in excavating, placing of the pipe, jointing, testing and backfilling the trench, shall all conform to the requirements of the buildings and plumbing code or other applicable rules and regulations of the City. In the absence of suitable code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the American Society for Testing and Materials (ASTM) and Water Pollution Control Federation (WPCF) Manual of Practice Number Nine or Ten States Standards shall apply.

Article 12.3.3.7. Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer.

Article 12.3.3.8. No person(s) shall make a connection of sump pumps, roof downspouts, foundation, drains, areaway drains or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer unless such connection is approved by the City for purposes of disposal of polluted surface drainage.

Article 12.3.3.9. The connection of the building sewer into the public sewer shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the City or the procedures set forth in appropriate specifications of the American Society for Testing and Materials (ASTM) and the Water Pollution Control Federation (WPCF) Manual of Practice Number Nine or Ten States Standards. All such connections shall be made gas tight and watertight and verified by proper testing. Any deviation from the prescribed procedures and materials must be approved by the City before installation.

Article 12.3.3.10. The applicant for the building sewer permit shall notify the City when the building sewer is ready for inspection and connection to the public sewer. The connection and testing shall be made under the supervision of the City.

Article 12.3.3.11. All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the City.

Section 12.3.4. Use of Public Sewers.

Article 12.3.4.1. No person(s) shall discharge or cause to be discharged by sump pump or other means any unpolluted waters such as storm water, exterior foundation drains, areaway drains, down spouts, surface water, groundwater, roof runoff, subsurface drainage or cooling water to any sewer, or drain which in turn is connected directly or indirectly to a public sanitary sewer. Storm water runoff from limited areas, which storm water may be polluted at times, may be discharged to the sanitary sewer by permission of the City.

Article 12.3.4.2. Storm water other than that exempted under this Chapter, and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as storm sewers or to a natural outlet approved by the City and other regulatory agencies. Unpolluted industrial cooling water or process waters may be discharged, on approval of the City, to a storm sewer, or natural outlet.

Article 12.3.4.3. No person shall discharge or cause to be discharged any of the following described water or wastes to any public sewers:

1. Any gasoline, benzene, naphtha, fuel oil or other flammable or explosive liquid, solid, or gas.
2. Any waters containing toxic or poisonous solids, liquids or gases in sufficient quantity, either singly or by interaction with other wastes, to contaminate the sludge of any municipal system to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance or create any hazard in or have an adverse effect on the waters receiving any discharge from the treatment works.
3. Any waters or wastes having a pH lower than (5.5) or having any other corrosive property capable of causing damage or hazard to structures, equipment and personnel of the wastewater works.
4. Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers or other interference with the proper operation of the wastewater facilities such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, feathers, tar, plastics,

wood, unground garbage, whole blood, paunch manure, hair and fleshings, paper hand towels, entrails and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.

Article 12.3.4.4. The following described substances, materials, water or waste shall be limited in discharges to municipal systems to concentrations or quantities which will not harm either the sewers, wastewater treatment process or equipment, will not have an adverse effect on the receiving stream or will not otherwise endanger lives, limb, public property or constitute a nuisance.

The City may set limitations lower than the limitations established in the regulations below if in its opinion such more severe limitations are necessary to meet the above objectives. In forming its opinion as to the acceptability, the City will give consideration to such factors as the quantity of subject waste in relation to low flows and velocities in the sewers, materials of construction of the sewers, the wastewater treatment process employed, capacity of the wastewater treatment system, degree of treatability of the waste in the wastewater treatment system and other pertinent factors. The limitations or restrictions on materials or characteristics of waste or wastewater discharged to the sanitary sewer which shall not be violated without approval of the City are as follows:

1. Wastewater having a temperature higher than 150 Fahrenheit (65 Celsius).
2. Wastewater containing more than 25 milligrams per liter of petroleum oil, non-biodegradable cutting oils or product of mineral oil origin.
3. Wastewater from industrial plants containing floatable oils, fat or grease.
4. Any garbage that has not been properly shredded. Garbage grinders may be connected to sanitary sewers from homes, hotels, institutions, restaurants, hospitals, catering establishments or similar places where garbage originates from the preparation of food in kitchens for the purpose of consumption on the premises or when served by caterers.
5. Any waters or wastes containing iron, chromium, copper, zinc and similar objectionable or toxic substances to such degree that any such material received in the composite wastewater at the wastewater treatment works exceeds the limits established by the City for such materials.
6. Any waters or wastes containing odor-producing substances exceeding limits which may be established by the City.

7. Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established compliance with applicable state or federal regulations.
8. Quantities of flow, concentrations, or both which constitute a “slug” as defined herein.
9. Waters or wastes containing substances which are not amenable to treatment or reduction by wastewater treatment processes employed or are amenable to treatment only to such degree that the wastewater treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.
10. Any water or wastes which, by interaction with other water or wastes in the public sewer system, release obnoxious gases, form suspended solids which interfere with the collection system or create a condition deleterious to structures and treatment processes.

Article 12.3.4.5. If any waters or wastes are discharged or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in Article 4 and which in the judgment of the City, may have a deleterious effect upon the wastewater facilities, processes, equipment or receiving waters or which otherwise create a hazard to life or constitute a public nuisance, the City may:

1. Reject the wastes,
2. Require pretreatment to an acceptable condition for discharge to the public sewers, and/or
3. Require control over the quantities and rates of discharge.

When considering the above alternative the City shall give consideration to the economic impact of each alternative on the discharger. If the City permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the City.

Article 12.3.4.6. Grease, oil and sand interceptors shall be provided when, in the opinion of the City, they are necessary for the proper handling of liquid wastes containing floatable grease in excessive amounts or any flammable wastes, sand or other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall

be of a type and capacity approved by the City and shall be located as to be readily and easily accessible for cleaning and inspection. In the maintaining of these interceptors, the owner(s) shall be responsible for the proper removal and disposal by appropriate means of the captivated material and shall maintain records of the dates and means of disposal which are subject to review by the City. Any removal and hauling of the collected materials not performed by the owner must be performed by currently licensed waste disposal firms.

Article 12.3.4.7. Where pretreatment or flow-equalizing facilities are provided or required for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his expense.

Article 12.3.4.8. When required by the City, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable structure together with such necessary meter and other appurtenances in the building sewer to facilitate observation, sampling and measurement of the wastes. Such structures, when required, shall be accessibly and safely located and shall be constructed in accordance with plans approved by the City. The structure shall be installed by the owner at his expense and shall be maintained by him so as to be safe and accessible at all times.

Article 12.3.4.9. The City may require a user of sewer services to provide information needed to determine compliance with Chapter 12.3. These requirements may include:

1. Wastewaters discharge peak rate and volume over a specified time period.
2. Chemical analyses of wastewater.
3. Information on raw materials, processes and products affecting wastewater volume and quality.
4. Quantity and disposition of specific liquid, sludge, oil, solvent or other materials important to sewer use control.
5. A plot plan of sewers of the user's property showing sewer and pretreatment facility location.
6. Details of wastewater pretreatment facilities.
7. Details of systems to prevent and control the losses of materials through spills to the municipal sewer.

Article 12.3.4.10. All measurements, tests and analyses of the characteristics of waters and wastes to which reference is made in Article 12.3.4.9 shall be determined in accordance with the latest edition of “Standard Methods for the Examination of Water and Wastewater”, published by the American Public Health Association. Sampling methods, location, times, durations and frequencies are to be determined on an individual basis subject to approval by the City.

Article 12.3.4.11. No statement contained in this article shall be construed as preventing any special agreement or arrangement between the City and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the City for treatment.

Section 12.3.5. Damage of Wastewater Facilities.

No person shall maliciously, willfully or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is a part of the wastewater facilities. Any person violating this provision shall be subject to immediate arrest under relevant South Dakota criminal laws.

Section 12.3.6. Powers and Authority of Inspectors.

The City representative or authorized designee shall be permitted to enter all properties upon reasonable notice for the purposes of inspection, observation, measurement, sampling, and testing pertinent to utility service to the community system in accordance with the provisions of this Title.

Section 12.3.7. Determining Each Users Wastewater Service Charge.

All sanitary sewer rates shall be as established by the City Council from time to time by resolution. The rules shall be set so as to generate sufficient revenue to pay all costs for the operation and maintenance of the complete wastewater system. Additional fees may be assessed for non-residential users who have discharge containing certain pollutants or BOD (185 ppm) and TSS (165 ppm) strengths greater than the average residential user.

Chapter 12.4 Sewer Construction

Section 12.4.1. Purpose.

The purpose of Chapter 12.4 shall be to protect the health and well-being of the residents of Elkton and the environment and to insure that all sewers and sewer

appurtenances are constructed in a good workman-like manner and in accordance with good engineering practice and Ten States Standards.

Section 12.4.2. Types of Sewers.

Article 12.4.2.1. Community Sewers. In general and except for special reasons, the Elkton City Council will approve plans for new systems and extensions or replacement sewers. No “combined” sewers will be allowed.

Article 12.4.2.2. House Sewers. House sewers connected to public sewers should meet all requirements of the State Plumbing Code and the plumbing code of the local authority having jurisdiction as well as the following:

1. They shall be PVC of sufficient properties for the flow, depth and SD DENR requirements.
2. They shall have a nominal inside diameter of not less than four inches.
3. House sewer joints and connections to public sewers should be watertight and root proof.
4. They should be laid on a slope of 1/4 inch per foot and in no case less than 1/8 inch per foot.

Section 12.4.3. Design Period.

In general, sewer systems should be designed for the estimated ultimate tributary population, except in considering parts of the systems that can be readily increased in capacity. Similar consideration should be given to the maximum anticipated capacity of institutions, industrial parks, etc.

Section 12.4.4. Design Factors.

In determining the required capacities of sanitary sewers, the following factors should be considered:

- A. Maximum hourly sewage flow from residences.
- B. Additional maximum sewage or want flow from industrial plants and institutions.
- C. Groundwater infiltration.

- D. Capacity of pumps in sewage pumping stations.
- E. Follow Ten States Standards design recommendations.

Section 12.4.5. Design Basis.

Article 12.4.5.1. Per Capita Flow. New sewer systems shall be designed on the basis of an average daily per capita flow of sewage of not less than 125 gallons per day (125 GPCPD). This figure is assured to cover a small amount of infiltrations but an additional allowance should be made where a large amount of infiltration is present. Generally the sewers should be designed to carry, when running full, not less than the following daily per capita contributions of sewage exclusive of sewage or other waste flow from industrial plants and institutions.

- 1. Laterals and Sub-main Sewers: 400 gallons per capita per day.
- 2. Main, Trunk and Outfall Sewers: 250 gallons per capita per day.

Article 12.4.5.2. Alternate Method. When deviations from the foregoing per capita rates are demonstrated, a description of the procedure used for sewer design shall be included.

Section 12.4.6. Details of Sewer Design and Construction.

Article 12.4.6.1. Minimum Size. No community sewer shall be less than eight inches in diameter. Six inch diameter pipe may be used as laterals where there are relatively low flows, a small number of people to be served, future extensions not anticipated and the sewer incapable of handling the design flows. The justification for using the six-inch pipe shall be provided by the consultant and approved by the City prior to installation.

Article 12.4.6.2. Depth. Gravity sewers should be placed deep enough to serve all basements assuming a two percent grade on house sewers (absolute minimum of 1 percent). They should be well below the frost line at all points and lower than any water lines placed in the same street.

Article 12.4.6.3. Slope.

- 1. All sewers shall be so designed and constructed to give mean velocities, when flowing full, of not less than 2 feet per second, based on Manning's formula using an "n" value of 0.013. Use of other practical "n" values may be permitted by the department if deemed justifiable on the basis of

research or field data request. The following are the minimum slopes which should be provided; however, slopes greater than these are desirable:

Sewer Size	Minimum Slope in Post Per, 100
6 inch	0.60
8 inch	0.40
10 inch	0.28
12 inch	0.22
14 inch	0.17
15 inch	0.15
16 inch	0.14
18 inch	0.12
21 inch	0.10
24 inch	0.08
27 inch	0.067
30 inch	0.058
36 inch	0.046

2. Under special conditions such as, a sewer's limited area eliminates a sewage lift station and a minimum velocity of 1.8 feet per second can be maintained and if detailed justifiable reasons are given, slopes slightly less than those required for the 2.0 feet per second velocity when flowing full, may be permitted. Such decreased slopes will only be considered where the depth of flow will be 0.3 of the diameter or greater for design average flow. Whenever such decreased slopes are selected. The design engineer must furnish with his report his computations of the depths of flow in such pipes at maximum, average and daily or hourly rates of flow. It must be recognized that decreased slopes may cause additional sewer maintenance expense. Sewer size shall be based on design flows and not the grade that is available.
3. Sewers shall be laid straight with uniform slope between manholes.

Article 12.4.6.4. Alignment. Sewers twenty-four inches or less shall be laid with straight alignment between manholes.

Article 12.4.6.5. Increasing Size. When a smaller sewer joins a larger one, the invert of the larger sewer should be lowered sufficiently to maintain the same energy gradient. An approximate method for securing these results is to place the 0.8 depth point of both sewers at the same elevation.

Article 12.4.6.6. High Velocity Protection. Where velocities greater than ten feet per second are attained, sewers shall be anchored securely with concrete anchors or equal to protect against displacement by erosion and shock.

Article 12.4.6.7. Materials. Any generally accepted PVC for sewers will be given consideration but the material selected should be adapted to local conditions such as character of industrial wastes, possibility of septicity, soil characteristics, exceptionally heavy external loading as abrasion and similar problems.

Installation specifications shall contain appropriate requirements based on the criteria standards and requirements established by industry in its technical publications.

Requirements shall be set forth in the specifications for the pipe and methods of bedding and backfilling thereof so as not to damage the pipe or its joints, impede cleaning operations and future tapping, nor create excessive side fill pressures or ovulation of the pipe nor seriously impair flow capacity.

All sewers shall be designed to prevent damage from superimposed loads. Proper allowance for loads on the sewer shall be made because of the width and depth of trench. When standard strength sewer pipe is not sufficient, the additional strength needed may be obtained by using extra strength pipe or by special construction.

Article 12.4.6.8. Joints and Infiltration. The method of making joints and materials used should be included in the specifications. Sewer joints shall be designed to minimize infiltration and to prevent the entrance of roots. Leakage test shall be specified.

This may include appropriate water or low pressure air testing. The leakage outward or inward (exfiltration or infiltration) shall not exceed 200 gallons per inch of pipe diameter per mile per day for any section of the system. The use of a television camera or other visual methods for inspection prior to placing in sewer is recommended.

Article 12.4.6.9. Calculations. Computations should be presented, in a tabular form, to indicate depths and velocities at the minimum, average and maximum daily waste flow for the different sizes of sewers proposed.

Section 12.4.7. Sewer Extension.

In general sewer extensions shall be allowed with all costs thereof borne by the developer or builder and only if the receiving sewage treatment facility is either:

- A. Capable of adequately processing the added hydraulic and organic load.
- B. Provision of adequate treatment facilities on a time schedule acceptable to the City Engineering Department is accrued.

Section 12.4.8. Protection of Water Supplies.

Article 12.4.8.1. Water Supply Interconnections. There shall be no physical connection between a public or private potable water supply system and a sewer or appurtenance thereto, which would permit the passage of any sewage or polluted water into the potable supply. Water main bleeders into sanitary sewers are prohibited.

Article 12.4.8.2. Relation to Water Works Structures. While no general statement can be made to cover all conditions, sewers shall be at least one hundred feet from water supply wells, fifty feet from underground water reservoirs and thirty feet from a well if the sewer is constructed as mentioned in Article 12.4.8.3.

Article 12.4.8.3. Relation to Water Main.

1. Horizontal Separation. Whenever possible, sewers should be laid at least ten feet horizontally from any existing or proposed water main. Should local conditions prevent a lateral separation of ten feet, a sewer may be laid closer than ten feet to a water main if:
 - a. It is laid in a separate trench or
 - b. It is laid in the saw trench with the water main located at one side on a beach of undisturbed earth.
 - c. In either case the elevation of the crown of the sewer is at least eighteen inches below the invert of the water main.
2. Vertical Separation. Whenever sewers must cross under water mains, the sewer shall be laid at such an elevation that the top of the sewer is at least eighteen inches below the bottom of the water main. When the elevation of the sewer cannot be buried to meet the above requirement, the water main shall be relocated to provide this separation or reconstructed with

slip-on or mechanical joint cast-iron pipe, asbestos cement pressure pipe or pre-stressed concrete cylinder pipe for a distance of ten feet on each side of the sewer. One full length of water main should be centered over the sewer so that both joints will be as far from the sewer as possible.

3. Special Conditions. When it is impossible to obtain proper horizontal and vertical separation as stipulated above, the water main should be constructed of slip-on or mechanical joint cast-iron pipe, asbestos cement pressure pipe or pre-stressed concrete cylinder pipe and the sewer constructed of mechanical joint cast-iron pipe, schedule 40 ABS or PVC or equal and both services should be pressure tested to assure watertightness.
4. House Sewers. The requirements in Article 12.4.8.3, 1a to 3 shall apply to building sewers and water service lines to buildings except that the vertical separation mentioned in Article 12.4.8.3(2) and Article 12.4.8.3(3) may be reduced to twelve inches.

Section 12.4.9. Deviations from Design Criteria.

The City may consider and allow deviations where adequate documentation is provided to prove the need for such deviation.

