

REVISED ORDINANCES  
OF THE  
CITY OF WHITE,  
SOUTH DAKOTA

REVISED 2013

ORDINANCE NO. 136

Revised under the direction  
Of the City Council of the City of White, South Dakota

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Ordinance No. 136

An Ordinance which revises the Ordinances of the City of White, South Dakota.

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

AN ORDINANCE WHICH REVISES THE ORDINANCES OF THE CITY OF WHITE, SOUTH DAKOTA

This Ordinance, an Ordinance which revises the Ordinances of the City of White, South Dakota, is a revision of the Ordinances of the City heretofore adopted, except special ordinances, appropriation ordinances, levying ordinances for the issuance of bonds, and other special ordinances of like character.

Such ordinances not included in this revision and still having force and effect may be found in the original book of ordinances in the office of the Municipal Finance Officer.

Reference has been made for each Section wherever applicable to appropriate state statutes from South Dakota Codified Laws.

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

City. The words "the City" or "City" shall mean the City of White, South Dakota.

City Council. The words "Council" or "City Council" shall mean the City Council of the City of White, South Dakota, constituting the governing body of the City.

Gender. A word imparting the masculine gender shall extend and be implied to females and to firms, partnerships, associations and corporations, as well as to males.

# TITLE I – ADMINISTRATIVE CODE

Chapter 1.01 – Municipal Employees

Chapter 1.02 – Mayor and City Council

Chapter 1.03 – Fire Department

Chapter 1.04 – Finance Regulations

## CHAPTER 1.01 – MUNICIPAL EMPLOYEES

- 1.0101 At the regular meeting of each May, the City Council may by resolution enter into a contract pursuant to SDCL 9-14 with an attorney to provide legal services to the City as the City Attorney. (SDCL 9-14-3)
- 1.102 Salaries. The salaries of all officers and employees of the City shall be approved by the City Council by special ordinance or resolution and shall be paid monthly unless otherwise provided. The Finance Officer shall be bonded in such sum to be approved by the City in accordance with state law, conditioned for the faithful performance of the duties of such office. (SDCL 9-14-1, SDCL 9-14-28)

## CHAPTER 1.02 – MAYOR AND CITY COUNCIL

- 1.0201 Composition. The City Council shall consist of the Mayor, elected at large and six councilmen, two to be elected from each ward. The Mayor shall be elected to serve a 2-year term and each City Council member shall be elected for a term of 2 years. (SDCL 9-8-4)
- 1.0202 Regular Meetings. 1996 version repealed and replaced with Ordinance No. 120, May 5, 2011.
- a. Regular Meetings. On the first Monday of each month at 7:00 p.m. the City Council shall hold their regular meetings and meet at the City Hall or other designated place to consider, take under advisement, and act upon such business as may come before it. (SDCL 9-8-8) If the regular meeting date falls on a legal holiday, such meeting date shall be held on the Tuesday directly succeeding the holiday. Any other regular meeting date changes may be changed by a majority vote of the Council at the regular meeting previous to such change.
- 1.0203 Supervision of Departments. The Mayor, with the approval of the Council, at the first meeting in May of each year, shall appoint one or more members of the Council to act in a supervisory capacity in the Departments of Street; Electricity; Hall, Park & Complex; Audit & Liquor; Water, Sewer & Sanitation; Risk Management & Other Property; and any other departments of the City, and such Councilmen, so appointed, shall have supervision over the Department to which they are named as supervisors, and shall from time to time and as requested by the Council, report as to the condition and matters in said department.
- 1.0204 Compensation – Mayor and City Council. The Mayor and Councilmen are to be allowed compensation as set by resolution of the City Council.

Compensation of the Mayor and Councilmen as herein set forth shall be paid at such times as may be decided upon by the Council.

#### CHAPTER 1.03 – FIRE DEPARTMENT

- 1.0301 Establishment. There shall be established for the City a Volunteer Fire Department which shall consist of a Chief, Assistant Chief, Secretary-Treasurer, and such other members as may be from time to time determined by the Fire Department (SDCL 9-33-13)
- 1.0302 Constitution and Bylaws. The Fire Department may adopt such constitution and bylaws and rules for its regulation and government, subordinate to the ordinances of the City, as it may deem best calculated to accomplish the objective of its organization.
- 1.303 Members. 1993 version repealed and replaced with Ordinance No. 88, July 10, 2003.
- a. Members. No person shall be elected a member of either of the Fire Companies established in the next preceding section who shall not be, at the time of his election to the said Fire Company, in good health, able bodied, sober, of good moral character, a qualified resident of the City of White or within five miles of the City limits of White. All members may retain his/her active membership as long as such member is in good health, able bodied, sober, of good moral character, a qualified resident of the City of White or within five miles of the City limits of White. Also, all firemen shall meet the qualifications of and abide by the By-Laws of said Fire Company.
- 1.0304 Terms of Office. The Chief, Assistant Chief, and Secretary-Treasurer shall be the head of the Fire Department and shall hold office for a term of one year and until their successors shall be appointed and qualified.
- 1.0305 Appointment of Officers. The officers shall be nominated by the active members of the Fire Department and elected by a majority of members present at the annual meeting of the Fire Department on the first Monday in January of each year; the names of such officers shall be reported to the city Council and confirmed by them.
- 1.0306 Meetings. The Fire Department shall meet at least once a month upon call of the Fire Chief and any member not responding to such call unless absent from the City, or upon other good cause shown to the satisfaction of the Chief of the Fire Department may be dismissed from said Department.
- 1.0307 Appropriation. The City Council shall in its annual appropriation, appropriate such amounts as they may deem necessary for the purpose of maintaining such Fire Department including equipment, ladders, trucks, hoses and other apparatus, and providing such necessary articles of clothing as they may deem necessary for the members of said Department (SDCL 9-33-12)
- 1.0308 Equipment. The equipment, trucks, implements and all apparatus shall be kept at such place as may be provided and directed by the City Council and shall at all times be ready for immediate use. (SDCL 9-33-11)

- 1.0309 Duties of Chief. The Fire Chief shall have sole charge and control over all the members of the Fire Department at fires. The Chief shall, at all times, have the general direction and management of all hoses, chemicals, engines, and other apparatus belonging to the Department.
- 1.0310 Fire Zone. The Chief, or acting Chief in command, may prescribe limits around any fire, and it shall be unlawful for any person, except those who reside therein, or fireman, law enforcement officers and those given admission by any officer of the Fire Department, to enter therein.
- 1.0311 Investigation of Cause of Fire. The Chief shall inquire into and investigate the cause of each fire that occurs in the City as soon as possible, and make a record of such proceedings and file the same or a copy thereof with the Secretary of the Fire Department.
- 1.0312 Financial Estimate. The Chief shall prepare in detail and submit to the Finance Officer on or before the first day of August in each year, an estimate of the entire cost and expense of providing and maintaining the Fire Department during the current fiscal year, and shall present such estimate to the City Council with an annual budget estimate for the following year.
- 1.0313 Command in Absence of Chief. If the Chief is absent from any fire call, the Assistant Chief or the Secretary-Treasurer shall take charge of the organization and shall have and exercise all the powers of Chief.
- 1.0314 Vacancy. In case of a vacancy occurring in the office of Chief, the Assistant Chief shall discharge the duties of the Chief until such vacancy is filled.

#### CHAPTER 1.04 – FINANCIAL REGULATIONS

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

## TITLE 2 – BOUNDARIES

Chapter 2.01 – Boundaries

Chapter 2.02 – Wards and Voting Precincts

### CHAPTER 2.01 – BOUNDARIES

2.0101 Boundaries. The corporate limits of the City shall be declared to be such as have been legally established and amended by law and ordinances of the City as shown on the official map on file in the office of the Finance Officer. Such map shall be incorporated in this ordinance by reference and adopted as the official map showing the boundaries and limits of the City. (SDCL 9-3-2, SDCL 9-4-11)

### CHAPTER 2.02 – WARDS AND VOTING PRECINCTS

2.0201 Wards and Voting Precincts. 1993 version repealed and replaced with Ordinance No. 121, November 3, 2011.

- a. Wards and Voting Precincts. The City shall be divided into three (3) wards, which shall be combined and consolidated into one election precinct, and shall be designated respectively as Wards One, Two and Three. The wards shall be described by setting for the certain street or avenue designations or other landmarks that divide and border the wards. Any reference to street or avenue below shall mean an imaginary line running down the approximate middle of each street or avenue. The wards of the City of White are as set forth below and the map thereof. Any discrepancies shall be resolved by reference to the map rather than the physical descriptions set forth herein. A map illustrating the boundaries and location of each ward is kept on file with the Finance Officer at City Hall.

First Ward will encompass that portion of the City lying within the following described boundaries:

All that portion of the City lying east of the center line of Hooker Avenue between the center line of East Sixth Street extending east to the center line of Patricks Avenue continuing north two hundred fifty (250) feet then extending east to the east city limits; and south of the center line of East Second Street extending east to the east city limits

Second Ward will encompass that portion of the City lying within the following described boundaries:

All that portion of the City lying north of the center line of West Main Street from the west City limits to North Hooker Avenue; and all of Block 13 of the Second Addition to the City of White; and all that portion of the City lying north of the centerline of Second Street East and extending east to the City limits.

Third Ward will encompass that portion of the City lying within the following described boundaries:

All that portion of the City lying south of the center line of West Main Street from the west City limits to the center line of South Lincoln Avenue, then extending south one block to the center line of West Fourth Street, then east one block to the center line of South Hooker Street, then continuing south along the center line of Hooker

Avenue to the City limits; and all that portion of the City lying south of the center line of West Sixth Street extending east to the center line of Patricks Avenue continuing north two hundred fifty (250) feet then extending east to the City limits.

# TITLE 3 – HEALTH AND SANITATION

Chapter 3.01 – Nuisances

Chapter 3.02 – Collection of Garbage

Chapter 3.03 – City Dump

## CHAPTER 3.01 - NUISANCES

### *ORDINANCE NO. 114*

AN ORDINANCE AMENDING WHITE CITY ORDINANCE NO. 57, TITLE 3, CHAPTER 3.01 – NUISANCES

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WHITE, SOUTH DAKOTA, to-wit:

- 3.0101 Prohibited
- 3.0102 Definitions
- 3.0103 General
- 3.0104 Nuisance Defined
  - 3.0104.01 General
  - 3.0104.02 Fire
  - 3.0104.03 Mowing, Landscaping and Weeds
    - 3.0104.03.01 Exemptions
    - 3.0104.03.02 Notices
    - 3.0104.03.03 Penalty
  - 3.0104.04 Abandoned Property and Vehicles
    - 3.0104.04.01 Exemptions
    - 3.0104.04.02 Notices
    - 3.0104.04.03 Abatement, Notice, Penalty
- 3.0105 Public Nuisance Penalty
- 3.0106 Protection of Authorized Operations
- 3.0107 Enforcement Procedures
- 3.0108 Transfer of Ownership
- 3.0109 Means of Appeal
- 3.0110 Separability
  - 3.0104.05 Property Standards and Maintenance Code
    - 3.0104.05.01 General
    - 3.0104.05.02 Title
    - 3.0104.05.03 Scope
    - 3.0104.05.04 Intent
    - 3.0104.05.05 Applicability
    - 3.0104.05.06 Department of Property Maintenance Inspection
    - 3.0104.05.07 Violations
    - 3.0104.05.08 Emergency Measures

- 3.0104.05.09 Means of Appeal
- 3.0104.05.10 Failure to Comply or Appeal
- 3.0104.05.11 Abatement Cost Recovery

3.0111 Repeal

### **3.0101 Prohibited**

No person shall create, commit, maintain or permit to be created, committed or maintained any nuisance as defined herein, within the City.

### **3.0102 Definitions**

**Abandoned motor vehicle:** Any motor vehicle, which is left unattended on any public street, alley, public place or parking lot within the city for a longer period than twenty-four hours without notifying a City official and making arrangements for the parking of such motor vehicle

**City:** The corporate limits of the City of White, South Dakota

**City Council:** Any elected officials serving on the governing board of the City of White, South Dakota

**Enforcement Officer:** Enforcement officer means any designated representative of City of White, including, without limitation, City Council, law enforcement officers or City Attorney.

**Junked motor vehicle:** Any motor vehicle which does not have lawfully affixed thereto both an unexpired license plate or plates or the condition of which is wrecked, dismantled, partially dismantled, or in need of repairs exceeding or equaling 75% of fair market value of the vehicle, or discarded

**Motor vehicle:** Any vehicle which is self-propelled and designed to travel along the ground and shall include, but not be limited to, automobiles, buses, motorbikes, motorcycles, motor scooters, trucks, tractors, go carts, golf carts, campers, and trailers

**Person:** A person means any one or more of the following:

1. An owner, occupant or agent,
2. An assignee or collector of rents,
3. A contract for deed vendee,
4. A mortgagor in possession,
5. A receiver, personal representative, or trustee,
6. A lessee,
7. A mortgagee in possession,

8. Other person, firm, partnership, association, corporation, company or organization of any kind exercising apparent control over a property.

**Private Property:** Any real property within the City which is privately owned and which is not public property as defined in this section.

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

**Public Nuisance:** Unlawfully doing an act, or omitting to perform a duty, which act or omission:

1. Annoys, injures, or endangers the comfort, repose, health, or safety of others; or
2. Offends decency; or
3. Is offensive to the senses; or
4. In any way renders other persons insecure in life, or in the use of property; or
5. Renders the ground, the water, the air, or food a hazard or injurious to human health; or
6. Essentially interferes with the comfortable enjoyment of life or property or tends to depreciate the value of the property of others; or
7. Is declared by State Law to be considered a nuisance;
8. The specific acts, conditions, and things listed in Chapter 3.01 are hereby declared to constitute public nuisances. Such additional enumeration is not deemed to be exclusive.

**Stockpiling:** In this context, it is a accumulation of a substance which causes a noxious odor, provides for infestation of flies, mosquitoes, rodents or other pests or is present in such concentrations that potential exists to cause contamination of water or soil by leaching, lateral transport, absorption, or other movement.

**Vegetation.** All grasses, plants, shrubs, trees, and weeds (including, but not limited to, Canada thistle, sunflowers, ragweed, cocklebur, burdock, black mustard, sweet clover, and bull thistle)

### **3.0103 General**

No person or persons, owner, occupant or person in charge of any house, building, lot or premises, within the corporate limits of the City of White shall create, maintain or commit, or permit to be created, maintained or committed, any public nuisance as defined in Section 3.0102 of this ordinance, or as enumerated in Section 3.0104 of this ordinance.

### **3.0104 Nuisance Defined**

**3.0104.01 General.** The following are hereby declared to constitute public nuisances:

1. Breeding places for flies, rodents and/or pests: The unhealthful accumulation or stockpiling of manure, garbage, tires, debris or discarded items.
2. Combustible materials: Any dangerous accumulation upon any property of combustible refuse matter such as papers, sweepings, rags, grass, dead trees, tree branches, wood shavings, wood, magazines, cardboard, etc. Properly maintained compost bins for these materials are acceptable.
3. Garbage and refuse:
  - a. Household waste, including, but not limited to, items such as paper, rags, trash, garbage, discarded clothing, shoes, curtains, linen, and other apparel, tin cans, aluminum cans, plastic containers, glass containers, cleaning utensils, cooking utensils, and discarded household fixtures, when such items are stored, collected, piled or kept on private or public property, and in view of adjacent properties or public right-of-ways or any other waste material which constitutes or tends to create a danger to public health, safety or welfare. (SDCL 9-32-10, 34A-7-9)
  - b. Trash, garbage or refuse cans, bins, boxes, bags or other such containers permanently stored in front yards visible from public streets or avenues.
  - c. Accumulations of lumber, boxes, barrels, bricks, stones, construction debris or any other similar material unless it is stored elevated not less than four (4) inches above the ground on an open type rack to prevent the harborage of rodents.
  - d. Junk, trash, tires, debris or salvage materials, abandoned, discarded or unused furniture, stoves, sinks, toilets, cabinets or other fixtures or equipment which is visible from a public street, avenue, alley or adjoining property. Commercial and Industrial properties may store essential inventory, equipment and supplies outdoors, except that items of property retained for salvage, repair, or reclamation shall be kept from view by utilizing fences or other enclosures.
  - e. Abandoned, wrecked, dismantled or inoperative trailers, campers, boats and other motor vehicles as defined by Section 3.0102 of this ordinance and as enumerated in Section 3.0104.04 of this ordinance.
4. The accumulation of dead animals, animal matter or waste of any kind, dead, diseased or decayed trees. Dead animals cannot be left to remain on any public street, alley, public ground or private lot within the City longer than twenty-four (24) hours after its death. (SDCL 9-29-13)
5. Animals. All domestic animals running at large.
6. All unnecessary or unauthorized noises and annoying vibrations, including animal noises.
7. Obstructing Road, Sidewalk, and Alley Right of Ways: Allowing vehicles, garbage, waste, refuse, or any discarded items or debris to accumulate within the road right of way, so that said items obscure the view of traffic at any intersection or block the passage of emergency vehicles on any public roadway, sidewalk, or alley. It shall be the

duty of the owner or occupant of any lot in the city abutting on any alley or sidewalk, to keep such sidewalk clean and in good repair and also to keep such alley to the center thereof, free from all filthy, unwholesome substance or any matter of any sort.

8. Throwing or letting fall on or permitting to remain on any street, alley, or public ground any manure, garbage, rubbish, filth, fuel or wood while engaged in handling or removing any such substance (SDCL 9-32-10)
9. Any excavation, trench, open basement, or any other area in which stagnant water is permitted to collect or which may jeopardize the life, limb or safety of the general public. (SDCL 9-29-13)
10. Obstructing drain. It shall be unlawful to fill or obstruct or impede the free passage of water therein any ditch, drain or other passage for water in any street, alley, or creek in the city.
11. Keeping or maintaining any building or enclosure where livestock is authorized to be kept, unless the same be at all times kept in a clean and sanitary condition. No person shall place, keep or maintain any live hogs within the City (SDCL 9-29-13)

**3.0104.02 Fire.** The following are hereby declared to constitute public nuisances:

1. Fire hazard: Any structure, material, condition or practice constituting a fire hazard; or which will impair the extinguishing of any fire. Examples may include but are not limited to hay or straw bales, dilapidated structures, stockpiles of combustible materials or other items as determined by the Enforcement Officer to constitute a fire hazard.
2. Open burning: Disposing of refuse and/or other combustible material by open burning, or causing, allowing or permitting the conducting of a salvage operation by open burning in the City except as otherwise permitted by the City Council. The following types of open burning shall be permissible for a specific purpose when conducted in conformity with the subsections set forth below:
  - a) Fires purposely set for instruction and training of public and industrial firefighting personnel when authorized by the Fire Chief of the City Volunteer Fire Department.
  - b) Fires set for the elimination of a fire hazard which cannot be abated by any other means when authorized by the Fire Chief of the City Volunteer Fire Department.
  - c) Fires purposely set by city maintenance personnel for the purposes as authorized by the Fire Chief of the City Volunteer Fire Department.

- d) Campfires and other fires used solely for recreational purposes, for ceremonial occasions, or for outdoor preparation of foods. (SDCL 9-33-1)

**3.0104.03 Mowing, Landscaping and Weeds.** Ordinance No. 114 repealed and replaced with Ordinance No. 132, September 13, 2013. The following are hereby declared to constitute public nuisances:

1. Any vegetation and/or landscaping, visible from public or private property, that is substantially dead, damaged or characterized by uncontrolled growth, uncultivated plants, weeds, tall grass, uncultivated shrubs or growth (whether growing or otherwise) higher than six (6) inches; or any dead trees, bushes, shrubs or portions thereof. (SDCL 9-32-12) Cultivated flowers and vegetable gardens are excluded.
2. Any noxious weeds.

**3.0104.03.01 Exemptions**

Mowing, landscaping and weed notices and exemptions from mowing requirements. When notices for violations of any overgrown vegetation, etc (Section 3.0104.03) have been served as set forth in Section 3.0107, the owner or persons responsible shall be given 10 days from date of notice to comply or the city will abate and charge the homeowner. An owner or persons responsible for property, consisting of a contiguous area of one acre or more within the City of White, may apply to the City Council for an exemption from the mowing requirements of Section 3.0104.03, based on the size, location and use of the property. If the City Council finds that mowing should not be required for such a parcel, the City Council may issue an exemption to the owner or persons responsible for the property subject to conditions imposed by the City Council. Any exemption granted pursuant to this section may be revoked by the City Council at any time without notice.

**3.0104.03.02 Notices**

Notices shall be given in accordance with Section 3.0107 of this Ordinance.

**3.0104.03.03 Penalty**

1. When notices for violation of any overgrown vegetation, etc. (Section 3.0104.03) have been served as set forth in Section 3.0107, the owner or persons responsible shall be given five (5) days from date of notice to comply or the City will abate and charge the landowner. The cost to the landowner shall be seventy-five dollars (\$75.00) for the first hour of cutting and twenty-five dollars (\$25.00) for each additional hour of cutting, with a seventy-five-dollar (\$75.00) minimum charge.
2. The City shall be entitled to recover the cost of the enforcement of this ordinance. Cost incurred by City crews will be at their hourly rate and standard equipment machine rates per hour. Cost incurred from outside source will be charged from invoice. Abatement costs are to be paid from City funds, and property owner is billed. If not paid

within thirty (30) days, special assessment is made against the real property, or a civil action is brought against the property owner, pursuant to SDCL 21-10-6.

**3.0104.04 Abandoned Property and Vehicles.** The following are hereby declared to constitute public nuisances:

1. Abandoned property: Any deteriorated, wrecked, dismantled or partially dismantled, inoperable and/or abandoned property in unusable condition having no value other than nominal scrap or junk value, which has been left unprotected outside of a permanent structure from the elements. Without being so restricted, this shall include deteriorated, wrecked, dismantled, or partially dismantled, inoperable, abandoned and/or unlicensed motor vehicles, abandoned mobile homes, trailers, boats, machinery, refrigerators, washing machines and other appliances, plumbing fixtures, furniture, building materials and any other similar articles in such condition. This shall not include any item, which may be reasonably recognized as an antique by dealers in those types of items.
2. Storing, parking or leaving dismantled or other such motor vehicles on public property prohibited. No person shall park, store, leave or permit the parking, storing or leaving of any abandoned, wrecked, dismantled, inoperative, junked or partially dismantled motor vehicle of any kind, whether attended or not, upon any public property with in the city.

**3.0104.04.01 Exemptions**

Storing, parking or leaving dismantled or other such motor vehicles declared nuisance--Exceptions. The presence of an abandoned, wrecked, dismantled, inoperative, junked or partially dismantled motor vehicle or parts thereof on private or public property is a public nuisance which may be abated as such in accordance with the provisions of this chapter. This section shall not apply to any motor vehicle enclosed within a building on private property or to any motor vehicle held in connection with a business enterprise, lawfully licensed by the city and properly operated in the appropriate business zone, pursuant to the zoning laws of the city, or to any motor vehicle in operable condition specifically adopted or designed for operation on drag strips or raceways and covered with an appropriate cover to screen it from view that remains on private property, or any motor vehicle retained on private property by the owner for antique collection purposes and covered with an appropriate cover to screen it from view, or to any motor vehicle in an appropriate storage place or depository maintained in a lawful place and manner by the city or authorized by the city.

**3.0104.04.02 Notices**

Notices shall be given in accordance with Section 3.0107 of this Ordinance.

**3.0104.04.03 Abatement, Notice, Penalty**

1. Removal. Whenever any City official finds an abandoned motor vehicle or an unattended motor vehicle which is in a wrecked, dismantled, inoperative, junked or partially dismantled condition on public property within the city, he is

authorized to provide for the removal of such motor vehicle to a garage or place of safety. A motor vehicle which causes an obstruction and hazard to traffic may be removed at any time under the direction of the City official.

2. Notice to owner. It shall be the duty of the City to notify, as set forth in Section 3.0107, the registered owner, if known, and if encumbered, the lien holder, of the removal and storage of any motor vehicle under the provisions of this chapter and where such motor vehicle has been stored. If the owner is unknown, a notice of removal and storage shall be given by one publication in a newspaper of general circulation in the county.
3. Sale of unclaimed motor vehicle. If after three months from the date of mailing or publishing the notice of removal and storage provided for by this chapter, the motor vehicle shall remain unclaimed, such motor vehicle may be sold by the City official at public auction upon notice to be published in a newspaper of general circulation in the county not less than once a week for two consecutive weeks.
4. Notice of sale. The notice of sale provided for by this chapter shall contain a description of the removed and stored motor vehicle, including the year, make, model, serial number, color, license number, if any; a statement that the motor vehicle was found abandoned, the date thereof; and the place, date and time at which such motor vehicle shall be sold, which date shall not be sooner than one week following the date of the last publication of notice.
5. Lien for costs. The City official shall have a possessory lien upon any motor vehicle removed under the provisions of this chapter for the costs in taking custody of and storing such motor vehicle.
6. Disposition of funds received on sale of vehicle. After the costs of removing, storing, advertising and selling a motor vehicle pursuant to this chapter are deducted, the balance of the sale price shall be held for the owner of such motor vehicle for a period of three months from the date of sale. If such funds are not claimed at the expiration of such time, such proceeds shall be deposited to the general fund of the city.
7. Title may vest in city--When. If, after three months from the date of mailing or publishing the notice of removal and storage provided for by this chapter, the motor vehicle shall remain unclaimed, the title to such motor vehicle shall be vested in the city and such motor vehicle may be disposed of in any manner as may be provided by the city council. The proceeds of any such disposal shall first be applied to the costs incurred in the enforcement of this chapter with the balance to be deposited to the general fund of the city.
8. Duty of private property owners. No person owning, in charge of or in control of any real property within the city, whether as owner, tenant, occupant, lessee or otherwise, shall allow any abandoned, wrecked, dismantled, inoperative, junked or partially dismantled motor vehicle of any kind to remain on such property longer than fourteen days.

9. Notice to remove. Whenever it comes to the attention of the City official that any person has an abandoned, wrecked, dismantled, inoperative, junked or partially dismantled motor vehicle on his property, a notice in writing shall be served upon such person requesting the removal of such motor vehicle in the time specified in this chapter.
10. Responsibility for removal. Upon proper notice, the owner of the abandoned, wrecked, dismantled, inoperative, junked or partially dismantled motor vehicle and the owner or occupant of the private property on which the same is located, shall be jointly and severally liable for its removal.
11. Notice procedure. The City official shall give notice of removal to the owner or occupant of the private property where it is located. It shall constitute sufficient notice when a copy of same is sent by certified mail, return receipt requested to the owner or occupant of the private property at his last known address.
12. Content of notice. The notice shall contain the request for removal within fourteen days after the mailing of such notice, and the notice shall advise that failure to comply with the notice to remove shall be a violation of this chapter.
13. Racing vehicles or antique vehicles. No owner or occupant of private property shall have an uncovered motor vehicle in operable condition specifically adopted or designed for operation on drag strips or raceways or an uncovered motor vehicle retained on private property for antique collection purposes, all as defined by Section 10.52.020.
14. Penalty. Any person violating any of the provisions of this chapter is guilty of a misdemeanor, and upon conviction shall be subject to punishment as set forth in Section 3.0105. Each day violations are committed or permitted to continue shall constitute a separate offense and shall be punishable as allowed under law.

### **3.0105 Public Nuisance Penalty.**

Any person who maintains, commits, or fails to abate a public nuisance as required under the provisions of this ordinance shall be subject to a maximum penalty of thirty (30) days in jail or a two hundred dollar (\$200.00) fine, or both. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues, unless otherwise specified in other subsections of this ordinance.

In addition, the City may also use the remedies of civil action and abatement as set forth in SDCL 21-10-5 through SDCL 21-10-9.

### **3.0106 Protection of Authorized Operations.**

Notwithstanding any provision of this Ordinance to the contrary, it is expressly declared that a person shall not be charged with a violation of this Ordinance and no relief can be sought against the person under the provisions of this Ordinance when the conduct or activity which is alleged to violate this Ordinance is conduct or activity which is

authorized by permit, license, authorization, or approval issued by the United states of America, the State of South Dakota, Brookings County, or the City of Elkton, and any agency or department of those governmental entities.

### **3.0107 Enforcement Procedures**

1. Notice. Whenever the Enforcement Officer determines that there has been a violation of this ordinance or has grounds to believe that a violation has occurred, notice shall be given to the owner or the person(s) responsible as prescribed below.

2. Form. Such notice shall:

- a. Be in writing.
- b. Include a legal description of the real estate sufficient for identification as well as the street address, if available.
- c. Include a statement of the violation or violations and why the notice is being issued.
- d. Include a statement of response to the finance officer within 10 days of issuance of letter. Include a correction order allowing a reasonable time to make the repairs and improvements required to bring the structure or premises into compliance with the provisions of this code; and
- e. Inform the property owner of the right to appeal.

3. Method of service. Such notice shall be deemed to be properly served if a copy thereof is:

- a. Delivered personally; or
- b. Sent by certified or first-class mail addressed to the last known address; or
- c. If the notice is returned showing that the letter was not delivered, a copy thereof shall be posted in a conspicuous place in, on or about the structure affected by the notice.

4. Penalties. Penalties for noncompliance with orders and notices shall be as set forth in this Chapter.

### **3.0108 Transfer of Ownership**

It shall be unlawful for the owner of any structure or premises who has received a compliance order or upon whom a notice of violation has been served to sell, transfer, mortgage, leave or otherwise dispose of until the provisions of the compliance order or notice violation have been complied with, or until such owner shall first furnish the grantee, transferee, mortgagee or lessee a true copy of any compliance order of violation issued by the code official(s) and shall furnish to the code official(s) a signed and notarized statement from them fully accepting responsibility without condition for making the correction required by the notice.

### **3.0109 Means of Appeal**

1. **Application for appeal**. Any person directly affected by a decision of the Enforcement Officer or a notice or order issued under this ordinance shall have the right to appeal to the City Council, provided a written application for

appeal is filed within twenty (20) days after the decision, notice or order was served. An application for appeal shall be based on a claim that the true intent of this ordinance or the rules adopted thereunder have been incorrectly interpreted, the provisions of the ordinance do not fully apply, the strict enforcement of this ordinance would create great and undue hardship, or the requirements of this ordinance are adequately satisfied by other means.

2. **Notice of meeting.** The City Council shall consider the appeal at its next regularly scheduled meeting being at least 14 days from the day of filing of the appeal. A notice of the time and place of the hearing shall be sent by certified mail to the applicant at least seven (7) days prior to the meeting.
3. **Open hearing.** All appeal hearings under this section shall be open to the public as required by law. The applicant, the applicant's representative, the Enforcement Officer and any person whose interests are affected shall be given the opportunity to be heard.
4. **Board Decision.** The City Council shall modify or reverse the decision of the Enforcement Officer only by a concurring vote of a majority of the total number of elected members.
5. **Public Nuisance.** If the decision of the Enforcement Officer is upheld, the City Council shall declare the property to constitute a public nuisance and the Board shall direct the Enforcement Officer to institute the appropriate proceedings at law or equity to restrain, correct, or abate the same according to law.
6. **Stays of enforcement.** Appeals of notice and orders (other than Imminent Danger notices) shall stay the enforcement of the notice and the order until the appeal is heard by the City Council.

### **3.0110 Separability.**

If any provision of this Ordinance shall be held invalid, it shall not effect any other provisions of this Ordinance that can be given effect without the invalid provision, and for this purpose, the provisions of this Ordinance are hereby declared to be separable.

### **3.0104.05 Property Standards and Maintenance Code.**

**3.0104.05.01 General.** The following are hereby declared to constitute public nuisances:

1. All buildings or structures which are unsafe, abandoned, boarded up, partially destroyed, dilapidated due to deterioration, fire, wind, or other hazard, or partially constructed and uncompleted to the expiration of building permit or out of repair as to be dangerous, unsafe, unsanitary or otherwise unfit for human use.

2. Buildings with excessively deteriorating concrete, siding, masonry, or roofing materials or peeling paint or other conditions that allows the exterior building to deteriorate or become unsightly or permit the effects of weather penetration to encourage decay, dry rot, warping, and/or cracking of the structure.
3. Buildings that are kept in an unsanitary condition that it is a menace to the health of the people residing in the vicinity thereof, or present a more than ordinarily dangerous fire hazard in the vicinity where it is located, or which are considered attractive nuisances to children.
4. Broken windows, doors or attic vents.

**3.0104.05.02 Title.** This section shall be known as the Property Maintenance Code of the City of White, hereinafter referred to as “this code.”

**3.0104.05.03 Scope.** The provisions of this code shall apply to all existing residential and nonresidential structures and all existing premises and constitutes minimum requirements and standards for ventilation, space, heating, sanitation, protection from the elements, life safety, safety from fire and other hazards, and for safe and sanitary maintenance of property and premises and for public welfare, the occupancy of existing structures and premises, and for administration, enforcement and penalties.

**3.0104.05.04 Intent.** This code was prepared to provide a just, equitable and practicable method, to be cumulative with and in addition to any other remedy provided by city ordinances or otherwise available at law, whereby a public nuisance located on any premises or public property which from any cause endangers the life, limb, morals, public health, safety, property and welfare or which tends to lower the value of adjacent real property because of unsightliness may be required to be repaired, removed, or abated.

**3.0104.05.05 Applicability**

1. **General.** The provisions of this code shall apply to all matters affecting or relating to structures and premises, as set forth in Section 3.0104.05.01. Where, in a specific case, different sections of this code specify different requirements, the most restrictive shall govern.
2. **Maintenance.** The owner of the owner’s designated agent shall be responsible for the maintenance of buildings, structures and premises.
3. **Workmanship.** Repairs, maintenance work, alterations or installations which are caused directly or indirectly by the enforcement of this code shall be executed and installed in workmanlike manner and installed in accordance with the manufacturer’s installation instructions.

4. Historic Buildings. This code shall not be mandatory for existing buildings or structures designated by the state or local jurisdiction as historic buildings when such buildings or structures are judged by the code official to be sage and in the public interest of health, safety and welfare.

5. Requirements not covered by code. Requirements necessary for the strength, stability or proper operation of an existing structure or equipment, or for the public safety, health and general welfare, not specifically covered by this code, shall be determined by the code official(s).

### **3.0104.05.06 Department of Property Maintenance Standards**

1. General. The property Standards Inspection Committee is hereby created and the executive official(s) in charge thereof shall be known as the code official(s).

2. Appointment. Code official(s) shall be appointed by the Mayor or Council of White and the code official(s) may be the City Attorney, Fire Chief, Police Chief, Finance Officer, and Planning and Zoning Chairman or any outside qualified expert needed to aid other code official in determination. Code official(s) can appoint private related technical officers, inspectors and other employees.

3. Restriction of employees. An official or employee connected with the enforcement of this code, shall not be engaged in, or directly or indirectly connected with, the furnishing of labor, materials or appliances for the construction, alteration or maintenance of a building, or the preparation of construction documents thereof, unless that person is the owner of the building; nor shall such officer or employee engage in any work that conflicts with official duties or with the interests of the department.

4. Liability. The official(s), officer or employee charged with the enforcement of this code, while acting for the City of White, shall not hereby be rendered liable personally, and is hereby relieved from all personal liability for any damage accruing to persons or property as a result of an act required or permitted in the discharge of official duties. Any suit instituted against any officer or employee because of an act performed by that officer or employee in the lawful discharge of duties and under the provisions of this code shall be defended by the legal representative of the City of White until the final termination of the proceedings. The code officials or any subordinate shall not be liable for costs in an action, suit or proceeding that is instituted in pursuance of the provisions of this code. Any officer of the Committee of Property Maintenance Inspection, acting in good faith and without malice, shall be free from liability for acts performed under any of its provisions or by reasons of any act or omission in the performance of official duties in connection therewith.

5. Duty. The code official(s) shall enforce the provisions of this code.

6. Rule-making authority. The code official(s) shall have authority as necessary in the interest of public health, safety and general welfare, to adopt and put into effect by public declaration rules and procedures; to interpret and implement the provisions of this code; to secure the intent thereof; and to designate requirements applicable because of local

climatic or other conditions. Such rules shall not have the effect of waiving structural or fire performance requirements specifically provided for in this code, or of violating accepted engineering methods involving public safety.

7. Inspections. The code official(s) shall make all of the required inspections, or shall accept reports of inspection by approved agencies or individuals. All reports of said inspections shall be in writing and be certified by a responsible officer of such approved agency or by the responsible individual. The code official(s) is authorized to engage such expert opinion as deemed necessary to report upon unusual technical issues that arise.

8. Right of entry. The code official(s) are authorized to enter the structure or premises at reasonable times to inspect subject to constitutional restrictions on unreasonable searches and seizures. If entry is refused or not obtained, the code official(s) are authorized to pursue recourse as provided by law.

9. Identification. The code official(s) shall carry proper identification when inspecting structures or premises in the performance of duties under this code.

10. Notices and orders. The Finance Officer and/or City Attorney shall issue all necessary notices or orders to ensure compliance with this code and keep official records of all business and activities of the code officials.

11. Coordination of inspections. Whenever, in the enforcement of this code, it shall be the duty of the code official(s) of the City of White to coordinate their inspections and orders so that the owners and occupants of the structure shall not be subjected to visits by numerous inspectors or multiple or conflicting orders. Whenever an inspector from any agency observes an apparent or actual violation of some provision of some law, ordinance or code not within the inspector's authority to enforce, the inspector shall report the findings to the code official having jurisdiction.

12. Modifications. Whenever there are practical difficulties involved in carrying out the provisions of this code, the code official(s) shall have the authority to grant modifications for individual cases, provided the code official(s) shall first find that special individual reason makes the strict letter of this code impractical and the modification is in compliance with the intent and purpose to this code and that such modification does not lessen health, life and fire safety requirements. The details of action granting modification shall be recorded and entered in the department file.

### **3.0104.05.07 Violations**

1. Unlawful acts. It shall be unlawful for a person, firm or corporation to be in conflict with or in violation of this code.

2. Notice of violation. The Code Officials shall serve a notice of violation in accordance with Section 3.0107.

3. Prosecution of violation. If the notice of violation is not complied with, the code official(s) upon the direction of the city council shall institute the appropriate proceeding at law or equity to restrain, correct or abate such violation.

4. Violation penalties. Any person who shall violate a provision of this code, or fail to comply with any of the requirements shall be guilty of a misdemeanor and shall be subject to a penalty pursuant to the general penalty provision in Section 3.0105 of the White Municipal code, which can include a fine of not more than (\$200.00), or by imprisonment not to exceed thirty days, or by both. Each day that a violation continues after due notice have been served shall be deemed a separate offense.

5. Abatement of violation. The imposition of penalties shall not preclude the official(s) of the City from instituting appropriate action to restrain, correct or abate a violation, or to stop an illegal act, conduct, business or utilization of the building, structure or premises.

### **3.0104.05.08 Emergency Measures**

1. Imminent danger. When, in the opinion of the code official, there is imminent danger of failure or collapse of a building or structure which endangers life, or when any structure or part of a structure has fallen and life is endangered by the occupation of the structure, or when there is actual or potential danger to the building occupants or those in the proximity of any fumes, gases or materials, or operation of defective or dangerous equipment, the code official(s) is hereby authorized and empowered to order and require the occupants to vacate the premises forthwith. The code official(s) shall cause to be posted at each entrance to such structure a notice reading as follows: "This structure is unsafe and its occupancy has been prohibited by the Code Official(s)." It shall be unlawful for any person to enter such structure except for the purpose of securing the structure, making the required repairs, removing the hazardous condition or of demolishing the same. The Police Chief or Fire Chief is granted the authority to abate any imminent danger as they see fit.

2. Temporary safeguards. Whenever there is imminent danger due to an unsafe condition, the code official(s) shall order the necessary work to be done, including the boarding-up of openings, to render such structure temporarily safe whether or not the legal procedure herein described has been instituted; and shall cause such other action to be taken as the code official(s) deems necessary to meet such emergency.

3. Closing streets. When necessary for public safety, the code official(s) shall temporarily close structures, sidewalks, streets, and public ways and places adjacent to unsafe structures and prohibit the same from being utilized.

4. Emergency repairs. For the purposes of this section, the code official shall employ the necessary labor and materials to perform the required work as expeditiously as possible.

5. Costs of emergency repairs. Cost incurred in the performance of emergency work shall be paid by the jurisdiction. The legal counsel of the jurisdiction shall institute appropriate action against the owner of the premises where the unsafe structure is or was located for the recovery of such costs.

6. Hearing. Any person ordered to take emergency measures shall comply with such order immediately. Any affected person shall thereafter, upon petition directed to the city council, be afforded a hearing as described in this code.

### **3.0104.05.09 Means of Appeal**

1. Application for appeal. Any person directly affected by a decision of the code official or a notice or order issued under this code shall have the right to appeal to the city council, provided a written application for appeal is filed within 20 days after the decision, notice or order was served. An application for appeal shall be based on a claim that the true intent of this code or the rules adopted there under have been incorrectly interpreted, the provisions of the code do not fully apply, the strict enforcement of this code would create great and undue hardship, or the requirements of this code are adequately satisfied by other means.

2. Notice of meeting. The city council shall consider the appeal at its next regularly scheduled meeting being at least 14 days from the day of filing of the appeal. A notice of the time and place of the hearing shall be sent by certified mail to the applicant at least seven days prior to the meeting.

3. Open Hearing. All appeal hearings under this section shall be open to the public as required by law. The applicant, the applicant's representative, the code official and any person whose interests are affected shall be given the opportunity to be heard.

4. Council Decision. The city council shall modify or reverse the decision of the code official only by a concurring vote of a majority of the total number of elected members.

5. Public Nuisance. If the decision of the code official is upheld, the city council shall declare the property to constitute a public nuisance and the council shall direct the code official to institute the appropriate proceedings at law or equity to restrain, correct, or abate the same according to law.

6. Stays of enforcement. Appeals of notice and orders (other than Imminent Danger notices) shall stay the enforcement of the notice and the order until the appeal is heard by the city council.

### **3.0104.05.10 Failure to Comply or Appeal**

1. Report to city council. If the owner shall fail to comply with the decision or order of the code official and shall also fail to make application for appeal within 20 days after the decision, notice or order was served, the code official shall report the violation and failure to comply with the city council.

2. Public nuisance. Upon receipt of a report of non-compliance and failure to appeal, the city council may declare the property to constitute a public nuisance and may direct the code official to institute the appropriate proceedings at law or equity to restrain, correct, or abate the same according to law.

### **3.0104.05.11 Abatement of Cost Recovery**

1. Abatement cost recovery. The City shall be entitled to recover the cost of the enforcement of this code or code abatement of any violation of this code. Cost incurred by city crews will be at their hourly rate and standard equipment machine rates per hour. Cost incurred from outside source will be charged from invoice. The cost may be recovered by civil action against the owner of the property and/or the cost may be taxed by special assessment against the property.

### **3.0111 Repeal**

All Ordinances or parts of ordinances in conflict herewith are hereby repealed.

3.0102 Littering in Public Places. No person shall throw or deposit litter in or upon any street, sidewalk or other public place within the City except in authorized public or private receptacles. The following further identifies acts and conditions that constitute nuisances and are therefore prohibited:

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

For the purposes of this Ordinance, a public nuisance shall also include snow and ice when deposited or allowed to accumulate in conflict with the provisions of this Section.

2. No persons, while a driver or passenger in a vehicle, shall throw or deposit litter, including any combustible materials, upon any street or other public place or upon private property within the City. No person shall drive or move any truck or other vehicle within the City unless such vehicle is so constructed or loaded as to prevent any load, contents, or litter from being blown or deposited upon any street, alley or other public place.
3. No person shall throw or deposit litter on any occupied, open or vacant private property within the City, whether owned by such person or not, except that the owner or person in control of private property may maintain authorized private receptacles for collection in such a manner that litter will be prevented from being deposited upon any street, sidewalk or other public place or upon any private property.

3.0103 Abandoned, Wrecked, Dismantled or Discarded Vehicles. No person shall abandon any vehicle within the City of White for such time and under such circumstances as to cause such vehicle reasonably to appear to have been abandoned.

No person shall park or store any partially dismantled, non-operating, wrecked, or junked vehicle of any kind or type without current license plates, on any street or public property within the City.

No person in charge or control of any property within the City of White, whether as owner, tenant, occupant, lessee, or otherwise, shall allow any partially dismantled, non-operating, wrecked, junked, or discarded vehicle to remain on such property longer than twenty-four (24) hours; except that this Ordinance shall not apply with regard to a vehicle in an enclosed building; a vehicle on the premises of a business enterprise operated in a lawful place and manner, when necessary to the operation of such business enterprise; or a vehicle in an appropriate storage place or depository maintained in a lawful place and manner by the City.

The City Council shall be authorized to remove or have removed any vehicle left at any place within the City which reasonably appears to be in violation of this Ordinance or is lost, stolen, or unclaimed. Such vehicle shall be impounded until lawfully claimed or disposed of. A storage charge of one dollar (\$1.00) per day shall be assessed each vehicle until such vehicle is claimed.

3.0104 Diseased Vegetation. Any owner, occupant, or person in charge of any property under the jurisdiction of the City shall remove at his or her own expense any trees, brush, wood, or debris infected with Dutch Elm disease or other infestations or infectious disease found thereon when so notified by the City to do so. The City Council shall cause to be mailed to such owner, occupant, or person, written notice that they may appear before said City Council at an appointed time not less than fourteen (14) days from the date of mailing of said written notice to show cause why said trees, brush, wood, or debris should not be declared a public nuisance.

At said meeting the City Council may resolve and declare the same to be a public nuisance and may order its removal by said owner, occupant, or person within twenty-one (21) days from the date of service of said resolution and order on said owner, occupant, or person. Any diseased vegetation which is removed shall be properly disposed of by burning or burying in a designated disposal site. (SDCL 9-32-12)

3.0105 Nuisances How Abated. The City Council shall give written notice or cause written notice to be given to any person creating, permitting, or maintaining any nuisance to abate such nuisance forthwith, and if any person shall neglect or refuse to do so within a reasonable time after such notice, they shall be deemed guilty of a violation of this Chapter. The City Council shall cause to be removed or abated any such nuisance upon the expiration of a reasonable time after the serving of such notice; and the city may recover the expenses so incurred from the person maintaining such nuisance in a civil suit instituted for such purpose, or may levy an assessment against the property and collect the same.

The City Council shall cause to be published all assessments for costs of removal or abatement of nuisances, together with a notice that said assessments shall be considered by the City Council at the regular October meeting of each year, at which time and place any person may appear and be heard. Such notice shall be published once in the official newspaper, and at least ten (10) days prior to the October meeting.

Within ten (10) days after the assessment has been approved by the City Council, a certified copy of the same shall be filed with the Finance Officer, and shall be due and payable to the City. If the assessment is not paid within sixty (60) days of filing, a penalty cost of ten (10) percent shall be added in addition to an annual interest rate at the highest legal rate allowed by law on the unpaid balance. (SDCL 9-29-13)

## CHAPTER 3.02 – COLLECTION OF GARBAGE

1993 version repealed and replaced with Ordinance No. 75, December 6, 1999.

### ARTICLE I. IN GENERAL

#### Section 1. Definitions.

- a. Family domestic unit. Any single independent family unit, irrespective of the number of persons constituting such family. Each independent family unit living in multiple dwelling residences, apartment houses or any type of residence, including mobile homes, shall each be deemed a family domestic unit for the purpose of this chapter.
- b. Garbage. All organic refuse from the preparation of food, combustible refuse matter including papers, sweepings, rags, grass, wood shavings, and any containers used in the sale or storage and protection of food or household products, etc., originating from ordinary household or business operations, and all non-combustible inorganic matter such as ashes, glass, cinders, and metal, originating from ordinary household or business operation, but shall not include items such as furniture, appliances, mattresses, tires or wood, masonry and metal products which cannot be contained in a thirty (30) gallon container or bag.

#### Section 2. 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 garbage, litter or waste matter.

#### Section 3. Duties of Business Owners, Occupants

- a. Generally. The owner or occupant of any store or other place of business situated within the City shall exercise reasonable diligence at all times to keep his premises clean of wastepaper, wrapping paper, paper napkins, cartons, package containers, and garbage thrown or left on said premises by any person, and to take reasonable measures to prevent the same from drifting or blowing to adjoining premises.
- b. Receptacles. Receptacles of sufficient size and number shall be placed on the premises accessible to the public where the aforesaid articles of waste may be disposed of.

Section 4. Duty of Customers

It shall be unlawful for any person going upon the premises of another to, in any manner, dispose of wastepaper, wrapping paper, paper napkins, cartons, package containers, or other garbage except in receptacles provided for such purposes.

Sections 5-9. Reserved

ARTICLE II. Garbage Collection Regulations

Section 10. Supervision and Collection

All garbage accumulated in the City shall be collected, conveyed and disposed of under the supervision of the City Council. The City Council may cause to be collected and disposed of all garbage where found within the City.

Section 11. Deposit Generally

It shall be unlawful for any person to deposit or cause to be deposited any garbage, rubbish or waste material in or upon any park, street, alley, gutter or in or upon any other private or public property within this City or upon any property on the route between the City and the sanitary landfill, unless such garbage or refuse is deposited in compliance with the provisions of this ordinance. It shall be unlawful to store, deposit or keep any material where rats may have access thereto or feed thereon.

Section 12. Containers Required Generally

Every individual or family domestic unit and every commercial establishment shall utilize one (1) or more flytight containers or bags made of a suitable material with a capacity of not more than thirty (30) gallons, to receive all garbage which may accumulate between times of collection.

Section 13. Location of Containers Generally

The containers required by this Article shall be kept in a suitable place on private property so as to be free from rodents and animals. On the day that the garbage shall be collected from the premises, the containers shall be placed on the edge of the road located adjacent to each residence. All garbage cans placed on the road edge the day of collection shall be removed the same day. Garbage cans and waste material containers shall be so placed that collectors of garbage do not have to carry such cans or containers for a distance of more than ten (10) feet. No garbage truck shall be required to use any private driveway in the collection of garbage under the provisions of this Article.

Section 14. Certain Commercial Containers, Location

All commercial establishments, such as hotels, boarding houses, restaurants, lunchrooms, bars, drug stores, mobile home courts, grocery stores and all other commercial and business establishments and educational facilities or institutions within the City having garbage to dispose of, shall provide one (1) or more fly-tight containers of suitable material to receive all garbage which may accumulate between the times of collection. These containers shall be located at the rear of the building or property using same as to be easily accessible to the collector and shall be so constructed that they may be easily emptied.

Section 15. Maintenance of Containers

Every container required by this Article shall be maintained in as sanitary condition as possible in view of the use to which it is put; and shall be thoroughly cleansed as necessary by washing, scalding or otherwise.

Section 16. Replacement of Containers Upon Notice

It shall be the duty of every person owning, controlling, managing, operating, or occupying any premises where garbage and/or trash accumulates to replace within ten (10) days after receipt of a condemnation notice issued by the City Council, any containers which have deteriorated or that have jagged edges capable of causing injuries to those whose duty it is to handle the containers or that have been damaged to such an extent.

Section 17. Protection of Contents of Garbage Containers and Bags

Garbage containers and bags shall be kept closed tightly except during the collection or deposit of garbage. The contents of all receptacles shall be protected so that the wind cannot scatter same over the streets, alleys and premises of the City.

Section 18. Preparation of Garbage for Deposit

All garbage and wet rubbish shall be drained and wrapped before the same is deposited in any container.

Section 19. Monthly Charges for Family Domestic Units

The cost of collection and disposal for family domestic units shall become a charge against the occupant of each dwelling and shall be payable monthly, together with other public service charges as defined by this City. A fair and reasonable charge for the collection of the contents at each regular collection time from each domestic unit shall be set by resolution of the White City Council.

Section 20. Monthly charges for commercial establishments

Commercial establishments, public schools and any other institution or facility not otherwise classified herein as a family domestic unit may contract for garbage collection directly with the City contracted garbage hauler or such other garbage hauler as may be approved by the City from time to time.

Section 21. Collection of Charges

A monthly charge for garbage collection by the City shall be incorporated and made a part of the monthly billing for utilities and services furnished by the City, with the exception of those establishments referenced in Section 20 of this Article who shall pay the garbage hauler directly.

Section 22. Disposal of Animal Carcasses Restricted

It shall be unlawful to place any dead animals, animal carcasses, animal pelts or hides, scraps, or waste material from the cleaning or skinning of any dead animal carcass or part thereof within any container for collection by the garbage collector. Any such material shall be individually disposed of by the owner or occupant or by an individual contracting for the removal thereof in a lawful manner.

Section 23. Garbage to be Removed Regularly

All garbage must be removed at the expense of the owner of the premises or by the occupant thereof at least once every two (2) weeks, and at no time shall such owner or occupant allow garbage to accumulate so as to be a private or public nuisance.

Section 24. Removal at Own Expense

It shall be unlawful for any person to transport or remove any garbage from any lots, streets or public premises except as provided by this ordinance. Nothing herein shall be construed to prevent a person from hauling or contracting for the hauling of items excluded from regular collection at their own expense to any sanitary landfill. No garbage shall be hauled upon streets or alleys of the City unless contained in a watertight container or receptacle.

Section 25. Burning of Garbage Prohibited

It shall be unlawful to burn or incinerate any garbage within the City.

Section 26. Disposal of Leaves and Grass Clippings Restricted

It shall be unlawful to place any leaves or grass clippings within any container for collection by the garbage collector. Any such material shall be individually disposed of by the owner in a lawful manner or disposed of in accordance with Section 27 of this Article.

Section 27. Procedure for Collection of Leaves and Grass Clippings

In the event any individual desires to place for collection any leaves and/or grass clippings in the City, said individual shall purchase a specified bag or bags for such purpose. Only bags approved by the City Council may be used for the collection of leaves or grass clippings. The City Council shall establish by resolution the day or days during which said leaves or grass clippings shall be collected and the type of and charge for such bags used for collection of leaves or grass clippings.

Section 28. Private Operators

The collection of garbage and refuse in the City shall be made by private contractors or operators, who shall be subject to all local ordinances as well as all state and federal regulations. Collections shall be made at least twice a week, unless otherwise required by the City Council.

Section 29. Contract Required

Private contractors or operators involved with the collection of garbage or refuse in the City, shall apply for an annual contract to the City Council. Any contract approved and issued may be revoked by the City Council for violations of laws, regulations or stipulations governing such operations. Such application shall include the operators permit number for disposal in an approved sanitary landfill.

Section 30. City Not Liable

The City shall not be liable for any expense incurred through the failure of a contractor or operator or his agents and employees, to operate and maintain collection services in a proper and efficient manner, and for any actions that may result from, or be attributed to such services performed. (SDCL 9-32-11)

Section 31. Equipment

Every garbage collector shall use equipment which will not permit any leakage or spilling and such truck or trailer shall be so covered so that trash, garbage, rubbish or waste will not be dropped or spilled in transit to any place in the city, and any violation of this Section shall be sufficient cause for revocation of the collectors permit, and in addition thereto, he shall be guilty of a misdemeanor and subject to fine.

### CHAPTER 3.03 – CITY DUMP

- 3.0301 Location. The City Council shall select and establish as dumping grounds suitable lots or parcels of land either within or outside the City limits; all material which can be burned shall be burned at such locations and in such manner as may be directed by the City, as directed by South Dakota Codified Law.
- 3.0302 Penalty. The City shall impose a fine of \$100.00 for any non-resident person, firm or corporation who without proper authorization uses the City dump or dumps refuse/garbage in unauthorized areas.

# TITLE 4 – LICENSES

Chapter 4.01 – General Provisions

Chapter 4.02 – Alcoholic Beverages

Chapter 4.03 – Licensing of Dogs

## CHAPTER 4.01 – GENERAL PROVISIONS

- 4.0101 Licenses Required. It shall be unlawful for any person, persons, firm or corporation to engage in any activity for which a license is required without first having obtained such license, as hereinafter provided. The City Council may at any time expand the general provisions of this Chapter by requiring any person, persons, firm or corporation engaging in any trade, business or occupation within the City which is not specified by this Ordinance to obtain a license, as deemed necessary.
- 4.0102 Application for License. Any person, persons, firm or corporation wishing to obtain a license as herein provided, shall make written application to the City Council stating the name of the applicant, address, purpose of the activity, the length of time for which said license is wanted, and the particular place at which said license is to be used.
- 4.0103 License Expiration. Any annual license granted under the provisions of this Chapter shall expire as issued and shall not be granted for any sum less than the annual rate, and there shall be no rebate made on the termination of said calling, vocation, or kind of business for which said license was issued.
- 4.0104 Revocation. The City Council shall have the authority at any time to suspend or revoke any license granted under the provision of this Chapter whenever said Council shall be satisfied upon written complaint that such calling, vocation, or kind of business for which said license has been issued, has been made or conducted in an improper or illegal manner, and in case of such revocation, the city Council may refund to the holder of such license such proportionate amount of money paid therefore as said Council shall deem just.
- 4.0105 Issuance of License. Except as otherwise provided, all licenses shall be issued by the Finance Officer after issuance of the license has been approved by the City Council and the applicant shall have complied with all requirements for issuance of such license. Unless otherwise provided, all licenses shall be signed by the Finance Officer and shall have affixed thereto the official seal of the City.
- 4.0106 Record of Licenses. The Finance Officer shall keep a record of all licenses issued by the City stating when and to whom issued, for what purpose and for what length of time, the amount of money paid for said license, and the place where such activity is to be carried on. (SDCL 9-34-1)

## CHAPTER 4.02 – ALCOHOLIC BEVERAGES

- 4.0201 License Required. No person shall sell, offer for sale, keep for sale, exchange, distill, manufacture, produce, bottle, blend, or otherwise concoct, within the City any alcoholic beverage as defined by statute, without having a license therefore as required by South Dakota Laws. (SDCL 9-29-7)
- 4.0202 Application and License Fees. In any instances in which applications may qualify, applications for licenses for the sale of alcoholic beverages in the City shall be submitted as prescribed by South Dakota Laws. (SDCL 35-4-2)
- 4.0203 License Restrictions. 1993 version repealed and replaced with Ordinance No. 126, February 27, 2012.
- a. License Restrictions. Applications for on sale, off sale, or three-two beer licenses shall have the necessary fees attached upon being submitted to the City as required by the South Dakota Laws, and the granting and retention of licenses will be as provided by the South Dakota Laws, and local regulations. (SDCL 35-10)
- 4.0204 Location of Business. The City Council shall not issue any licenses to any person(s), business or group where the location of such a business would not be considered desirable in accordance with South Dakota Laws, and local regulations. (SDCL 35-2-6.1, SDCL 35-2-6.2)
- 4.205 Violations. Any person, firm or licensee in violation of any of the provisions of this Chapter shall be deemed guilty of a misdemeanor. For failure to correct any offense when applicable, after conviction, each day of failure to do so shall constitute an additional separate offense. Whenever any person shall as clerk, servant, agent, or employee of any other person or establishment violates any of the provisions of this Chapter, he shall also be deemed as guilty of the provisions of this Chapter, he shall also be deemed as guilty as a principal. Failure to comply with all existing requirements, including the provisions in this Chapter, shall provide cause for revocation of any licenses granted under the provisions of South Dakota Laws. (SDCL 35-2-10)
- 4.0206 Hours of Operation of Licensed Establishments. 1993 version repealed and replaced with Ordinance No. 78-1, June 7, 2001.
- a. Hours of Operation of Licensed Establishments. That the City of White, South Dakota has the power to regulate sale and use of alcoholic beverages (SDCL 9-29-7) and therefore restricts the sale, service or consumption of malt beverages on the premises of any malt beverage retailers or malt beverage package dealers between the hours of twelve o'clock noon (12:00) and nine o'clock (9:00) p.m. on Sundays within the municipal boundaries and jurisdiction of the City of White, South Dakota, but not in conflict with restrictions set be South Dakota law.
- 4.0206.01 Malt Beverage and Wine. No malt beverage retailer, package dealer, wine retailer, or SD produced wine package dealer may sell, serve or allow to be consumed on the premises any alcoholic beverage between the hours of two o'clock a.m. and seven o'clock a.m. (SDCL 35-4-81.2)

4.0206.02 On-Sale Liquor. No on-sale establishment may sell, serve or allow to be consumed on the premises alcoholic beverages between the hours of two o'clock a.m. and seven o'clock a.m. and at any time on Christmas Day. (SDCL 35-4-81). On-sale establishments may sell, serve or allow to be consumed on the premises alcoholic beverages on Sundays and Memorial Day except between the hours of two o'clock a.m. and seven o'clock a.m. (SDCL 35-4-2.1)

4.0206.03 Off-Sale Liquor. No off-sale establishment may sell, serve or allow to be consumed on the premises alcoholic beverage between the hours of two o'clock a.m. and seven o'clock a.m., and at any time on Christmas Day. (SDCL 35-4-81) Off-sale establishments may sell, serve or allow to be consumed on the premises alcoholic beverages on Sundays and Memorial Day except between the hours of two o'clock a.m. and seven o'clock a.m. (SDCL 35-4-2.1)

#### CHAPTER 4.03 – LICENSING OF DOGS

- 4.0301 License Required. It shall be unlawful for any person within the City to keep, maintain or have in their custody or under their control, any dog which is over the age of three (3) months, without first having obtained a license for the dog from the City Finance Officer or an authorized agent of the City.
- 4.0302 Application. Any person desiring to keep, maintain or have in their custody or control within the City, any dog, shall, on or before the 1<sup>st</sup> day of February of each year, make application to the City Finance Officer or an authorized agent for a license to keep such dog. 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, which application shall be made on a printed form furnished by the City Finance Officer or an authorized agent and shall be filed with the City Finance Officer or with an authorized agent.
- 4.0303 Rabies Vaccination Required. No dog license shall be issued to any owner or person in possession of any dog who does not present to the City Finance Officer or an authorized agent at the time of making the application for such license, a certificate of vaccination against rabies by a veterinarian duly licensed to practice in veterinary medicine within any state in accordance with the requirements of Chapter 5.0202 of the Revised Ordinances of the City of White.
- 4.0304 License Fees. Before any license may be issued under the provisions of this chapter, the applicant shall pay to the City Finance Officer or an authorized agent a fee for each dog license. The annual fee for said license shall be determined from time to time by resolution of the City Council, which shall be on file in the City Finance Office.
- 4.0305 Issuance of Tag. It shall be the duty of the City Finance Officer or an authorized agent at the time of issuance of the license herein provided, to furnish and deliver to said applicant a tag for each dog for which such license is

issued upon which tag shall be stamped or engraved the registered number of the dog and the year for which such license is issued.

4.0306 Dog to Wear Tag. It shall be the duty of the owner or keeper of any dog to place a collar around the neck of each dog, upon which collar shall be securely fastened the tag furnished by the City Finance Officer or an authorized agent under the provisions of this chapter.

4.0307 Duplicate Tag. In the event of the loss of any tag issued under the provisions of this chapter, the City Finance Officer or an authorized agent is hereby authorized to issue a duplicate tag when application has been made stating the original tag has been lost and payment of the actual cost of the duplicate tag has been made.

4.0308 Violations. If any person, firm or corporation in violation of any of the provisions of this Chapter fails to correct the situation within 10 days of the mailing of written Notice of Violation by the City Finance Officer or an authorized agent shall be fined a sum of \$25.00 for each separate offense.

## TITLE 5 – OFFENSES

Chapter 5.01 – Offenses Against Public Welfare

Chapter 5.02 – Animals

Chapter 5.03 – Fireworks and Firearms

### CHAPTER 5.01 – OFFENSES AGAINST PUBLIC WELFARE

5.0101 Disorderly Conduct. A person shall be guilty of disorderly conduct if, with the purpose of causing public danger, alarm, disorder, nuisance, or if his conduct is likely to cause public danger, alarm, disorder or nuisance, he willfully does nay of the following acts in a public place:

1. Commits an act in a violent and tumultuous manner toward another whereby that other is placed in danger of life, limb or health.
2. Commits an act in a violent and tumultuous manner toward another whereby the property of any person is placed in danger of being destroyed or damaged.
3. Causes, provokes or engages in any fight, brawl or riotous conduct so as to endanger the life, limb, health or property of another, except in exhibitions duly authorized and licensed by law.
4. Interferes with another's pursuit of a lawful occupation by acts of violence.
5. Obstructs, either singly or together with other persons, the flow of vehicular or pedestrian traffic and refuses to clear such public way or place when ordered to do so by a law enforcement officer or other authorized official.
6. Resists or obstructs the performance of duties by a law enforcement officer or other authorized official.
7. Incites, attempts to incite, or is involved in attempting to incite a riot.
8. Addresses abusive language or threats to any law enforcement officer, or any other authorized official of the City who is engaged in the lawful performance of his duties, or any other person when such words have direct tendency to cause acts of violence. Words merely causing displeasure, annoyance or resentment shall not be prohibited.
9. Damages, befouls or disturbs public property or the property of another so as to create a hazardous, unhealthy or physically offensive condition.

10. Makes or caused to be made any loud, boisterous, and unreasonable noise or disturbance to the annoyance of any other persons nearby, or near to any public highway, road or common, whereby the public peace is broken or disturbed or the traveling public annoyed.
11. Fails to obey a lawful order to disperse by a law enforcement officer or other authorized official, where one or more persons are committing acts of disorderly conduct in the immediate vicinity, and the public health and safety is eminently threatened.

As used above, the following definitions shall apply:

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

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

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

5.0103 Injury or Removal of Public or Private Property. No person shall willfully, maliciously, wantonly, negligently, or otherwise injure, deface, destroy, disturb, or remove real property or improvements thereto or moveable or personal property including official signs, belonging to the City or to any person in the City. (SDCL 22-34-1)

5.0104 Tampering in General. No person in the City shall tamper with, injure, deface, destroy or remove any sign, notice, marker, fire hydrant, topographical survey marker or monument, or any other personal property erected or placed by the City (SDCL 22-34-1)

5.0105 Indecency. It shall be unlawful for any person within the City to:

1. Knowingly disseminate, distribute or make available to the public any obscene materials.
2. Knowingly engage or participate in any obscene performance made available to the public.
3. Knowingly engage in commerce for commercial gain with materials depicting and describing explicit sexual conduct, nudity, or excretion utilizing displays, circulars, advertisements and other public sales efforts that promote such commerce primarily on the basis of the prurient appeal.
4. Appear in any public place in a state of nudity, in indecent dress or make any indecent exposure of his or her person or be guilty of any lewd or indecent act or behavior. (SDCL 9-29-9; 22-24)

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

1. "Obscene" – To the average person applying contemporary community standards, taken as a whole, that the predominant appeal of the matter appeals to the prurient interests and (i) depicts or describes patently offensive representations or descriptions of ultimate sexual acts, normal or perverted, actual or simulated; or (ii) depicts or describes patently offensive representations or descriptions of masturbation, excretory functions, or lewd exhibits of the genitals; and which, taken as a whole, lacks serious literary, artistic, political or scientific value.
2. "Prurient interest" – Shameful or morbid interest in nudity, sex or excretion which goes substantially beyond customary limits of candor in description or representation.
3. "Material" – Any book, magazine, newspaper or other printed or written material or any picture, drawing, photograph, motion picture or other pictorial representation or any statue or other figure, or any recording, transcription or mechanical, chemical or electrical reproduction or any other articles, equipment or machines.
4. "Dissemination" – To transfer possession of, with or without consideration.

5. "Knowingly" – Being aware of the character and content of the material.
6. "Promote" – To cause, permit, procure, counsel or assist.

#### CHAPTER 5.02 – ANIMALS

5.0201 Running at Large Prohibited. No owner of any dog or other animal held as a domestic pet in the City shall permit such animal to run at large at any time, and any such animal found at large may be impounded at the Brookings City Pound.

Any owner allowing their animal to run at large as defined in the provisions of this Section, shall be punishable by a fine not exceeding twenty-five (25) dollars.

5.0202 Compulsory Immunization of Animals for Rabies. Every dog, cat or other animal held in the City, six months of age or older, shall be immunized against rabies by a licensed veterinarian. Immunization against rabies shall be given at 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 a dog, cat or other animal by purchase, gift, birth or otherwise, shall have such animal immunized against rabies within one month following acquisition or when such animal reaches the age of six months.

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

All veterinarians or other qualified persons designated to immunize animals against rabies shall provide the owner at the time of immunization with a certificate or metallic tag showing the date of the immunization.

Whenever metallic tags are so given for immunizations, such metallic tags shall be worn by all animals on a collar, harness, or chain when off the premises of the owner.

5.0203 Responsibility of Owner to Place Animal for Observation. When any person owning or harboring a dog, cat or other animal has been notified that said animal has bitten or attacked any person, the owner shall within twenty-four (24) hours place the animal under the care and observation of a law enforcement officer or a licensed veterinarian for a period not less than ten (10) days.

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

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

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

Any person within the City receiving information or reports of suspected rabies in wild animals or domestic animals shall report such information to a law enforcement officer.

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

5.0204 Disturbance of Peace by Animals. 1993 version repealed and replaced with Ordinance No. 115, July 8, 2010.

- a. Disturbance of Peace by Animals. No person owning any dog, licensed or unlicensed, confined on the premises, or otherwise, shall suffer to permit such dog to disturb the peace and quiet of the neighborhood by continuous barking or making other loud or unusual noises.

Upon complaint by two affidavits, which two affidavits have been signed within a 72 hour period, of any two adults not of the same household, such owner will be notified by a law enforcement officer after which the owner shall immediately abate such nuisance. The penalty for failure to abate such nuisance, said owner shall be fined a sum of twenty-five (25) dollars for a first offense. If a second violation occurs within a two year period following the first offense, the owner shall be fined a sum of fifty (50) dollars. If a third, or more, violation occurs within a two year period following the first offense, the owner shall be fined a sum of one hundred (100) dollars for each offense.

5.0205 Stray, Abandoned, or Unkept Animals. No person shall harbor or keep any stray animals within the City. Animals known to be strays shall be reported to a law enforcement officer immediately. (SDCL 9-29-12)

5.0206 Wild or Dangerous Animals Prohibited. It shall be unlawful for any person to keep, maintain or have in their possession or under their control within the city any poisonous reptile or any other dangerous animal or carnivorous wild animal or reptile, and vicious or dangerous domesticated animal, or any other animal or reptile of wild, vicious or dangerous propensities.

5.0207 Prohibited Animals Specified.

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

“Dangerous Animal”. Any wild mammal, reptile or fowl which is not naturally tame or gentle, but is of a wild nature or disposition, and which because of its size, vicious nature or other characteristics would constitute a danger to human life or property if it escaped from secure quarters. “Dangerous Animal” also includes any domestic, reptile or fowl which because of its size or vicious propensity or other characteristic would constitute a danger to human life or property if it escaped from secure quarters.

(B) Prohibited Animals. It shall be unlawful for any person to keep, maintain or have in their possession or under their control within the city any of the following animals:

- (1) Any animal which has been declared to be protected or endangered by the U.S. Department of Interior
- (2) All poisonous animals, including rear-fang snakes
- (3) Badgers (mellinae)
- (4) Bears (ursidae)
- (5) Beavers (castoridae)
- (6) Canids, that is: wolves, foxes, coyotes, jackals, dingo, raccoon dogs
- (7) Civet (viverrines)
- (8) Civet or raccoon dog (nycterevtes procyonoides)
- (9) Constrictor snakes
- (10) Crocodilians, that is: alligators, crocodiles, caimans, cavials
- (11) Eagles, hawks, owis (falconiformes)
- (12) Edentata, that is: anteaters, tamanduas, sloths, armadillos
- (13) Emus (casuariiformes)
- (14) Felids, that is: lions, tigers, leopards, cheetahs, jaguars, pumas, lynx, ocelots, bobcats
- (15) Game cocks and other fighting birds
- (16) Hyenidae (hyenas)
- (17) Marsupials, that is: opossums, Tasmanian wolf, kangaroos, koalas, wombats
- (18) Muskrats (ondarta)

- (19) Ostriches (struthio)
- (20) Porcupine (hystricomorpha)
- (21) Primates (non-human), that is: apes, monkeys, baboons, chimpanzees, gibbons, gorillas, orangutans, siamangs
- (22) Procuonids, that is: raccoons, coatis, kinkajous, ring-tailed cats, pandas
- (23) Rheas (rheiformes)
- (24) Skunks (mephitinae)
- (25) Squirrels (sciuridae)
- (26) Sharks (chondrichthyes)
- (27) Swine (suidae)
- (28) Ungulates, that is: elephants, zebras, tapirs, rhinoceroses, camel llarna, caribou, antelope, bison, reindeer, deer, giraffe, hippopotamus, wild boar, gazelle, gnu
- (29) Water buffalo (bubalus)
- (30) Wart hogs (phacochorus aethiopicus)
- (31) Weasels
- (32) Wolverines (gulo gulo)
- (33) Woodchucks (marmota monas)
- (34) Any other dangerous animal

5.0208 Exception for Circus Animals. The provisions of SDCL 5.0206 and 5.0207 shall not apply to prohibit the possession or keeping of an animal which is in the possession of and is a circus animal participating in a licensed circus if:

- (A) Their location conforms to the provisions of the zoning ordinance of the city.
- (B) All animals and animal quarters are kept in a clean and sanitary condition and so maintained as to eliminate objectionable odors.
- (C) Animals are maintained in quarters constructed as to prevent their escape.
- (D) No person lives or resides within 100 feet of the quarters in which the animals are kept.

5.0209 Owner to Report Escape of Dangerous Animals or Animals Not Indigenous to State.

- (A) The owner of keeping of any member of any species of the animal kingdom that escapes from their custody or control and that is a dangerous animal or is not indigenous of this state of presents a risk of serious physical harm to person or property shall, within one (1) hour after they discover or reasonably should have discovered the escape, report it to:
  - (1) A law enforcement officer of the city and the sheriff of Brookings County where the escape occurred.

5.0210 Penalty

- (A) The penalty for a violation of Sections 5.0206 through 5.0211 of this Ordinance shall be fined a sum of two hundred (\$200.00) dollars.
- (B) Any person, firm or corporation violating Sections 5.0206 through 5.0209 shall be fined not more than two hundred (\$200.00) dollars for each offense and each separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

5.0211 Public Nuisance. The possession or keeping of any animal prohibited by this Ordinance is hereby declared to be a public nuisance.

5.0212 Proximity of Fowl to Dwellings. It shall be unlawful for any person to enclose or house any guinea fowl, ducks, geese, turkeys, or other domestic fowl, except pigeons, in any house, pen, coop or enclosure or other building situated within a distance of 125 feet of any church, school or other public building or within 125 feet of any dwelling, store or other building used or occupied as a residence of any person other than that of the owner of such fowl.

5.0213 Swine. No person shall place, keep or maintain live hogs or other swine within the city.

5.0214 Sanitary Condition Required. No person shall keep or maintain any building or enclosure where livestock or domestic fowl are kept unless the building or enclosure is kept at all times in a clean and sanitary condition and in accordance with the rules and regulations of the city.

5.0215 Keeping of bees. No person shall keep or have any bees, swarms of bees, or hives of bees.

5.0216 Pigeons.

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

*Dwelling* means a building or portion thereof, designed or used exclusively for occupancy of at least one person.

*Garage* means an enclosed building or space designed or used for the storage of personal motor vehicles and other customary household articles which are owned and used by the occupants of the building to which it is accessory.

*Lot* means a piece, plot or parcel of land, or group of abutting and contiguous parcels of land, established by survey, plat or deed, occupied or to be occupied by a dwelling.

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

(b) *Limit in dwellings or garages.* No person shall keep or cause to be kept more than five pigeons within any dwelling or garage in the city.

(c) *Limit upon lots.* No person shall keep or cause to be kept upon any lot within the city more than a total of 25 pigeons.

5.0217 Livestock Running at Large. No person shall allow any horses, cattle, swine, sheep, goats or other domestic animals to run at large within the city.

5.0218 Fowl at Large. It shall be unlawful for any person to permit or suffer to permit any guinea fowl, ducks, geese, turkeys or other domestic fowl, except pigeons, to run or be at large within the city.

5.0219 Violations. If any person, firm or corporation in violation of the provisions of this section fails to correct the situation within 10 days of the mailing of written Notice of Violation by the City Finance Officer or an authorized agent shall be fined a sum of \$25.00 for each separate offense.

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

5.221 Anyone walking an animal on public or private property other than his own must carry with him visible means of cleaning up any fecal matter left by the animal. Animals used in parades or involved in law enforcement are exempt from this section.

5.222 Violations & Penalty. Any owner, keeper, caretaker, or attendant of an animal violating sections 5.220 through 5.221 of this ordinance shall be fined not more than twenty-five dollars (\$25.00) for each offense.

#### CHAPTER 5.03 – FIREWORKS AND FIREARMS

5.0301 Fireworks Prohibited. The use, throwing, lighting, firing, display, or sale of fireworks within the City shall only be authorized in accordance with SDCL 34-37. The provisions of this Section shall not apply to any person, firm or corporation duly licensed by the City Council in accordance with Chapter 4.01 of this Ordinance, to discharge fireworks for public entertainment at any public celebration in the City. (SDCL 9-33-1, SDCL 34-37)

5.0302 Carrying Concealed Weapons. No person shall carry concealed about his person, or display in a threatening manner, any dangerous or deadly weapon including but not limited to, any pistol or other firearm without a permit, brass knuckle or knuckles of other material, or any sandbag, dagger, bowie knife, dirk knife, or other dangerous or deadly weapon, or any instrument or device which when used is likely to produce death or great

bodily harm. Any law enforcement officer may wear or carry such weapons as may be necessary and proper for the discharge of his official duties. (SDCL 22-14-8, 22-14-9, 22-14-10)

5.303 Discharging Weapon. No person shall willfully discharge any pistol, gun, revolver or other firearm, including BB or pellet gun, in any public place, or in any place where there is any person to be endangered thereby, although no injury to any person shall ensue, unless authorized by the City Council.

# TITLE 6 – STREETS, SIDEWALKS AND PUBLIC PLACES

Chapter 6.01 – Street Names and Addresses

Chapter 6.02 – Streets, Sidewalks, Curb and Gutter

Chapter 6.03 – Snow Removal

Chapter 6.04 – Municipal Trees

## CHAPTER 6.01 – STREET NAMES AND ADDRESSES

1993 version repealed and replaced with Ordinance No. 92, June 2, 2005.

6.0101 Names of Streets and Avenues. The names of all streets and avenues in the city shall be fixed and adopted in accordance with the official map of the City on file in the Finance Office. Any such act of naming, establishing, or vacating any street, alley or other public way in the City shall be so designated on the map.

6.0102 Designation of Address. A street numbering plan for residences and businesses shall be maintained by the City. A listing of the assigned numbers and a map showing the location of addresses shall be maintained and filed with the Finance Officer. The Finance Officer shall be responsible for assigning new numbers and updating the listing of such numbers and the location map.

6.0103 Posting of Designated Addresses.

- a. The owner or person in charge of any dwelling, building or business to which a physical address has been assigned, as well as the occupant of the same, will be notified by the City of White, South Dakota of the address assigned.
- b. Within fourteen (14) days after the receipt of such notification, the owner or person in charge of the structure to which an address has been assigned, or the occupant must affix the assigned building number (address) to the structure, if the structure is visible from the named roadway. In this case, the assigned address must be posted where the driveway leading to the addressed structure intersects with the named road. In either case, the assigned address must be clearly visible from the named roadway. The property owner, occupant or person in charge of the structure shall pay for costs and installation of the numbers.
- c. It shall be the duty of such owner, occupant or person in charge thereof, upon affixing the new number, to remove any different number(s) which might be mistaken for, or confused with, the number assigned to said structure.

## CHAPTER 6.02 – STREETS, SIDEWALKS, CURB AND GUTTER

1993 version repealed and replaced with Ordinance No. 92, June 2, 2005.

6.0201 Definitions. As used in this code the following definitions shall apply:

- 1.Premises: A lot or parcel of land, improved or unimproved, parking areas thereon, walkways, and sidewalks.
- 2.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.
- 3.Building Official: As used in this article shall be construed to mean any city official authorized by the legislative body of this jurisdiction with the enforcement of this Code.

6.0202 Permit Required. Before any sidewalk or private driveway approach is constructed within the streets by any contractor or person for the owners of abutting property, the contractor or person must first secure a permit therefore from the municipal finance officer and must comply with all of the provisions of this chapter.

6.0203 Street Excavations. No person shall make or cause to be made any excavation except as hereafter provided, in or under any street, sidewalk, alley, or public ground or remove any earth, soil, paving, gravel or materials therefrom without first having obtained approval from the City Council. Application for such approval shall state where such excavation is to be made, the extent thereof, and the purpose of such excavation.

6.0204 Excavation Barriers. Any person receiving approval to make excavations in or upon any street, alley, sidewalk or public ground shall, during the progress and continuance of the work, erect and maintain around the same both day and night suitable guards, fences, flares, and signals so as to prevent injury to person, animals, or vehicles on account of such excavations. No open trench shall be left open for any more time than considered absolutely necessary or reasonable.

6.0205 Driveway Approaches. No driveway approaches shall protrude or extend in to the streets beyond the curb line, unless otherwise so authorized by the City Council. Concrete driveway approaches shall be constructed as set forth in Section 6.0213 of this ordinance, with the slope gradual to accommodate modern vehicles. On gravel thoroughfares driveway approaches constructed shall permit flow of surface water without drainage interference and shall permit proper blading and maintaining of streets.

6.0206 Barrier-Free Construction. Whenever any person, firm or corporation makes new installations of sidewalks, curbs or gutters, in both business and residential areas, it shall be required that they install ramps at crosswalks, so as to make the transition from wheelchairs and for blind persons. All such ramps shall be constructed or installed in accordance with design specifications according to the most current American National Standards Specifications published by the American National Standards Institute. (SDCL 9-46-1.1, SDCL 9-46-1.2)

6.0207 Sidewalks, When and Where Required. It is the policy of the city, that there are many areas of the city where (a) sidewalk is not practical, not possible and not necessary, and therefore shall not be required along all public street rights of way. Sidewalk(s) may be required only along those specific streets, where, following study, it is reasonably determined by the city council that, due to the increased vehicular traffic, increased pedestrian traffic, or close proximity to any school, that sidewalk would provide more than minimal safeguard for pedestrians walking along those specific street rights of way. Nothing herein shall effect the application and enforcement of Section 504 of the City's Subdivision Ordinance.

6.0208 Defective Sidewalk. Any curb, driveway, parkway or sidewalk which has been deemed defective, hazardous or unsafe by the City Council is hereby declared a nuisance. It shall be the duty of the owner of the property abutting on any curb, driveway or sidewalk to make all improvements stated in the notice by the City within thirty days from the receipt of said notice.

6.0209 Construct Sidewalk. Whenever the City Council shall deem it necessary to construct, rebuild or repair any sidewalk or driveway, then it shall notify all owners of lots abutting and adjoining such sidewalk or driveway to construct, rebuild or repair the same at their own expense within the time designated. Such notice shall be in writing and either be served personally on each said owner or by publication once each week for two consecutive weeks in the official newspaper for the City. The notice shall set forth the character of the work and the time within which it shall be completed. The notice may be general as to the owners, but must be specific as to the description of such lots, parts of lots or parcels of land.

The failure of any owner to construct, reconstruct or repair any such sidewalk or driveway shall be deemed a misdemeanor and permit the City to proceed with a resolution of necessity for sidewalk improvements in accordance with State statutes.

The City may recover the expenses incurred by sidewalk improvements made by taxing the cost thereof by special assessment against the real property on which the construction occurred.

6.0210 It shall be unlawful to permit by act or omission the following specific acts, conditions and things which are hereby also declared to be public nuisances:

1. Failing, refusing, or neglecting to keep the sidewalk in front of a house, place of business, or premises in a clean and safe condition. Any owner who shall fail to keep in repair the sidewalk when notified shall be liable to the city for any damage caused by neglect.
2. Maintaining upon a premise any unsightly, partly complete or partly destroyed buildings, structures or improvements in the city which may endanger or injure neighboring properties or the public health, safety or general welfare.

3. Maintaining upon such premises or upon the sidewalk abutting or adjoining such lot, parcel, tract or piece of land, loose earth, mounds of soil, fill materials, 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.
4. For sites where filling, grading or excavation activities have or will span more than one year, it shall be the duty of the owner, lessee, occupant or person in possession of said premises to level or remove the waste materials from said premises at least once each year during the months of either June, July or August for the purpose of maintaining weed and rodent control.
5. The city may recover the expenses incurred in abating a public nuisance by taxing the cost thereof by special assessment against the real property on which the nuisance occurred.

6.0211 When Notice Waived. Whenever the owner, occupant or agent of any premises in or upon which any nuisance may be found is unknown or cannot be found, the building official shall proceed to abate the nuisance without notice. In either case, the expense of such abatement shall be collected from the person who may have created, caused or suffered such nuisance to exist.

6.0212 Sidewalk Grades and Width. The sidewalk grades are established and fixed to be 3" above the curb grade. If no curb grade has been established, then the sidewalk shall be at least 3" above the natural level of the ground and in all cases sufficiently above the level of the ground to drain well. Additionally, the width of all sidewalks shall be established by the City Council before any construction commences.

6.0213 Limitations on Construction and Materials. The building of wooden sidewalks in the city is hereby prohibited. All sidewalks built hereafter in the city shall be built of cement as specified hereinafter except that a sidewalk may be built of brick or stone when specifically authorized by a resolution passed by the City Council. The specifications for the use of cement are as follows:

The concrete used in the construction of alleys, gutters, sidewalks and street crossings shall conform in all respects to the South Dakota Department of Transportation (SDDOT) Standard Specifications for Roads and Bridges. The concrete shall conform to SDDOT Class M 6, except as modified herein. The concrete aggregate mixture shall contain a minimum of 50 percent coarse aggregate by weight. The mixture shall contain at least 6 bags of cement per cubic yard. The minimum 28 day compressive strength shall be 4000 psi. The concrete shall contain between 5.0 and 8.0 percent entrained air with a maximum slump of 4-inches. The concrete shall be a minimum of 4-inches thick. Concrete subjected to vehicular traffic shall be reinforced with No. 4 (1/2-inch) reinforcing bars, 12-inches on center, both ways. The concrete shall be placed on a prepared base course. The

base course shall conform to SDDOT "Base Course Aggregate." The base course shall be a minimum of 2-inches thick under sidewalks that are not subject to vehicular traffic and 6-inches thick under alleys, gutters and sidewalks subjected to vehicular traffic.

6.0214 City May Construct or Supervise. The City Council shall have authority to order the construction or repair of any alley, gutter, sidewalk or street crossing when the need for such construction or repair exists in its discretion or opinion, and when not constructed or repaired within the time fixed by law, then the city may construct or repair same and the cost thereof shall be charged to the owner of the property as provided by law. Furthermore, the City Council shall have authority to supervise the construction of all alleys, sidewalks and street crossings by the appointment of an engineer or superintendent for that purpose, and when such appointment is made, then such engineer or superintendent shall have the authority to test all materials used in the construction thereof, and must approve such construction both as to materials and workmanship.

6.0215 Payment. The city shall pay for the construction of a new sidewalk in all cases where the city orders the construction of new sidewalks for the reason that the curb grade or street grade of the city was changed after the sidewalk was constructed provided the curb or street was constructed according to the original required grade or before there was any established grade, but the owner of the adjoining property shall pay for the construction or repair of any sidewalk if required for any other reason.

#### CHAPTER 6.03 – SNOW REMOVAL

6.0301 Duty to Remove. It shall be the duty of the owner, tenant, or person in possession of any property abutting on any sidewalk to keep such sidewalk free from snow and to cause any accumulated snow to be removed within twenty-four (24) hours after the termination of any snowfall, or snow accumulation.

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

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

## CHAPTER 6.04 – MUNICIPAL TREES

- 6.0401 Authority and Jurisdiction. The City Council shall have the authority and jurisdiction of regulating the planting, maintenance, and removal of trees on streets and other publicly owned property to insure the public safety and to preserve the aesthetics of such public sites. The City Council shall have the authority to determine the type and kind of trees to be planted upon municipal streets or in parks; and may assist in the dissemination of news and information regarding the selection, planting, and maintenance of trees within the corporate limits or within the area over which the City has jurisdiction, whether the same be on private or public property, and to make recommendations from time to time as to desirable statutes concerning the tree program and activities for the City.
- 6.0402 Duties of Property Owners. It shall be the duty of any person or persons owning or occupying real property bordering on any street upon which property there may be trees, to prune such trees in such manner that they will not obstruct or shade the street lights, obstruct the passage of pedestrians on sidewalks, obstruct vision of traffic signs, or obstruct view of any street or alley intersections, except where such services are provided for by utility firms. The minimum clearance of any overhanging portion thereof shall be ten (10) feet whenever practicable, and twelve (12) feet over all streets except truck thoroughfares where the clearances shall be fourteen (14) to sixteen (16) feet, unless otherwise determined by the City Council.
- 6.0403 Abuse of Trees. Unless otherwise specifically authorized by the City Council, no person shall intentionally damage, cut, carve, transplant, or remove any tree; attach any rope, wire, nails, advertising posters, or other contrivance to any tree, allow any gaseous liquid or solid substance which is harmful to such tree to come in contact with them, or set fire or permit any fire to burn when such fire or the heat thereof will injure any portion of any tree.
- 6.0404 Permission to Deposit Materials. No person shall deposit, place, store, or maintain upon any public place of the municipality, any stone, brick, sand, concrete or other materials which may impede the free passage of water, air, and fertilizer to the roots of any tree growing therein, except by permission of the City Council.
- 6.405 Removal of Hazards. Where any tree branches or hedges protrude or overhang on any thoroughfare within the City so as to be determined as in violation with this Chapter or affecting motor vehicle traffic and good maintenance practices, notification shall be given by the City Council to the property owner to remove such obstructions or undesirable branches or hedges within a prescribed time period. If not completed within such time, the City Council may take immediate action to have such items removed with all costs assessed to the property owner. (SDCL 9-38-2)

## CHAPTER 6.05 – PUBLIC PARKS

- 6.0501 Protection of Park Property. It shall be unlawful for any person or persons:

- a. To deface, damage, mar, injure, destroy, litter, or vandalize any public park or public park property.
- a. To break into any public or city-owned building, enclosure, or other related facility.
- b. To enter any public or city-owned building, enclosure, or other related facility when it is locked or closed for the exclusion of public use, or when the surrounding circumstances indicate that it is so closed.
- c. To climb any tree, fence, picnic shelter, monument, flag pole, or other structure or edifice located in/on park property; but excluding playground items and equipment designated or normally expected for such use; or
- d. To cut, break, pluck, root up, or in any way disturb any trees, shrubs, flowers, plants or bulbs planted or growing in/on park property.

6.0502 Driving in Parks. It shall be unlawful for any person to lead or drive any horses or other animals or any vehicle or motor vehicle over or upon any of the grass plots or planting space of any public park except at such places as may be provided for the parking of vehicles.

6.0503 Disorderly Conduct. Any person who shall be guilty of disorderly, unchaste or lewd conduct or habitual loafing or sleeping on the ground, benches, or premises, or who shall engage in any quarrel or fight, or make or assist in making disorderly noise or riot, or disturbance of the peace, or consumption and/or possession of any alcoholic beverages in any public park under the control of the City Council of the City of White, shall be guilty of a misdemeanor, and shall be punished upon conviction by a fine of not more than One Hundred Dollars (\$100.00) or by confinement in the county jail for not more than thirty (30) days, or by both such fine and imprisonment.

6.0504 Restriction of Hours of Use. 2007 version repealed and replaced with Ordinance No. 128, April 5, 2012.

- a. Restriction of Hours of Use. No person shall use, occupy, or be present in public parks, controlled by the City of White, between the hours of 10:00 p.m. and 7:00 a.m. unless lawfully camping as set forth in Section 6.0505. Any person violating this Section shall be guilty of a misdemeanor, and shall be punished upon conviction by a fine of not more than One Hundred Dollars (\$100.00) or by confinement in the county jail for not more than thirty (30) days, or by both such fine and imprisonment.

6.0505 Camping. It shall be unlawful for any person or persons:

- a. To camp in public parks other than in designated areas.
- b. To camp in public parks before May 1 or until water in facilities can be safely turned on without danger of freezing, whichever is later or after October 31 or until water in facilities is turned off to prevent freezing, whichever is earlier.
- c. To camp in public parks without paying appropriate fees, which are set by resolution of the City Council.
- d. To camp in one camping site longer than fourteen (14) days without moving camping unit to another site to allow for standard upkeep and maintenance of each site.
- e. To conduct any type of open burning unless contained within the concrete fire pits provided for such purpose in the Arthur Graslie City Park and as allowed for in White City Ordinances.

f. To connect campers to water hydrants or the dump station facility longer than the reasonable time normally necessary to fill or empty camper water/wastewater tanks.

6.0506 Violation Penalties. Any person who shall violate a provision of this Chapter, other than those listed in Sections 6.0503 and 6.0504, shall be guilty of a misdemeanor, and shall be punished upon conviction by a fine of not more than One Hundred Dollars (\$100.00) or by confinement in the county jail for not more than thirty (30) days, or by both such fine and imprisonment.

# TITLE 7 – TRAFFIC CODE

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

## CHAPTER 7.01 – GENERAL PROVISIONS

- 7.0101 Duty to Enforce. It shall be the duty of the law enforcement officers to enforce these traffic regulations and all of the state vehicle laws applicable to street traffic in the City, to make arrests for traffic violations, to investigate accidents and to cooperate with other officials in the administration of these traffic laws. (SDCL 9-29-19)
- 7.0102 Directing Traffic. Law enforcement officers shall direct traffic in conformance with traffic laws and ordinances provided that in the event of a fire or other emergency, or to expedite traffic or to safeguard pedestrians, Fire Department personnel may direct traffic as conditions may require.
- 7.0103 Exemptions to Authorized Emergency Vehicles. The provisions of this Title regulating the movement, parking, and standing of vehicles shall not apply to authorized emergency vehicles while the operator of such vehicle is operating the same in an emergency in the necessary performance of public duties. This exemption shall not, however, exempt the driver of any such vehicle from the consequence of a reckless disregard of the safety of others.
- 7.0104 Application to Workers and Equipment. The provisions of this Title shall not apply to persons, motor vehicles and other equipment while actually engaged in work upon the surface of the street, but shall apply to such persons and vehicles when traveling to or from such work; provided however, such persons and vehicles shall not indiscriminately block traffic, but shall allow reasonable room on the traveled portion of the street for other vehicles to pass.
- 7.0105 Authority to Install Traffic Control Devices. The City Council shall place and maintain traffic control signs, signals, and devices when and as required under this Title to make effective the provisions of said Title, and may place and maintain such additional traffic control devices as may be necessary to regulate traffic. (SDCL 32-14-5)

7.0106 Definitions. When in this Title the following terms are used they shall have the meanings respectively ascribed to them in this Section.

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

7.0107 Obedience to Traffic Control Devices. The operator of any vehicle shall obey the instructions of any official traffic control device applicable thereto placed or held in accordance with the provisions of this Title unless otherwise directed by a law enforcement officer subject to the exceptions granted the driver of an authorized emergency vehicle in this Chapter.

#### CHAPTER 7.02 – OPERATION OF VEHICLES

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

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

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

street unless it is impractical to travel on such side of the street, and except when overtaking and passing another vehicle subject to the limitations applicable to overtaking and passing set forth in this Title. (SDCL 36-26-1)

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

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

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

7.0206 Unsafe Backing Up. It shall be unlawful for the operator of any vehicle to unsafely back such vehicle. (SDCL 32-30-20)

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

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

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

7.0210 Right-of-Way at Intersection. The right-of-way rule as between vehicles at intersections is hereby declared as follows:

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

2. When two vehicles approach an intersection at approximately the same time, the operator of the vehicle at the left shall yield the right-of-way to the vehicle on the right.
3. The operator of any vehicle traveling at an unlawful speed shall forfeit any right-of-way which he or she may otherwise have hereunder. (SDCL 32-26-12)

7.0211 U-Turn at Intersection. As any intersection where warned by a traffic control sign displaying the words "No U-Turn", it shall be unlawful for the operator of a vehicle to turn such vehicle at the intersection in a half circle so as to proceed in the opposite direction.

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

7.0213 Turning Around in Midblock Prohibited. The operator of a vehicle shall not turn such vehicle so as to park in the opposite direction except at an intersection.

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

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

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

7.0216 Stop Required Before Operator Entering From Alley, Building or Private Road. The operator of a vehicle emerging from an alley, building, private road or driveway within a business or residence district shall stop such

vehicle immediately prior to driving onto a sidewalk or onto the sidewalk area shall stop at the point nearest the street to be entered where said operator has a view of approaching traffic thereon.

7.0217 Pedestrian's Right-of-Way. The operator of any vehicle shall yield the right-of-way to a pedestrian crossing the roadway within any marked crosswalk or within any unmarked crosswalk at the end of a block, except at intersections where the movement of traffic control signals. Whenever any vehicle has stopped at a marked crosswalk or at any intersection to permit a pedestrian to cross a roadway, it shall be unlawful for the operator of any other vehicle approaching from the rear to overtake and pass such stopped vehicle.

7.0218 Following Too Closely. The driver of a motor vehicle shall not follow another vehicle more closely than is reasonable and prudent, having due regard for the speed of such vehicles and the traffic upon and condition of the street.

#### CHAPTER 7.03 – VEHICLE EQUIPMENT

7.0301 Warning Tickets. Any authorized law enforcement officer, upon reasonable belief that a vehicle is being operated in violation of any provision of this Title or applicable state law or is in such unsafe condition as to endanger any person, may require the driver of the vehicle to stop and submit to inspection of the vehicle and its equipment, license plates and registration card, and is hereby authorized to issue a warning ticket to any driver whose vehicle is in such violation. Such warning ticket shall clearly designate the provisions which are being violated and shall provide for notification to law enforcement officials when such violation is corrected, by the time specified on the warning ticket.

7.0302 Lights Required. A motor vehicle in motion, during the period from half an hour after sunset to half an hour before sunrise, shall display at least two (2) lighted lamps on the front and one on the rear of such motor vehicle, such lamps to conform to the state law; provided that a motorcycle or a motor bicycle shall be required to display but one lighted lamp in front and one in the rear.

7.0303 Headlights Dimmed. No person shall use headlights upon any vehicle on any street unless the same are dimmed in such a way as to prevent the light being dazzling or blinding to persons using the streets.

7.0304 Warning Devices. Every motor vehicle operated or driven in the City shall be provided with a suitable or adequate horn or other device for signaling which shall be in good working order at all times such vehicle is operated on the streets of the municipality.

7.0305 Emergency Vehicle Warning Device. Every law enforcement and Fire Department vehicle and every ambulance used for emergency calls shall be equipped with lights and siren. It shall be unlawful for any other vehicle to be equipped with such equipment.

- 7.0306 Red and Blue Lights. Except as to law enforcement or Fire Department vehicles, or two trucks or wreckers operating under such circumstances as may be provided by law, any person who drives or moves any vehicle in the City with any red or blue light thereon visible from directly in front or to the sides thereof shall be guilty of a misdemeanor.
- 7.0307 Brakes. Every motor vehicle shall be provided with foot pedal brakes in good working order and sufficient to control such motor vehicle at all times when same is in use.
- 7.0308 Mufflers. No person shall drive a motor vehicle on any street within the City unless such vehicle is equipped with a muffler in good working order and in constant operation to prevent excessive or unusual noise and annoying smoke. It shall be unlawful for any person to use a muffler cut-out on any motor vehicle with the City.
- 7.0309 Projecting Loads. No person shall drive any vehicle upon any street with any load or part of a load projecting more than four (4) feet beyond the rear and or front and, or more than two (2) feet beyond the sides of the body, or carrying part of such vehicle, unless there be attached to the extreme ends and sides of such projecting load some warning sign or signal plainly discernible to other drivers and clearly indicating the projecting parts of such load.
- 7.0310 Weight and Size of Vehicle and Loads. No person shall drive or operate any motor vehicle upon any street the gross weight of which including the load or the size of which do not comply with the requirements of the state law governing such vehicle.
- 7.0311 Windshields Must be Unobstructed. It shall be unlawful for any person to drive any motor vehicle upon any street with the front windshield obstructed or with any sign, poster, or other non-transparent material upon the front windshield, side wings, side, or rear windows of such motor vehicle other than a certificate or other paper required to be so displayed by law or other temporary driving instruction placed thereon by the manufacturer.
- 7.0312 Protection of Load. No motor vehicle shall be driven or moved on any street unless such vehicle is so constructed or loaded as to prevent any of its load from dripping, sifting, leaking, or otherwise escaping therefrom, except that sand may be dropped for the purpose of securing traction, or water or other substances may be sprinkled on a roadway in cleaning or maintaining such roadway. No person shall operate on any street any vehicle with any load unless said load and nay covering is securely fastened so as to prevent said covering or load from becoming loose, detached or in any manner a hazard to other users of the highway.

#### CHAPTER 7.04 – SPEED RESTRICTIONS

- 7.0401 Establishment of Speed Zone

1. The City Council is authorized and empowered to determine and establish upon any public street in the City or any part thereof, limited speed zones which speed limit shall constitute the maximum speed at which any person may drive or operate any vehicle upon such zones, street or highway or portion thereof so zoned, and on which highway the maximum speed permissible in the zone has been conspicuously posted by signs authorized by the Council.
2. The beginning of such limited speed zones shall be indicated by signs showing the speed limits.

7.0402 Maximum Limits Generally. Except as may otherwise be provided by the City Council, it shall be unlawful for any person to operate or drive any vehicle at a rate of speed greater than 25 MPH.

#### CHAPTER 7.05 – PARKING, STOPPING

7.0501 Obstruction of Traffic. No vehicle shall be operated or allowed to remain upon any street under the jurisdiction of the City in such a manner as to form an unreasonable obstruction to traffic. Whenever any law enforcement officer finds a vehicle which constitutes an obstruction to traffic, such officer shall be authorized to provide for the removal of such vehicle by towing, if necessary, at owner's expense, with no liability to the City.

7.0502 Parking in Streets.

1. It shall be unlawful for the driver of or owner of any motor vehicle, trailer, or implement to park or leave standing any motor vehicle, trailer, or implement on any street, avenue or alley in the City of White, following any snowfall or two (2) inches or more, for a period of seventy-two hours thereafter.
2. Any person violating Section 1 above shall be subject to a fine not to exceed twenty (20) dollars upon conviction thereof.

7.0503 Restriction on Campers, Trailers, Motor Homes and Like Vehicles. No camper, trailer, motor home or like vehicles shall be parked on any street, alley or property owned by the City for the purpose of lodging. Such vehicles shall only be parked in approved camper parks.

7.0504 Towing Vehicles. Any authorized law enforcement official shall be authorized to remove and tow away, or have removed and towed away by any commercial towing service, any car or vehicle illegally parked, parked in any place where such parked vehicle creates or constitutes a traffic hazard, blocks the use of a fire hydrant, or obstructs or may obstruct the movement of any emergency vehicle, or in any way is in violation with the provisions of this Title. Cars towed away for illegal parking shall be stored in a place designated by the City Council and shall be restored to the owner or operator of such car upon payment of a fee of twenty-five (25) dollars plus towing charges, within twenty-four (24) hours after the time such car was removed, plus five (5) dollars for each additional 24 hours or fraction thereof.

7.0505 Abandoned Vehicles. The abandonment of a motor vehicle or other vehicle or any part thereof on any street in the City shall be subject to action and penalties as provided for in this Title. The abandonment of a motor vehicle or other vehicle or any part thereof on private or public property, other than a street, in view of the general public, anywhere in the City shall be prohibited except on property of the owner of such abandoned vehicle. A motor vehicle or other vehicle or any part thereof so abandoned on private property may be authorized for removal by or upon the order of the City Council after a waiting period of seven (7) days or more has expired. The provisions of this Section may be waived for commercial or business enterprises insofar as off-street parking is concerned. (SDCL 32-30-12.1)

7.0506 Towing Costs. When a vehicle is removed from either public or private property as authorized by Title 7, the owner of the vehicle shall be responsible for all towing costs in addition to the fees provided in Section 7.0503 hereof. In addition, the City shall not be liable for any damages to property or persons incurred as a result of such towing or storage.

7.0507 Parking Prohibited in Certain Places. At any time it shall be unlawful to permit any vehicle to stop, stand, or park in any of the following places, except when necessary to avoid conflict with other traffic or in compliance with the directions of a law enforcement officer or traffic control device:

1. In any intersection.
2. In a crosswalk.
3. Within fifteen (15) feet of a fire hydrant.
4. At any place where the vehicle would block the use of a driveway.
5. Within twenty (20) feet of the driveway entrance of the fire station and on the side of the street opposite the entrance to such station within one hundred (100) feet of such entrance.
6. On any sidewalk.
7. At any place where official signs prohibit parking.

7.0508 General Parking Restrictions. No vehicle shall be parked with the left side of such vehicle next to the curb, except on one-way streets. It shall be unlawful to park any vehicle upon any street for the purpose of displaying it for sale, or to park any vehicle upon any business street from which vehicle merchandise is peddled, unless authorized by the City Council. It shall be unlawful to park any motor vehicle on any private property without the consent of the owner of the property.

7.0509 No Parking Areas. The City Council shall cause signs to be posted in all areas where parking is limited or prohibited, indicating such limitations or prohibitions, except that yellow curb painting may be used to indicate "No Parking" in certain street areas. (SDCL 9-31-1)

## CHAPTER 7.06 – TRUCKS

- 7.0601 Truck Routes. The City Council is hereby authorized to establish within the City truck routes and the same shall be identified by signs or markings erected and maintained by the City. The word “truck” shall mean and include truck, trailer and semi-trailer, tractor and farm wagon.
- 7.0602 Operation of Trucks. Where any truck route has been established and identified, any person driving a truck having a gross weight of five (5) tons or more shall drive such truck on such route or routes and none other, except where necessary to traverse another street or streets to a destination for the purpose of loading or unloading commodities or for the purpose of towing a disabled or damaged motor vehicle to or from public or private property, and then only by such deviation from the nearest truck route as is reasonably necessary.
- 7.0603 Exceptions to Use of Truck Routes. There shall be the following exceptions to the use of truck routes:
1. A truck arriving at the end of any designated truck route may be driven over the most direct course to the nearest truck route which extends in the same general direction.
  2. The City Council or the Maintenance Superintendent shall have the authority, for good cause and upon request, to issue temporary permits for trucks to operate over routes no established as truck routes by the City or to otherwise deviate from the provisions of this article. Such action by the Maintenance Superintendent shall be subject to review, modification, or cancellation by the City Council.
  3. “Trucks” as referred to in Section 7.0601 (except semi-trailers) may deviate from the truck route for the purpose of taking said truck to the owners personal residence or parking facility, but said truck must be parked on the owners real property and not on City streets or City property. In this instance said vehicle may only make one trip to and from owners personal residence or parking facility per day.
  4. The provisions of this Section shall not apply to school buses, emergency vehicles of any Fire Department, not to any public utility vehicles where actually engaged in the performance of emergency duties necessary to be performed by said public departments or public utilities, nor to any vehicle owned by or performing work for the City, the United States of America, or the State of any of its political subdivisions.

## CHAPTER 7.07 – SNOWMOBILES

- 7.0701 Definitions. The following words and phrases when used in this Chapter shall have the meanings respectively ascribed to them:
1. Operate shall mean to control the operation of a snowmobile.

2. Owner shall mean any person, other than a lien holder, having the property in or title to a snowmobile and entitled to the use or possession thereof.
3. Private property shall mean and include any and all real property, or land within the City which has not been opened or dedicated for public use or as a public thoroughfare.
4. 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.

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

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

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

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

7.0706 Operation on Public Ground. No person shall operate a snowmobile on any public property, including, but not limited to public school ground, park property, park roads, playgrounds, and recreational areas.

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

7.0708 Speed. No person shall operate a snowmobile at a speed greater than is reasonable and proper, under all existing circumstances.

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

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

7.0711 Emergency Use.

1. The City Council may declare that road or weather conditions are such as to constitute emergency travel conditions authorizing use of a snowmobile.
2. A snowmobile may also be used when such vehicle is necessary as an emergency vehicle to protect the health, safety and welfare of any individual.
3. The operator of a snowmobile under emergency conditions shall be subject to all existing traffic ordinances of the City and traffic laws of the State.

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

1. Mufflers which are properly attached and which reduce the noise of operations of the vehicle to the minimum noise necessary for operating the vehicle, and no person shall use a muffler cutout, bypass or similar device on such vehicle.
2. Adequate brakes in good working condition.
3. A safety or "deadman" throttle in operating condition, such being a device which when pressure is removed from the accelerator, the throttle causes the motor to disengage from the driving tract.
4. At least one headlight and one tail light in good working condition.

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

7.0714 Sidewalk Operation Prohibited. No person shall operate a snowmobile upon any public sidewalk in the City.

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

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

7.0717 Exception. Notwithstanding the provisions of any other Section, any governmental official in charge of public school ground, park property, playgrounds, public golf courses, or parking lots shall have authority to supervise and regulate events or programs conducted thereon or to designate areas under his charge and supervision as recreation areas that he shall deem available for use of snowmobiles, and the hours of such use.

#### CHAPTER 7.08 – MISCELLANEOUS PROVISIONS

7.0801 Clinging to Moving Vehicles. No person traveling upon any bicycle, motorcycle, coaster, sled, roller skates, or any other toy vehicles shall cling to or attach himself or such vehicle to any other moving vehicle upon any street.

7.0802 Riding on Outside of Vehicles. No person shall ride on any vehicle upon any portion thereof no designated or intended for the use of passengers. This provision shall not apply to persons riding within truck bodies in space intended for merchandise.

7.0803 Tampering with Vehicles. Any person who shall tamper with the motor vehicle of another, with intent to injure the same or cause inconvenience to the owner thereof, or who shall take and operate the motor vehicle of another without the consent of the owner or person lawfully in charge thereof, under such circumstances as not to constitute larceny, shall be guilty of a misdemeanor.

7.0804 Immediate Notice of Accident. The operator of a vehicle involved in an accident resulting in injury to or death of any person, or resulting in any property damage, shall immediately by the quickest means of communication give notice of such accident to a law enforcement officer.

7.0805 When Driver Unable to Report. An accident report shall not be required from any person who is physically incapable of making such report during this period of incapacity. Whenever the operator of a vehicle is physically incapable of making such report or is physically incapable of giving an immediate notice of an accident and there is another occupant in the vehicle at the time of the accident capable of doing so, such occupant in the vehicle at the time of the accident shall cause to be given the notice not given by the operator.

7.0806 Duty to Give Information, Render Aid. The operator of any vehicle involved in an accident resulting in injury to or death of any person or damage to any vehicle which is driven or attended by any person shall give his name, address and if applicable, the license number of the vehicle he is driving and his operator's or chauffeur's license to the person struck or the driver or occupant of or person attending any vehicle collided with. The operator shall also render to any person injured in such accident reasonable assistance, including the carrying, or the making of arrangements for the carrying of such person to a physician, surgeon or hospital for medical or surgical treatment if it is apparent that such treatment is necessary or if such carrying is requested by the injured person.

- 7.0807 Personal Injury. The operator of any vehicle involved in an accident resulting in injury to or death of any person shall immediately stop such vehicle at the scene of such accident or as close thereto as possible but shall then forthwith return to and in every event shall remain at the scene of the accident until he has fulfilled the requirements of Section 7.0806. (SDCL 32-34-7)
- 7.0808 Property Damage. The operator of any vehicle involved in an accident, resulting only in damage to a vehicle which is driven or attended by any person shall immediately stop such vehicle at the scene of such accident or as close thereto as possible but shall forthwith return to and in every event shall remain at the scene of such accident until he has fulfilled the requirements of Section 7.0806. Every such stop shall be made without obstructing traffic more than is necessary. Any person failing to stop or comply with said requirements under such circumstances shall be guilty of a misdemeanor.
- 7.0809 Unattended Vehicle, Property. The operator of any vehicle which collides with any vehicle or other property which is unattended shall immediately stop and shall then and there either locate and notify the operator or owner of such vehicle of the name and address of the driver and owner of the vehicle striking the unattended vehicle or shall attach securely in a conspicuous place in or on the vehicle struck a written notice giving the name and address of the driver and of the owner of the vehicle doing the striking and a statement of the circumstances thereof. Such driver shall without unnecessary delay notify a law enforcement officer of such accident. (SDCL 32-34-4)
- 7.0810 Duty Upon Striking Fixtures. The operator of any vehicle involved in an accident resulting only in damage to fixtures or other property legally upon or adjacent to a street shall take reasonable steps to locate and notify the owner or person in charge of such property of such fact and of his name and address and of the registration number of the vehicle he is driving and shall upon request and if available exhibit his operator's license and shall make report of such accident when and as required in Section 7.0808.
- 7.0811 Duty Upon Striking Animal. The operator of any vehicle which collides with any dog or domestic animal causing injury thereto shall stop and attempt to ascertain the owner of such animal and notify a law enforcement officer of such accident.
- 7.0812 Manner of Arrest. Except in cases of driving while intoxicated or under the influence of intoxicating liquor or any stupefying or exhilarating drug and except in the more serious and aggravated cases of speeding or careless and reckless driving and except when personally necessary to secure appearance, a person charged with a violation of this Title by a law enforcement officer need not be arrested in the regular manner but may first be given an opportunity after notice to appear voluntarily to answer for such traffic violation.
- 7.0813 Notice to Appear. A person charged with violation of this Title by notice shall be given notice to appear before the court of competent jurisdiction at the time or within the time stated in such notice. And that in event of failure to do so a warrant will be issued for his arrest.

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

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

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

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

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

7.0815 Attest on Failure to Appear. Upon the failure of a person to appear in response to a notice of traffic violation, he shall be subject to arrest in the manner otherwise provided by law.

#### CHAPTER 7.09 – GOLF CARTS

7.0901 For the purposes of this Ordinance, the term golf cart means a four-wheeled vehicle originally and specifically designed and intended to transport one or more individuals and golf clubs for the purpose of playing the game of golf on a golf course.

7.0902 The City of White hereby permits the use of golf carts on the municipal streets of the City of White, subject to the following:

1. The golf cart is to be insured.
2. The person operating the golf cart shall hold a valid driver license.
3. The person operating the golf cart shall obtain a permit from the City of White to operate the golf cart on municipal streets; the fee for said permit shall be \$10.00.

4. The golf cart shall be required to display a slow moving vehicle emblem in accordance with SDCL 32-15-20 or a white or amber warning light in accordance with SDCL 32-17-46.

7.0903 No person may operate a golf cart on a state or county highway except for crossing from one side of the highway to the other. A golf cart may cross the highway at a right angle, but only after stopping and yielding the right-of-way to all approaching traffic and crossing as closely as possible to an intersection or approach.

7.0904 The operator of a golf cart is required to obey the same traffic laws of the state and ordinances of the City, including street and road signs, as the operators of all other motorized vehicles are required to obey.

7.0905 No person shall operate a golf cart within the City Limits except during daylight hours.

7.0906 Failure to abide by this ordinance shall be deemed a Class 2 misdemeanor.

# TITLE 8 – MUNICIPAL UTILITIES

Chapter 8.01 – General Provisions

Chapter 8.02 – Water Provisions

Chapter 8.03 – Sewer Provisions

Chapter 8.04 – Electricity Provisions

## Chapter 8.01 – General Provisions

Owner and Premises.

- a. For purposes of this ordinance, the term “Owner” is defined as any natural person, partnership, corporation, business entity, trustee, heirs, successors, assigns, administrators or executors which have the right to possess and use any property to the exclusion of others.
- b. For purposes of this ordinance, the term “premises” is defined as any real or personal property served or capable of being served by any city service. The term includes but is not limited to houses, buildings, mobile homes and trailers.

Effective Date. That upon the effective date of this ordinance, owners, lessees, or other users of premises located within the corporate limits of the City of White, South Dakota, whose premises are served either directly or indirectly by a connection to any city service, shall be jointly and severally liable for payment of charges or rentals for all city services, including but not limited to charges or rental for water, sewer, garbage, electricity and sales tax.

Discontinuance of Service. In the event that the charge or rental for any city service becomes delinquent as set forth in Section 8.0107 of White City Ordinances, the City shall have the right to discontinue all services to the premises served. Discontinuance of services shall be without notice and notwithstanding the name of the user noted on the account for said services. The City shall have the right to continue to refuse to provide said services to the premises until such time as the past due charge or rental is paid in full.

8.0101 Utility Service – Application Required. Any person desiring any utility service furnished by the City, including water or sewer service, shall make application for the same to the Finance Officer. 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 premise 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 they may be revised from time to time in addition to conditions and agreements as the City Council shall deem advisable.

8.0102 Utility Payments. Customer utility payments will be applied to billing in the following order: (1) garbage, (2) water, (3) sewer, (4) electric.

- 8.0103 Same-Not Available to Debtors. The City may decline or fail or cease to furnish utility service to any person who may be in debt to the City for any reason except ad valorem taxes and special assessments.
- 8.0104 Termination of Service. The City shall have the right to disconnect or refuse to connect any municipal utility service for the following reasons:
1. Failure to meet the applicable provisions of law.
  2. Violation of the rules and regulations pertaining to utility services.
  3. Nonpayment of bills.
  4. Willful or negligent waste of service due to improper or imperfect pipes, fixtures, appliances or otherwise.
  5. Tampering with any meter, seal, or other equipment controlling or regulating the supply of utility service.
  6. Theft or diversion and/or use of service without payment thereof.
  7. Vacancy of premises.
- 8.0105 Hookup Provisions. 1996 version repealed and replaced with Ordinance No. 65 Amended, August 20, 2000.
- 8.0105 Hookup Provisions.
- (a) Deposit Required for Hookup. A deposit of two hundred (200) dollars is required by the City Council for hookup to City water, sewer and electric services. The deposit shall be paid by all applicants for each new service connection. The deposit will be refunded in full after 2 years upon faithful payment (no delinquencies as set forth in Section 8.0105 of this Ordinance) on the account(s) during that period or if the customer terminates services on the account(s), at which time the customer must pay all accounts in full and any remaining balance of the deposit will be refunded.
  - (b) Hookup Costs. The applicant shall also pay all costs, including piping, fixtures, digging, and appurtenances necessary to produce the connections, as well as the costs of a qualified plumber making the installation. Payments to the City for water, sewer, and electric hookups shall be made prior to turning on such service. Persons shall give notice of desire to tap any main at least twenty-four (24) hours before the tap is to be made except in an emergency. All new connections for water and sewer service shall be inspected and approved by the Maintenance Superintendent.
  - (c) Connect/Disconnect Service. The customer shall give the Finance Officer a minimum of five (5) working days notice to be connected to or disconnected from City utility services, except in an emergency.
- 8.0106 Service Taps – Extensions. Tapping of any water or sewer main for the purpose of making connection shall be done only by authorized personnel of the City. Distribution or collection mains shall be provided at the discretion of the City Council in streets, avenues, or alleys abutting the property to be served. Water facilities for hookups shall be provided, unless otherwise specified by the City Council, to the curb line from the distribution or collection main. Extension of distribution or collection mains shall be only as specified by the council in its discretion.

Any property owner may petition for a new hookup or connection to any City water and sewer line. The City Council, in its discretion, may allow such connection or hookup provided that the petitioning property owner pays the cost for said hookup or connection from the point it joins the City distribution or collection main for the total frontage to the petitioning property owner's lot line.

8.0107 Hookup Fees. 1996 version repealed and replaced with Ordinance No. 65 Amended, August 20, 2000.

8.0107 Provisions for Delinquent Accounts, Late Fees and Termination of Service.

- a. Delinquent Account(s), Late Fees, Termination of Service. An account is due on the 10<sup>th</sup> day of the month and is considered delinquent after the 20<sup>th</sup> day of the month and subject to a twenty(\$20.00) dollar late fee to reimburse the City for supervising delinquent accounts. If a customer's account has been in delinquent status for thirty (30) days, he/she will be subject to having the electric meter pulled. Notice of termination of service will be sent to delinquent customer via certified mail to the customer's address on record. Notice will include reason for termination and the date and approximate time of termination such utility service will be terminated. Upon disconnection, the \$200.00 (two hundred dollar) deposit will be applied to the account against the balance due on the account. In order to have service restored, the customer must 1) pay a \$50.00 (fifty dollar) reconnect fee (non-refundable), 2) pay remaining balance due on account to current status, and 3) pay a sum sufficient to restore the \$200.00 (two hundred dollar) deposit.

Municipal utility service shall be continued for a single thirty (30) day period upon receipt and approval by the Mayor or Council President of a physician's certificate or notice from a public health or social service official that disconnection of a municipal utility service will aggravate an existing medical emergency or other exigent circumstances of the customer or another permanent resident of the customer's premises.

The utility user may file any grievances with the City Council by appointment set with the City Finance Officer.

- b. Extension of holding period for deposit or requirement for a new deposit. In the event a customer allows his/her account to become delinquent, the period for holding the deposit shall be extended for two-years from the date of the delinquency, and in the event the customer has had the deposit refunded, a new deposit of two hundred (\$200.00) dollars shall be required and held for two years from the delinquent date as provided herein.

8.0108 Extension of Lines. The City may serve a water or sewer customer outside the municipal corporate limits solely at the discretion of the City Council. Said water and sewer lines shall be constructed and maintained by the

customer, with all parties connecting onto such lines being regulated and charged connection fees and other fees as set forth and regulated by the City.

- 8.0109 Private Lines. Private water and sewer mains shall not be installed in the City unless authorized by the City Council. For the purpose of this Section, the phrase "private water and sewer mains" shall be construed to include any rural water pipelines, pipes or waterlines, or any individual sewage disposal systems. (*REFERENCE WHITE CITY ZONING ORDINANCE NO 68, CHAPTER 4.11, REVISED JULY 10, 2000 BY ORDINANCE NO. 76 re septic systems*)
- 8.0110 Responsibility of Property Owners. Persons served by the City water and sewer shall keep all piping, fixtures, stop valves, heaters, and other apparatus for the use of water or sewer (including meters) in good repair and protected from freezing. The property owner shall be responsible for and pay the charges for replacement of any corroded or damaged piping, fixtures, stop valves, heaters, or other apparatus for the use of water or sewer, and for any charges for the repair or replacement of water meters, occasioned by the negligence of the property owner or user, or the freezing, overheating, or other external damage to any water meters. The property owner and/or water user shall place and maintain a brass stop inside the basement of any building where water is to be used at the lowest point practicable on the service pipe entering the building and as close as practicable to the wall through which the pipe enters, and easily accessible so that the water may be turned on or off by the user or occupant. Service connection repairs to the curb stop shall be the responsibility of the property owner.
- 8.0111 Excavation Requirements. All excavations required for the installation of water and sewer facilities shall be open trench work or ditch, unless otherwise approved by the City Council. City personnel shall be allowed to inspect the work at any stage of construction, and in any event, the applicant for the permit shall notify the Maintenance Superintendent when the work is ready for final inspection and before underground portions are covered.
- 8.0112 Liability of the City. The City shall not be liable for any damage to the property of any customer of any water and sewer service furnished by the City due to backflow of the sewage system, failure of water supply, interruption of service, or from any cause outside the direct control of the City.
- 8.0113 Right of Entry. Any person authorized by the City shall have free access at any time to all premises supplied with any water, sewer, or electric service by the City for the purpose of examination in order to protect the utility services from abusive use.
- 8.0114 Damage, Trespass of Equipment. It shall be unlawful for any person, not having authority to do so, to open any water hydrant or tamper with any water, sewer, or electric service furnished by the City to consumers, or to in any other way molest damage or trespass upon any equipment or premises belonging to the City connected with any such service.

- 8.0115 Unlawful Use. No person, other than authorized personnel of the City, shall connect, turn on, turn off or disconnect any water, sewer, or electric service offered by the City, or remove, replace or repair any equipment connected to any such service.
- 8.0116 Violations. The City may, in its discretion, notify any person violating any provision of this Title with written notice stating the nature of the violation and providing a reasonable time for the correction thereof, but such notice shall not be necessary for the prosecution of any violators hereof. Any person, whether receiving such notice or not, violating any provision of this Title shall be liable to the City for any expense, loss, or damage, occasioned the City by reason of such violation. All provisions of this Title shall be subject to applicable state and federal law. (SDCL 9-47, SDCL 9-48)

#### CHAPTER 8.02 – WATER PROVISIONS

- 8.0201 Water Meters. Water meters shall be installed in all new and existing buildings using municipal water service or as otherwise authorized by the City Council. The Maintenance Superintendent shall install, replace, and repair household water meters, defined as the standard 5/8 inch pipe size water meter or as otherwise approved by the City Council.
- 8.0202 Inspection of Meters. Any person authorized by the City council to read water meters or make inspections shall be allowed free access at all reasonable hours to any building or premises where water is used. If such person is not allowed such access, the City, in its discretion, may estimate the water use, shut off the water, make additional charges, or take other action not inconsistent with the law.
- 8.0203 Testing Meters. The owner of property may have his or her water meter tested by making written request to the Finance Officer.

In case any meter fails to register properly upon testing, the amount overcharged or undercharged for water during such period shall be estimated by the Water, Sewer & Sanitation Supervisory Committee, such estimate to be based on the average amount registered during a like period.

- 8.0204 Water Lines How Laid. All service lines shall be at least six (6) feet below the established grade of the street, avenue, or alley in which they shall be laid, and in all places at least six (6) feet below the surface of the ground, unless otherwise authorized by the City Council. All plumbing fixtures, piping, or apparatus shall be installed with such material as to withstand safely the perils surrounding their conditions of operation and use.

When service pipes are found disconnected at the corporation stop at any main, they may be reconnected only by the City or on its order. No water main or service may be laid in the same trench with gas mains or other foreign conduits. Special permission may be granted, however, when deemed advisable by the City Council, for

laying of water lines in trenches with sewer lines, and then only with the placement of water lines well above sewer lines to prevent subsequent possible contamination of water mains.

8.0205 Water Line Requirements. 1993 version repealed and replaced with Ordinance No. 70, July 1, 1998.

8.0205 Water Line Requirements. All water mains shall be at least six (6) inch PVC with gasketed joints, service lines shall be a minimum of one-inch copper to the property line and one-inch copper or PVC to the meter, and hydrants shall be six (6) inch, with two or three way openings unless otherwise approved by the City Council.

8.0206 Payment of Water Rates. All payments for water service shall be paid at the office of the City Finance Officer on or before the 10<sup>th</sup> day after mailing of the bill and, if not so paid, the account shall be delinquent.

The customer shall be so notified upon receipt of his next month's billing that the account is delinquent. If the delinquent account is not paid in full by the 15<sup>th</sup> day following notification of account being delinquent, the water service shall be disconnected. When service has been disconnected, no utility shall be reconnected until all back utility bills, charges, meter deposits or rents together with a charge of \$50.00 for reconnection shall have been paid.

8.0207 Water Rates. 1993 version repealed and replaced with Ordinance No. 70, June 1, 1998.

8.0207 Water Rates. Ordinance No. 70 repealed and replaced with Ordinance No. 70 Amended, December 6, 1999.

8.0207 Water Rates. Ordinance No. 70 Amended repealed and replaced with Ordinance No. 81, January 7, 2002

8.0207 Water and Sewer Rates. Ordinance No. 81 repealed and replaced with Ordinance No. 90, November 3, 2003

8.0207 Water and Sewer Rates. Ordinance No. 90 repealed and replaced with Ordinance No. 118, January 10, 2010.

8.0207 Water and Sewer Rates. Ordinance No.118 repealed and replaced with Ordinance No.133, September 13, 2013.

8.0207 Water and Sewer Rates. Water and sewer service rates shall be established by the City Council as follows:

Monthly Rates for Water Service

\$16.00 for the first 2000 gallons used

\$2.50 for each 1000 gallons used thereafter

The minimum monthly charge shall be \$16.00.

8.0208 Monthly Rates for Sewer Service. Ordinance No. 90 repealed and replaced with Ordinance No. 98, July 10, 2007.

8.0208 Monthly Rates for Sewer Service. Ordinance No. 98 repealed and replaced with Ordinance No. 133, September 13, 2013.

8.0208 Monthly Rates for Sewer Service

a. Residential Rate shall be \$17.00 per month

b. Commercial and Industrial Rates shall be based on monthly water usage:

\$10.35 for the first 3000 gallons of water used  
\$1.15 per 1000 gallons of water used from 3,001 to 9,999 gallons  
\$1.05 per 1000 gallons of water used for 10,000 gallons or more  
The minimum monthly charge shall be \$10.35

- 8.0209 Voluntary Discontinuance of Service. Persons wishing to discontinue the use of any water service shall give a five (5) day notice thereof to the Finance Officer or to the Maintenance Superintendent. Failure to do so shall render them liable for the payment of all bills until such notice has been given.
- 8.0210 Interruption of Service. The users of any water service furnished by the City may be notified that the supply of such utility may be temporarily shut off at any time. Notice shall be given, if feasible, of the contemplated shut off and immediately upon finding the supply shut off it becomes the duty of the premises to take prompt precautions to prevent damages.
- 8.0211 Restricting Use. The City Council reserves the right to at any time restrict or prevent the use of any water service furnished by the City during periods of emergency or circumstances demanding such restriction or prevention of use.
- 8.0212 Joint Water Users Liable. In case of two or more users are supplied with water from the same service pipe, if any of the parties fail to pay the water charge when due, or to comply with any rule of the City, the City reserves the right to shut off the water from the whole service until such charge is paid, or the rules strictly complied with, and it is expressly stipulated that no claim for damage or otherwise may be made against the City by any user whose water charge has been paid, or who has complied with the rules of said City, because of such shut off, it being expressly stipulated that the necessity for such shut off shall be deemed to be the joint act of all served through such service.
- 8.0213 Use Assumed. All premises connected to any water service of the City shall be assumed to be using such service and the owner or occupant shall be charged therefore as long as such premises shall remain connected to the water service of the City. (SDCL 9-47)

#### CHAPTER 8.03 – SEWER PROVISIONS

- 8.0301 Sanitary Sewer Required. A separate and independent sanitary sewer shall be provided for every building, except where one building stands at the rear of another on an interior lot and no sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway, the sewer from the front building may be extended to the rear building and the whole considered as one sanitary sewer. Multiple hookups in all cases shall be as prescribed by the City Council.

8.0302 Existing Sewer Connections. Existing building sewers may be used in connection with new buildings only when they are found, on examination and test by the Maintenance Superintendent, to meet all requirements of this Chapter.

8.0303 Disconnecting. When a disconnection from the sanitary sewer is made, the sewer service shall be closed to the satisfaction of the Maintenance Superintendent. Closure shall be at the curb line on residential property and at the property line on commercial property.

8.0304 Sewer Pipe Requirements. 1993 version repealed and replaced with Ordinance No. 70, July 1, 1998.

8.0304 Sewer Pipe Requirements. All sewer mains shall be at least eight (8) inch vitrified clay sewer pipe, or PVC, or other suitable material approved by the City Council. Additional requirements may be provided when any part of the building sewer is located near a water service pipe, or building sewer is located near a water service pipe, or when the sewer is exposed to damage by tree roots or unusable ground. The size and slope of the sanitary sewer main shall be subject to the approval of the City Council.

The size and slope of sanitary sewer service lines from the main to service connection shall be subject to the approval of the City Council, but in no event shall the diameter be less than four (4) inches. All service lines shall be connected to the main and in no event connected to another service line. The slope of such pipe shall be not less than four-tenths of one percent. Whenever possible the sewer shall be brought to the building at an elevation below the basement floor. No sewer shall be laid parallel to or within three (3) feet of any bearing wall, which might thereby be weakened. The depth shall be sufficient to afford protection from frost. The sewer shall be laid at uniform space in straight alignment in so far as possible. Changes in direction shall be made only with properly curved pipe and fittings.

8.0305 Certain Acts Prohibited. No person shall discharge or cause to be discharged any storm water, surface water, ground water, roof runoff, subsurface drainage, cooling water or unpolluted industrial process waters to any sanitary sewer, including discharging of sump pumps into floor drains.

It shall be unlawful to discharge to any natural outlet within the City, or in any area under the jurisdiction of said City, any sanitary sewage, industrial wastes, or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions in this Chapter.

The disposal by any and all persons of garbage, petroleum products, and other foreign debris into the sanitary sewer system of the City shall also be prohibited.

8.0306 Private Disposal System. No connection from any private sewage disposal system shall be made with any public sanitary sewer under jurisdiction of the City. (SDCL 9-48) (*REFERENCE WHITE CITY ZONING ORDINANCE NO 68, CHAPTER 4.11, REVISED JULY 10, 2000 BY ORDINANCE NO. 76 re septic systems*)

8.0307 Sewer User Charge. The City Council shall establish the sewer user charges which will be assessed in conjunction with the City water rate charges. These rate charges may be amended when deemed necessary by the City Council by resolution.

CHAPTER 8.04 – ELECTRICITY PROVISIONS

8.0401 Organization of Department. The municipal light and power department with its plant and facilities heretofore established and existing in the City of White, having been organized, erected, constructed, equipped, extended, and maintained as a system for the purpose for providing light, heat, and power for municipal, industrial, and domestic purposes for the City, shall be known as the municipal light and power department of the City of White, and shall be continued to be extended, equipped, maintained, and operated as a municipal utility and system for the purpose of providing light, heat, and power for municipal, industrial, and domestic purposes for the city and the inhabitants thereof.

8.402 Service Rates. 1993 version repealed and replaced with Ordinance No. 84, December 5, 2002.

8.402 Service Rates. Ordinance No. 84 repealed and replaced with Ordinance No. 95, July 1, 2006.

8.402 Service Rates. Ordinance No. 95 repealed and replaced with Ordinance No. 125, January 1, 2012.

8.0402 Service Rates. Rates for electric service are as follows:

A. Residential Service Rate

Applicable to residential customers for all domestic uses in single-family dwelling and individually-metered apartments, including the use of motors of not more than 5 horsepower individual capacity.

Character of Service: Single-phase, 120/240 volts, 3 wire, single meter.

Monthly Charge:

Service Charge: \$11.00 per month

Plus

Energy Charge:

All kWh @ \$0.0943 per kWh

Penalty: See Rider No. 1

Power Cost Adjustment (PCA): See Rider No. 2

Multiple Meters: See Rider No. 3

State Sales Tax: See Rider No. 4

B. Commercial Service Rate

Applicable to commercial and industrial customers for lighting, heating, cooking, refrigeration, power to motors, and other approved uses. Includes any three-phase users. Includes all commercial, industrial, and three-phase users not subject to Large Power Rate.

Character of Service: Single or three phase, 120/240 volt, 3 or 4 wire, single meter. Special secondary voltages may be made available at the discretion of the municipal utility.

Monthly Charge:

Service Charge:	\$12.50 per month
Plus	
Energy Charge:	
All kWh @	\$0.0900 per kWh
Penalty:	See Rider No. 1
Power Cost Adjustment (PCA):	See Rider No. 2
Multiple Meters:	See Rider No. 3
State Sales Tax:	See Rider No. 4

C. Large Power Service

Applicable to all industrial or commercial customers which have a connected load of at least 100 horsepower, KVA or KW, or any combination thereof; or a single motor or device of 40 horsepower, KVA or KW. Service is for all normal commercial and industrial uses, including water and space heating. Character of Service: Three-phase or single-phase, 120/240 volt, 3 or 4 wire. Other special or secondary voltages may be provided at the discretion of the utility. Utility furnishes only one transformer bank and one meter.

Monthly Charge:

Demand:	\$12.75 per kW of billing demand
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    Plus

Energy Charge:

All kWh @	\$0.0875 per kWh
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Billing Demand: The billing demand shall be the maximum kilowatt demand established by the consumer for any period of 15 consecutive minutes during the month as indicated or recorded by a demand meter, but not less than 50% of such demand during the preceding 11 months.

Penalty:	See Rider No. 1
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Power Cost: Adjustment (PCA)	See Rider No. 2
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Multiple Meters:	See Rider No. 3
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State Sales Tax:	See Rider No. 4
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D. Riders and Notes:

Rider No. 1: Prompt Payment Provisions

All charges are net. If the bill is not paid or mailed and postmarked by the 20<sup>th</sup> day of the month, a late payment charge of \$20.00 shall apply.

Rider No. 2: Power Cost Adjustment (PCA)

All rates may be increased or decreased by 0.1 mills per KWH for each 0.1 mill per KWH increase or decrease in the wholesale cost of power above or below the base of 7.2 mills per KWH (based on purchases).

Rider No. 3: Multiple Meters

All rates are based on a single meter for each consumer site. An additional service charge of \$2.00 per month applies for each additional meter at an individual consumer site.

Rider No. 4: Sales Tax

Sales tax shall be added to all electric bills so as to be in compliance with the provisions of the laws of the State of South Dakota and the City of White.

E. Amendment of Rates

The rates provided for herein for service provided to any customer, for any use of purpose may, with the exception of the automatic adjustment thereof, by reason of increased cost of electric power furnished to the City, which is otherwise provided for, be amended by resolution of the City Council duly adopted according to law.

## TITLE 9 – PLANNING AND ZONING

Comprehensive Land Use Plan

Zoning Ordinance

Subdivision Ordinance

Comprehensive Land Use Plan. Adopted by Resolution 97-6: A resolution adopting the comprehensive land use plan for the City of White, as provided for in SDCL 11-6-14 through 11-6-18. April 21, 1997. Updated November 3, 2008.

Zoning Ordinance. ORDINANCE NO. 68, ADOPTED JUNE 18, 1997 repealed and replaced with Ordinance No. 109 December 1, 2008.

Subdivision Ordinance. Ordinance No. 69 ADOPTED JUNE 18, 1997 updated with Ordinance 99, August 14, 2007 updated with Ordinance 106, May 15, 2008. An ordinance pertaining to the establishment of a subdivision ordinance for the City of White.

City of White Comprehensive Land Use Plan, Zoning Ordinance and Subdivision Ordinance are compiled within their own volume.

## TITLE 10 – FRANCHISES

### Cable TV Franchises

Satellite Cable Services, Inc. ORDINANCE NO. 52, Adopted March 5, 1984 repealed and replaced with Ordinance No. 63, November 4, 1996. City of White Resolution 2000-5 approved the transfer of the franchise and cable television system of Satellite Cable Services, Inc. to Mediacom Minnesota LLC (September 4, 2003).

Interstate Telecommunications Cooperative, Inc. ORDINANCE No. 86 (January 6, 2003) amended by ORDINANCE NO.104 (January 7, 2008)

# TITLE 11 – GENERAL PROVISIONS

## Chapter 11.01 – Penalties and Repealing Clause

### CHAPTER 11.01 PENALTIES AND REPEALING CLAUSE

- 11.0101      Penalty in General. Except in cases where a different or additional penalty is imposed by this ordinance or by some existing provision of law, every violation of any of the provisions of this ordinance shall be punishable by a fine not exceeding one hundred (100) dollars. (SDCL 9-19-3)
- 11.0102      Conflicting Ordinances Repealed. All ordinances and parts of ordinances in conflict with the provisions of this ordinance, or relating to the subject matter of this ordinance and not re-enacted as part of this ordinance, are hereby repealed; provided however, that nothing herein shall be construed as repealing any special ordinances, appropriation ordinances, levying ordinances for the issuance of bonds, or other special ordinances of like character, nor shall this ordinance repeal or modify the provisions of any ordinance heretofore adopted by the City unless provisions of this ordinance in effect, either modify, repeal or amend such ordinances.
- 11.0103      Unconstitutionality. Should any Section, Sub-section, paragraph, sentence, clause or phrase of this ordinance be declared unconstitutional or invalid for any reason the remainder of this ordinance shall not be affected thereby.
- 11.0104      Publication and Effect. This ordinance shall take effect upon its adoption and publication of the notice of such adoption as provided by SDCL 9-19-17.