REVISED

MUNICIPAL ORDINANCES

CITY OF ELK POINT, SOUTH DAKOTA

Ordinance # 347

Effective Date: April 13, 2011

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

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

ORDINANCE # 347

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

BE IT ORDAINED BY THE CITY OF ELK POINT, SOUTH DAKOTA:

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

First Reading:	February 7, 2011
Second Reading and Adoption:	March 7, 2011
Publication Dates:	March 17, 2011 & March 24, 2011
Effective Date:	April 13, 2011

_____
Signed: Isabel Trobaugh
Mayor, City of Elk Point

ATTEST:

_____
Erika Hammitt
Finance Officer, City of Elk Point

Seal

NOTICE OF ADOPTION

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

Notice is hereby given Ordinance # 347, an Ordinance in Revision of the Municipal Ordinances of the City of Elk Point, was duly adopted by the City Council on March 7, 2011, and shall become effective April 13, 2011, according to South Dakota law.

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

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

Erika Hammitt
Finance Officer

(Publication Dates: March 17, 2011 & March 24, 2011)

SUMMARY AND GENERAL INFORMATION

These Ordinances are a Revision of Ordinances adopted by the City of Elk Point, except appropriation Ordinances, levying Ordinances for the issuance of bonds, zoning and subdivision Ordinances, and other special Ordinances of like character.

Such Ordinances not included within this revision and still having force and effect may be found in the Finance Office.

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

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

1. City or Municipality - The City of Elk Point, South Dakota.

2. City Council - The governing body of the City.

3. He, His or Him - Words imparting masculine gender shall extend and be implied to females and to firms, partnerships, associations, corporations, organizations and other legally recognized entities, as well as to males.

4. May - Permissive.

5. Person - Any individual, firm, partnership, association, corporation, organization or other legally recognized entity.

6. Shall - Mandatory.

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TITLE 1 - ADMINISTRATIVE CODE

Chapter 1.01 - Municipal Employees
Chapter 1.02 - Mayor and City Council
Chapter 1.03 - Finance Regulations
Chapter 1.04 - City Administrator

CHAPTER 1.01 - MUNICIPAL EMPLOYEES

1.0101 Appointment of Officers. At the first regular meeting of each May, there shall be appointed a Finance Officer, Chief of Police, Public Works Director and such other officers as may be provided by ordinance, to hold office until the appointment and qualifications of successors. All such appointments shall be made by the Mayor with the approval of the City Council. 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)

1.0102 Salaries. The salaries of all appointive officers and employees of the City shall be reviewed and approved at the regular meeting each January, and shall be paid as established by the City Council. 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)

1.0103 Employment Policies. All policies regarding personnel regulations and benefits of the City shall be included in the Personnel and Employee Policy Manual, which shall be filed with the Finance Officer and available to all personnel.

CHAPTER 1.02 - MAYOR AND CITY COUNCIL

1.0201 Composition. The City Council shall consist of the Mayor elected at large, and six aldermen, two elected from each ward, who shall each hold office for two years. (SDCL 9-8-4)

1.0202 Regular Meetings. On the first Monday of each month at 7:00 p.m., or at such other time as may be determined by the Mayor, the City Council shall 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 9-8-3)

1.0203 Mayor - Duties. The Mayor shall preside at all meetings of the City Council, but shall have no vote except in case of a tie. The Mayor shall perform such other duties as may be prescribed by laws and ordinances and ensure that such laws and ordinances are faithfully executed, and shall have the power to veto any part or item of an ordinance or resolution appropriating money. (SDCL 9-8-3).

1.0204 President and Vice-President of Council. At the first regular meeting after the annual election in each year and after the qualification of the newly elected aldermen, the council shall elect from among its own members a president and vice-president, who shall hold their respective offices for the municipal year.

The president of the council in the absence of the mayor shall be the presiding officer of the City Council and during the absence or the temporary disability of the mayor shall be acting mayor and possess all the powers of the mayor.

In the absence or disability of the mayor and president of the council the vice-president shall perform the duties of the mayor and president of the council. (SDCL 9-8-7)

1.0205 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.

1.0206 Special Meetings of City Council. Special meetings of the City Council may be called by the Mayor or by any two (2) members of the City Council at any time to consider only such matters that shall be mentioned in the call for such meeting by notice thereof given to each member of the board.

CHAPTER 1.03 - FINANCE REGULATIONS

1.0301 Revenues and Special Funds. All money belonging to the City from taxation, licenses, fines, permits, the operation of utilities, or from any other source, shall be paid into the City treasury, and the City Council shall designate by 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 such form and in such manner from time to time as required by the South Dakota Department of Revenue. (SDCL 9-14-18)

1.0302 Records Retention and Destruction. The Records Retention and Destruction Schedule Manual, authorized for South Dakota municipalities by the Office of Records Management, Bureau of Administration, State of South Dakota, shall be adopted by the City Council, and a printed copy of such manual shall be filed with the Finance Officer.

CHAPTER 1.04 - CITY ADMINISTRATOR

1.0401 Office Established. The office of City Administrator is hereby established.

1.0402 Appointment of City Administrator. The City Administrator shall be appointed by the Mayor with the approval of the Council for an indefinite term. (SDCL 9-14-3)

1.0403 Removal of City Administrator. The City Administrator may be removed at any time by the Mayor with the approval of the City Council.

1.0404 Powers and Duties of City Administrator. The City Administrator shall be the chief administrative officer of the City and shall be responsible to the Mayor and Council for the proper administration of all affairs of the City. The Administrator shall have the power and shall be required to:

A. Recommend to the Mayor and Council, the appointment and removal of department heads. Upon recommendation of a department head, to employ, or discharge, any other employee.

B. Prepare the annual budget in conjunction with the City Finance Officer, and submit it to the Mayor and Council, at the 1st regular meeting in August, together with an explanation of important features, and be responsible for its administration in conjunction with the City Finance Officer after adoption.

C. Prepare in conjunction with the City Finance Officer, and submit to the Mayor and Council, as of the end of the fiscal year, an annual report on the finances and administrative activities of the City.

D. Keep the Mayor and Council advised of the financial condition and future needs of the City with appropriate recommendations.

E. Recommend to the Mayor and Council a standard schedule of pay for each office and position in the City.

F. Recommend to the Mayor and Council necessary measures for the continuation and improvement of administrative services.

G. Recommend to the Mayor and Council the consolidation of offices, positions, or departments as may be deemed necessary for the improvement of city services.

H. Attend all meetings of the Council and other city commissions and boards, unless excused by the Mayor, and take part in the discussion of all matters presented. The Administrator shall be entitled to notice of all such meetings.

I. Supervise the purchase of all materials, supplies and equipment for which funds are provided in the budget. No purchase shall be made, contract let, or obligation incurred for any items or service which exceeds the current budget appropriation. No contract in excess of the amount established by state law shall be let except by the Council. The Administrator may issue such rules governing purchasing procedures within the administrative organization as the Council shall approve.

J. Oversee the due enforcement of all laws and ordinances.

K. Investigate all complaints in relation to matters concerning the administration of the government of the City, and in regard to service maintained by public utilities in the City, and see that all franchises, permits and privileges granted by the City are faithfully observed.

L. Perform such other duties as may be required by the Mayor and Council, not inconsistent herewith.

1.0405 Bond. The Administrator shall furnish a surety bond to be approved by the Mayor and Council, said bond to be conditioned on the faithful performance of all the Administrator's duties. The premium of the bond shall be paid by the City.

1.0406 Compensation. The Administrator shall receive such compensation as the Council shall determine.

TITLE 2 - BOUNDARIES, WARDS AND VOTING PRECINCTS

Chapter 2.01 - Boundaries
Chapter 2.02 - Wards and Voting Precincts

CHAPTER 2.01 - BOUNDARIES

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

Section 1. That Section 2.0201 of the Revised Municipal Ordinances of Elk Point, SD, is hereby amended to read as follows:

2.0201 Wards and Voting Precincts. The City shall be divided into three 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 Elk Point 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.

The First Ward shall include all of that part of the City west of Court Street. It shall also include all of that part of the City northeast of Sherman Street and northwest of Pearl Street. It shall also include all of that part of the City west of Pearl Street lying between DuPont Street and Lincoln Street. It shall also include south of Lexington Street and south of Country Club Drive. It shall also include the southeast section of Main Street/Interstate 29 Business Loop (Kum & Go Lots).

The Second Ward shall include all of that part of the City South of Jefferson Street and East of Pearl Street including the North side of Lexington Street. It shall also include all of that part of the City southeast of Clay Street beginning at Elm Street to include Green Court Drive and Truman Lane. It shall also include all of that part of the City southeast of Main Street/Interstate 29 Business Loop and east of Green Street excluding the South side of Country Club Drive and the southeast section of Main Street/Interstate 29 Business Loop (Kum & Go Lots).

The Third Ward shall include all of that part of the City northeast of Main Street/Interstate 29 Business Loop beginning east of Court Street up to south Sherman

Street. It shall also include all of that part of the City southeast of Court Street lying between DuPont Street and Sherman Street. It shall also include all of that part of the City north of DuPont Street between Court Street and Pearl Street and southwest of Jefferson Street. It shall also include all of that part of the City northeast of Jefferson Street between Green Street and Pearl Street. It shall also include all of that part of the City northeast of Clay Street between Green Street and Wood Street.

Adopted this 7th day of March 2022.

TITLE 3 - HEALTH AND SANITATION

Chapter 3.01 - Nuisances
Chapter 3.02 - Collection of Garbage and Recyclables
Chapter 3.03 - Dangerous Building

CHAPTER 3.01 - NUISANCES

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

A. "Garbage" – The animal and vegetable waste resulting from the handling, preparation, cooking and serving of foods.

B. "Solid Waste" – Any garbage, refuse, sludge from a waste treatment plant, water supply treatment plant or air pollution control facility and other discarded materials, including solid, liquid, semisolid or contained gaseous material resulting from industrial, commercial and agricultural operations, and from community activities including, but not limited to wood and other construction materials, appliances, yard waste, tires, scrap iron, chemicals or fuel. (SDCL 34A-6-1.3)

C. "Wastewater" – The spent water of a community. From the standpoint of source it may be a combination of the liquid and water-carried wastes from residences, commercial buildings, industrial plants and institutions, together with any groundwater, surface water and storm water that may be present.

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

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

F. "Inoperable vehicle" – Any vehicle which is not in operating condition due to damage, removal or inoperability of one or more tires and/or wheels, the engine or other essential parts required for the operation of the vehicle, or which does not have

lawfully affixed thereto unexpired license plates, or which constitutes an immediate health, safety, fire or traffic hazard.

G. "Nuisance" – Unlawfully doing an act, or omitting to perform a duty, which act or omission either: (1) annoys, injures, or endangers the comfort, repose, health, or safety of others; (2) offends decency; (3) unlawfully interferes with, obstructs, or tends to obstruct, or renders dangerous for passage, any lake or navigable river, bay, stream, canal, or basin, or any public park, square, street, or highway; (4) in any way renders other persons insecure in life, or in the use of property; and in addition the specific acts, conditions and things listed in Section 3.0102 are hereby declared to constitute public nuisances, but such acts, conditions and things shall not be deemed to be exclusive. (SDCL 21-10-1)

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

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

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

K. "Unsightly trash or junk" – Property which is deteriorated, wrecked or derelict property in unusable condition, having no value other than nominal scrap or junk value, if any, and which is left outside of a permanent, enclosed structure and which shall include, without limitation, motors, lawn mowers, campers, refrigerators and other household appliances, furniture, household goods and furnishings, scrap metals or lumber or other similar articles in such condition.

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

M. "Litter" – Garbage, rubbish, waste material or animal waste improperly disposed of by discarding, abandoning, allowing to accumulate, scattering or depositing the same outside an approved container.

N. "Yard waste" – Grass clippings, garden waste, and leaves.

3.0102 Acts, Omissions and Conditions Prohibited. No person, whether an owner, occupant, tenant or other person in charge of any real property within the corporate limits of the City shall create, commit, maintain, or permit to be created, committed, or maintained, any public nuisance, to include, without limitation, the following specific acts, conditions and things, each and all of which are herby declared to constitute a nuisance: (SDCL 9-32-1)

A. Depositing, accumulating, or permitting to be accumulated upon any public or private property, any household wastewater, sewage, garbage, refuse, rubbish, offal, excrement, decaying fruit, vegetables, fish, meat, bones; any fowl, putrid, or obnoxious liquid substance; any chemical or hazardous material; or putrescible and nonputrescible animal or vegetable wastes or solid wastes, or any other waste material which

constitutes or tends to create a danger to public health, safety, and welfare. (SDCL 9-32-10, SDCL 34A-7-9)

B. The accumulation of manure, garbage, or anything whatsoever which may be breeding areas for flies, mosquitoes, or rodents. (SDCL 9-32-10)

C. For the owner of a dead animal to permit it to remain undisposed of longer than twenty-four (24) hours after its death. (SDCL 9-29-13)

D. Any excavation, trench, or open basement 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)

E. 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)

F. Keeping or maintaining any building or enclosure where livestock or fowl are kept unless a special permit is requested and such is approved by the City Council. (SDCL 9-29-13)

G. Disposing of garbage, waste, or refuse by open burning, or causing, allowing, or permitting the conducting of a salvage operation by open burning in the City. The following types of open burning shall be permissible for a specific purpose when conducted in conformity with the subsections set forth below:

1. 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 Elk Point Fire District.

2. Fires purposely set by the city maintenance personnel for the purposes as authorized by the Fire Chief of the Elk Point Fire District.

3. Fires purposely set by the Elk Point Fire District personnel and authorized by the Fire Chief for the purpose of training and conducted in accordance with live fire-training standards.

4. Campfires and other fires used solely for recreational purposes, for ceremonial occasions, and for outdoor preparation of foods provided the following requirements are met:

    a. The fire is contained within a structure, fire pit, or other apparatus designed to contain the fire to such area using only Acceptable Burning Materials, i.e., clean, dry, seasoned firewood, commercially-available firewood substitutes, or other commercially-available fuels, e.g., charcoal, coke, natural gas, propane, and butane, designed to be used for a recreation outdoor fire;

    b. Such fire must be a minimum of fifteen feet from the property lot line; and

    c. Such fire is not created or maintained during periods of dry conditions when the chance of accidental fire to the surrounding area is increased, as reflected by a “burn ban,” i.e., when the National Weather Service issues a fire watch

for the county; or the city, by resolution, issues a temporary ban on any or all types of outdoor fires.

Fires which do not adhere to this ordinance may be created and maintained only with prior approval from the city in advance.

H. Maintaining, or causing or permitting the same, any building or premises which is determined to be dangerous or dilapidated. Any building or structure which has any or all of the conditions or defects hereinafter described shall be deemed to be a dangerous or dilapidated building, if such conditions or defects thereby annoy, injure or endanger the comfort, repose, health, or safety of others or, if such conditions or defects exist to the extent that the life, property, value of property or safety of the public or its occupants are jeopardized.

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

2. Whenever any building or structure through lack of maintenance or attention and by virtue of its physical appearance and presence thereby depresses the market value of surrounding properties.

I. Maintaining or permitting to be maintained on any private or public property any abandoned property or unsightly trash or junk, abandoned vehicle, or inoperable vehicle or parts thereof. It shall be unlawful to keep or place any of such vehicles or vehicle parts:

1. Upon public streets or property except on an emergency basis.

2. Upon the private property of any person owning, in charge of, or in control of any real property within the City, whether as an owner, tenant, occupant, lessee or otherwise, for longer than 14 days unless it is within a fully enclosed building or structure. A carport, tarpaulin, tent or other similar temporary structure shall not be deemed to satisfy the requirements of this section.

In no event shall an inoperable vehicle that constitutes an imminent health, safety or fire hazard be kept or located on any real property.

J. The requirements of paragraph I shall not apply to the following:

1. One inoperable vehicle kept on private property without being shielded from public view if licensed and kept on a private driveway. If this inoperable vehicle is in a state of externally visible disrepair or disassembly, it shall not be kept on the private driveway longer than 14 days.

2. Filling stations, automobile repair shops or any other motor vehicle related businesses in compliance with applicable City ordinances may place inoperable vehicles being repaired or offered for sale on the premises.

3. Junkyards operated and maintained in compliance with applicable City ordinances.

4. One vehicle specifically designed and used for operation on drag strips or raceways that remains on private property.

5. Any vehicle in an appropriate storage place or depository maintained in a lawful place and manner by the City or authorized by the City.

K. Violation of this ordinance shall result in a fine, not to exceed the fine established by SDCL § 22-6-2(2), by imprisonment not exceeding thirty days, or by both fine and imprisonment, as specified by Section 3.0115.

3.0103 Diseased Vegetation. Any owner, occupant, or person in charge of any property under the jurisdiction of the City shall remove at his 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 by certified mail, return receipt requested, or by hand delivery to such owner, occupant, or person, or by posting on the property, written notice that they may appear before the said City Council at an appointed time not less than fourteen (14) days from the date of mailing or hand delivery of said written notice to show cause why said trees, brush, wood, or debris should not be declared a public nuisance. Failure by any person to actually receive any document sent to him by certified mail or to sign and return any receipt card acknowledging receipt by certified mail shall not invalidate service made upon such person by certified mail. Such notice is deemed completed at the time it is mailed, hand delivered or posted, and any period to reply or abate begins to run from the date of mailing, hand delivery or posting.

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 stored in the City shall be debarked or covered with four (4) to six (6) mil clear plastic from April 1st to October 1st, such plastic to be sealed by placing all edges in a three to four-inch trench covered with soil. In addition, any diseased vegetation which is removed and not stored in accordance with the provisions of this Section shall be properly disposed of by burning or burying in a designated disposal site. (SDCL 9-32-12)

3.0104 Vegetation Nuisance.

A. Duty to Cut. No owner of any lot or property within the City or any agent of such owner or the occupant of such lot or property shall permit thereon any weeds, grass or deleterious, unhealthful growths or other noxious matter that may be growing, having reached a height of eight (8) inches, lying or located thereon and the growing of such weeds or other noxious or unhealthful vegetation is hereby declared to be a nuisance. This does not apply to vegetation which is being grown as a crop, livestock pasture or wildflower display garden.

B. Notice to Destroy Weeds and Other Growths – Contents and Procedures. The Elk Point Finance Officer is hereby authorized and empowered at the beginning of, or during, the growing season to notify in writing, or by public notice, each owner,

occupant, or person in charge of any such lot, place or area, to cut, destroy or remove any such weeds, grass or deleterious or unhealthful growths or other noxious matter found growing, lying, or located on such property. Such notice shall be served to said owner, agent, or occupant at his last known address, or by one publication in the official newspaper, and shall notify said owner, agent, or occupant to cut, destroy, or remove any such weeds, grass or deleterious or unhealthful matter.

C. Violation Notice. After inspection, if any property is determined to be in violation of this Section, a Violation Notice shall be posted on said property. The notice shall give the owner, occupant or agent of such lot or property five (5) days from the date of the notice to cut, destroy, or remove any such weeds, grass or deleterious or unhealthful matter.

D. Failure to Comply. Upon failure, neglect or refusal of any owner, agent or occupant so notified to comply with said notice within five (5) days thereof, the Elk Point Police Chief or his or her representative is hereby authorized and empowered to provide for the cutting, destroying, or removal of such weeds, grass or deleterious, unhealthful growths or other noxious matter pursuant to the following schedule:

1. Twenty dollars ($20.00) per hour per man (labor).
2. One hundred dollars ($100.00) per hour per piece of mowing equipment.
3. Forty dollars ($40.00) per hour per weed-eater.
4. One hundred dollars ($100.00) per hour per truck.

If fees, costs and expenses are incurred by the City in addition to those charges described above, the property owner shall be responsible for said costs, expenses and fees in addition to the those charges described above. The Public Works Director or his or her designee is authorized to use either internal labor and equipment or private contractors at his or her discretion to enforce the provisions of this Section. The City of Elk Point, its agents and representatives shall not be responsible for damage to buildings, vehicles, landscape, trees, shrubs, etc., during the mowing of property in violation of this Section.

E. Assessment of Costs. After the condition has been remedied, the Finance Officer or his or her designee shall then submit a bill to the property owner for the cost of remedy. If the property owner does not pay the bill within sixty (60) days of the date of the invoice the cost of such payment shall be charged against the premises. The Elk Point Finance Officer shall cause an account to be kept against each lot for the destruction of weeds, grass or deleterious or unhealthful matter upon said lot as herein provided. Upon the completion of the work in destroying such weeds, grass or deleterious or unhealthful matter and abating said nuisance, the Elk Point Finance Officer shall thereupon certify said account showing the amount, the description of the property, and the owner thereof to the Union County Auditor who shall thereupon add such assessment to the general assessment against said property to be collected as municipal taxes for general purposes. Said assessment shall be subject to review and equalization as are assessments or taxes for general purposes.

F. Civil Action to Recover Costs of Removal or Destruction in Lieu of Special Assessment. In lieu of spreading the cost of the destruction of such weeds, grass or deleterious or unhealthful matter against said property, the City Council, at its

discretion, may recover said amount in a civil action against the owner or occupant of such property.

G. Penalties. Any violation of this Section shall be subject to payment of a fine of $50.00 plus costs to the Elk Point Finance Officer. Repeat offenses under this Section shall be subject to increased fines as provided by this Section. As used in this Section, "repeat offense" means a second (or any subsequent) violation of the same requirement or provision of this Section within any three (3) year period for which the person admits responsibility or is determined to be responsible. The increased fine for a repeat offense under this Section shall be as follows:

1. The fine for any offense which is a first repeat offense shall be $125.00 plus costs.

2. The fine for any offense which is a second repeat offense shall be $250.00 plus costs.

3. The fine for any offense which is a third repeat or any subsequent repeat offense, shall be $400.00 each plus costs.

Each day on which any violation of this Section occurs or continues, constitutes a separate offense subject to separate sanctions.

H. Habitual Violators. If the owner or person in control of any land that has previously received a notice to abate nuisance relating to weeds within the preceding 12 months, then, the notice to abate nuisance may include notice that such owner or person in control of said property will be considered to be an habitual violator of this section and that if the nuisance is not abated within the allowed time, the City will consider the property to be subject to having a contract let by the City for mowing property as needed up to a weekly basis for the next following 24-month period of time and that the full cost of said contract together with an administrative fee of five hundred dollars ($500.00) shall be assessed against the property.

Adopted this 5th day of January, 2015.

3.0105 Littering in Public Places. No person shall throw or deposit litter in or upon any street, sidewalk, or other public place within the City except in authorized public or private receptacles. The following further identifies acts and conditions that constitute nuisances and are therefore prohibited:

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

For 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.

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

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

C. 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 streets, sidewalk, or other public place or upon any private property.

3.0106 Removal of Abandoned or Inoperable Vehicles - Public Property. Whenever the City or any law enforcement officer for the City finds an abandoned or inoperable vehicle on public property within the City, a written notice shall be placed on the vehicle that it will be removed to a garage or place of safety unless the owner removes the vehicle from public property within 24 hours of the giving of the notice. After the expiration of the 24-hour period, the vehicle may be removed by a removal agency to a garage or place of safety. Nothing in this Section precludes the City or any law enforcement officer for the City from immediately removing a vehicle that constitutes an imminent health, safety or fire hazard.

3.0107 Disposition of Unclaimed Vehicles. The removal agency shall have the rights and obligations conferred upon it by SDCL Ch. 32-36 in regard to titling or disposition of such unclaimed, abandoned or inoperable vehicle, except that, if not otherwise provided by state law, it shall have a possessory lien upon any vehicle removed under provisions for this article for the costs in taking custody of and storing such vehicles.

3.0108 Notice Procedure. A written notice shall be placed on the abandoned or inoperable vehicle by the City or by any law enforcement officer for the City requesting the removal of such motor vehicle in the time specified in this Chapter. Written notice shall also be placed on the front door of any dwelling located on the private property requesting the removal of such motor vehicle in the time specified in this article. In the event the owner and the occupant or tenant of the real property are not the same person, written notice shall be given to the owner by certified mail, return receipt requested, requesting the removal of such motor vehicle in the time specified in this Chapter. In the event the private property is not occupied, written notice shall be given to the owner by certified mail, return receipt requested, requesting the removal of such motor vehicle in the time specified in this Chapter. Failure by any person to actually receive any document sent to him by certified mail or to sign and return any receipt card acknowledging receipt by certified mail shall not invalidate service made upon such person by certified mail. Such notice is deemed completed at the time it is mailed, and any period to reply or abate begins to run from the date of mailing.

3.0109 Responsibility for Removal. Upon notice having been given, the owner of the abandoned or inoperable vehicle and the owner or occupant of the private property on which the vehicle is located, either or all of them, shall be responsible for its removal.

3.0110 Content of Notice. The notice in section 3.0108 shall request removal of the abandoned or inoperable vehicle within 14 days after the date of the posting, mailing or hand delivery of such notice, and the notice shall advise that failure to comply with the notice to remove shall be a violation of this Chapter, that the City may take steps to abate the same, and that in addition to abatement directly or by civil action, the City may pursue criminal fines and penalties against the owner, occupant, tenant or other person in charge of the real property as provided in this Chapter.

3.0111 Public and Private Nuisance Defined. A public nuisance is one that affects at the same time an entire community or neighborhood, or any considerable number of persons, although the extent of the annoyance or damage inflicted upon the individuals may be unequal. Every other nuisance is private. (SDCL 21-10-3)

3.0112 Remedies Against Nuisances. The remedies against any nuisance shall be: (1) A civil action; (2) Abatement; and (3) In cases of public nuisance only, the additional remedy of indictment or information as prescribed by the Ordinance or by the South Dakota Codified Laws, and the rules relating thereto. (SDCL 21-10-5)

3.0113 Abatement. A public nuisance may be abated without civil action by a public body, including City Council or by any officer as authorized thereto by law Pursuant to SDCL 21-10-6. Any private person may likewise abate a public nuisance which is especially injurious to him or her, or any private nuisance injurious to him or her in a manner by removing, or, if necessary, destroying that which constitutes the nuisance, without committing a breach of the peace or doing unnecessary injury. If a private nuisance results from a mere omission of the wrongdoer, and cannot be abated without entering upon his or her land, reasonable notice shall be given to him before entering to abate it. The City may defray the cost of abating a public nuisance by taxing the cost thereof by special assessment against the real property on which the nuisance occurred. When the nuisance abated is an unsafe or dilapidated building, junk, trash, debris or similar nuisance arising from the condition of the property, the City may commence a civil action against the owner of the real property for its costs of abatement in lieu of taxing the cost by special assessment.

3.0114 Notice.

A. Initial notice. The Finance Officer or his or her designee, is authorized and empowered to notify, in writing, the owner of any lot, place or area within the City, or the agent of the owner, or the occupant of the premises, to remedy or abate a public nuisance on the property and to prevent future violation of this Chapter. The notice may be hand delivered or sent by certified mail, return receipt requested, addressed to the owner of record, agent or occupant at his or her last known address, and said notice shall notify the owner, agent, or occupant to remedy or abate a public nuisance within 14 days of the date the notice was hand delivered or mailed. Failure by any person to actually receive any document sent to him by certified mail or to sign and return any receipt card acknowledging receipt by certified mail shall not invalidate service made upon such person by certified mail. Notice is deemed completed at the time it is mailed and said period to reply or abate begins to run from the date of mailing.

B. Subsequent notices. Upon any subsequent violation of this Chapter in the same calendar year after notice has been given as provided above, notice of a second or subsequent violation of the same or similar nature as the first violation, shall require the owner to remedy the nuisance within 3 days of hand delivery or mailing.

3.0115 Public Nuisance Penalty and Remedy. Any person who creates, commits, maintains or fails to abate a public nuisance as required under the provisions of this Ordinance shall be subject to a fine not to exceed the fine established by SDCL 22-6-2(2), by imprisonment not exceeding thirty days, or by both the fine and imprisonment, unless otherwise specifically provided. A separate offense shall be deemed committed on each day during or on which a

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

CHAPTER 3.02 - COLLECTION OF GARBAGE AND RECYCLEABLES

3.0201 Definitions. The following words, terms and phrases, when used in this chapter, shall mean except where the context clearly indicates a different meaning:

A. *Animal waste* - any accumulation of manure or straw which has been used for the transportation, housing or penning of animals.

B. *Contaminated* - impure, unclean, dirty, grimy, or infectious.

C. *Construction and demolition debris* - carpet, wood, construction plastic, shingles, glass, metals, wiring, insulation, tile, drywall, furniture, concrete, and mattresses.

D. *Container* – A tipper cart. See definition L below.

E. *Curbside* - on the public right-of-way, generally between the sidewalk and the paved portion of the street.

F. *Corrugated cardboard* - heavy paper with alternating ridges and grooves.

G. *Garbage* or *municipal solid waste* - all refuse, garbage, rubbish, waste materials, containers, or accumulation of animal or vegetable matter and all other food or food products found deemed as a nuisance or is likely to cause or transmit disease, or which may be a hazard to health.

H. *Hazardous material* – any material that has a hazardous characteristic, such as being ignitable, corrosive, reactive, or toxic.

I. *Hazardous waste* – any waste that is on the Environmental Protection Agency's hazardous waste list in 40 CFR 261 or which is known to have a hazardous characteristic, such as being ignitable, corrosive, reactive, or toxic.

J. *Litter* – garbage, rubbish, waste material or animal waste improperly disposed of by discarding, abandoning, allowing to accumulate, scattering or depositing the same outside an approved container.

K. *Residential* - a dwelling having accommodation for and occupied by one or more individuals.

L. *Tipper cart*- a garbage container with closed lid set on two (2) wheels with the capability to attach and manipulate with a lever to a garbage truck.

M. *Waste material* - all noncombustible inorganic matter such as ashes, glass, sand, earth, stones, concrete, mortar, metals, and similar material.

N. *Wood waste* - trees, any size diameter tree branches, brush, wood, wood shavings and wood pallets.

O. *Yard waste* - grass clippings, garden waste, and leaves.

3.0202 Garbage Service Required. Every dwelling unit and every occupied building within the City shall have garbage service with the City unless the City Council deems the service required cannot be provided.

3.0203 Garbage Containers.

A. All commercial and industrial businesses shall provide a dumpster for the collection of garbage, waste and rubbish accumulated on the premises. Such dumpster shall be kept at the rear of the premises and shall be made accessible to the garbage collector at the nearest curbline or alley. The dumpster shall be suitable to prevent the scattering of garbage, rubbish and waste prior to collection. The vicinity of the dumpster shall be kept free from garbage, rubbish, waste and other putresible matters which attract flies, rats or vermin. The garbage collector shall not be responsible for collecting garbage, rubbish and waste from the premises unless a dumpster is provided.

B. The owner of premises occupied for multi-family dwellings of three or more units must provide a tipper cart for each unit or a dumpster of sufficient size for the collection of garbage, waste and rubbish accumulated on the premises. Such dumpster shall be kept at the rear of the premises and shall be made accessible to the garbage collector at the nearest curbline or alley.

The dumpster or tipper cart shall be suitable to prevent the scattering of garbage, rubbish, and waste prior to collection. The vicinity of the dumpster or tipper cart shall be kept free from garbage, rubbish, waste and other putresible matters which attract flies, rats or vermin. The garbage collector shall not be responsible for collecting garbage, rubbish and waste from the premises unless a dumpster or tipper cart is provided.

C. The occupant of every dwelling house shall provide a covered watertight tipping container purchased or approved through the City in which the occupant shall cause to be deposited all garbage, waste and rubbish accumulated on the premises. Such container shall be made accessible to the garbage collector for collection at the nearest curbline or alley. The container shall be suitable to prevent the scattering of garbage, rubbish and waste prior to collection. The vicinity for garbage, waste and rubbish containers shall be kept free from garbage, waste or rubbish. All residential containers following pick-up of garbage shall be returned to a suitable location, which does not deteriorate the aesthetics of the premises or surrounding premises. Long term storage of garbage collection containers at curbside shall be prohibited. The garbage collector shall not be responsible for collecting garbage, rubbish and waste from the premises unless a dumpster or tipper cart is provided.

3.0204 Littering on Premises of Another. It shall be unlawful for any person going upon the premises of another to in any manner dispose of litter except in receptacles provided for such purposes and except with the permission of the person in possession of the premises.

3.0205 Allowable Garbage Containers.

A. A 64-gallon or 96-gallon garbage container purchased through the city will be allowed.

1. Residents may defray the lump sum cost of a container purchased from the City via twelve (12) equal monthly payments to be included on their monthly utility bill.

2. Failure to complete payments may result in forfeiture of the container back to the City, as well as possible collections for any unpaid services provided.

B. Homeowners may purchase their own garbage container, but it shall meet the following guidelines:

1. Container shall be a tipper cart.

2. Container shall have an attached lid.

3. All garbage containers used for garbage collection services shall meet the physical requirements to allow for dumping via mechanical capabilities associated with the collection vehicle.

4. All garbage containers must be approved by the city through the Utility/Finance Office.

3.0206 Maintenance of Containers.

A. 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 needed by washing, sanitizing or otherwise.

B. All household and commercially generated garbage, animal waste, rubbish, and other materials shall be placed in a securely tied bag. Yard waste will not be collected.

C. Collection containers shall be placed in designated location for curbside collection within a reasonable time to allow meeting city scheduled collection.

D. All garbage collection containers shall be accessible to the garbage hauler (s) during the collection process. No obstruction or hindrance of the collection process is allowed.

3.0207 Enforcement and Penalty. Any violation of this ordinance may result in the discontinuance of city garbage service and/or enforcement of this ordinance through city ordinance section 11.0101 (Penalty in General).

Dated this 2nd day of May 2016.

SECTION 3.03 - DANGEROUS BUILDING

3.0301 Definitions. For the purpose of this code, any building or structure which has any or all of the conditions or defects hereinafter described shall be deemed to be a dangerous building, provided that such conditions or defects exist to the extent that the life, health, property or safety of the public or its occupants are endangered:

1. Whenever any door, aisle, passageway, stairway or other means of exit is not of sufficient width or size or is not so arranged as to provide safe and adequate means of exit in case of fire or panic.

2. Whenever the walking surface of any aisle, passageway, stairway or other means of exit is so warped, worn, loose, torn or otherwise unsafe as to not provide safe and adequate means of exit in case of fire or panic.

3. Whenever the stress in any materials, member or portion thereof, due to all dead and live loads, is more than one and one-half times the working stress or stresses allowed in the Building Code as promulgated in Title 9 for new buildings of similar structure, purpose or location.

4. Whenever any portion thereof has been damaged by fire, earthquake, wind, flood, or by any other cause, to such an extent that the structural strength or stability thereof is materially less than it was before such catastrophe and is less than the minimum requirements of the Building Code as promulgated in Title 9 for new buildings of similar structure, purpose or location.

5. Whenever any portion or member or appurtenance thereof is likely to fail, or to become detached or dislodged, or to collapse and thereby injure persons or damage property.

6. Whenever any portion of a building, or any member, appurtenance or ornamentation on the exterior thereof is not of sufficient strength or stability, or is not so anchored, attached or fastened in place so as to be capable of resisting a wind pressure of one-half of that specified in the Building Code as promulgated in Title 9 for new buildings of similar structure, purpose or location without exceeding the working stresses permitted in the Building Code as promulgated in Title 9 for such buildings.

7. Whenever any portion thereof has wracked, warped, buckled or settled to such an extent that walls or other structural portions have materially less resistance to winds or earthquakes than is required in the case of similar new construction.

8. Whenever the building or structure, or any portion thereof, because of (i) dilapidation, deterioration or decay; (ii) faulty construction; (iii) the removal, movement or instability of any portion of the ground necessary for the purpose of supporting such building; (iv) the deterioration, decay or inadequacy of its foundation; or (v) any other cause, is likely to partially or completely collapse.

9. Whenever, for any reason, the building or structure, or any portion thereof, is manifestly unsafe for the purpose of which it is being used.

10. Whenever the exterior walls or other vertical structural members list, lean or buckle to such an extent that a plumb line passing through the center of gravity does not fall inside the middle one-third of the base.

11. Whenever the building or structure, exclusive of its foundation, shows evidence of deterioration or that of not capable of safely supporting all nominal loads.

12. Whenever the building or structure has been so damaged by fire, wind, earthquake or flood, or has become so dilapidated or deteriorated as to become (i) an attractive nuisance to children; (ii) a harbor for vagrants, criminals or immoral persons; or as to (iii) enable persons to resort thereto for the purpose of committing unlawful or immoral acts.

13. Whenever any building or structure has been constructed, exists or is maintained in violation of any specific requirement or prohibition applicable to such building or structure provided by the building regulations of this jurisdiction, as specified in the Building Code as promulgated in Title 9, or of any law or ordinance of this state or jurisdiction relating to the condition, location or structure of buildings.

14. Whenever any building or structure which, whether or not erected in accordance with all applicable laws and ordinances, has in any nonsupporting part, member or portion less than 50 percent, or in any supporting part, member or portion less than 66 percent of the (i) strength, (ii) fire-resisting qualities or characteristics, or (iii) weather-resisting qualities or characteristics required by law in the case of a newly constructed building of like area, height and occupancy in the same location.

15. Whenever a building or structure, used or intended to be used for dwelling purposes, because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangement, inadequate light, air or sanitation facilities, or otherwise, is determined by the Building Official to be unsanitary, unfit for human habitation or in such a condition that is likely to cause sickness or disease.

16. Whenever any building or structure, because of obsolescence, dilapidated condition, deterioration, damage, inadequate exits, lack of sufficient fire-resistive construction, faulty electric wiring, gas connections or heating apparatus, or other cause, is determined by the fire marshal or housing inspector to be a fire hazard.

17. Whenever any building or structure is in such a condition as to constitute a public nuisance known to the common law or in equity jurisprudence.

18. Whenever any portion of a building or structure remains on a site after the demolition or destruction of the building or structure or whenever any building or structure is abandoned for a period in excess of six months so as to constitute such building or portion thereof an attractive nuisance or hazard to the public.

3.0302 Authority.

1. Administration. The Building Official may be appointed by, and serve at the pleasure of, the City Council, which also may appoint in a similar manner deputy Building Officials, and such persons so appointed are hereby authorized to enforce the provisions of this chapter.

2. Right of Entry. Whenever necessary to make an inspection or whenever the Building Inspector has reasonable cause to believe that there exists in any building or upon any premises, any condition which makes such building or premises dangerous as defined

in 3.0301, the Building Official may enter such building or premises at all reasonable times to inspect the same or perform any duty imposed upon the building official by this Chapter; provided that (1) if such building or premises be occupied, he shall first present proper credentials and demand entry; and (2) if such building or premises be unoccupied, he shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and demand entry. If such entry is refused or owner is not located, the Building Official shall have recourse to every remedy provided by law to secure entry.

3. Declaration as Public Nuisance. All buildings or portions thereof which are determined after inspection by the Building Official to be dangerous as defined in this Chapter are hereby declared to be public nuisances and shall be abated by repair, demolition, or removal.

3.0303 Notice and order. The Building Official shall issue a notice and order directed to the record owner of the building. The notice and order shall contain:

1. The street address and a legal description sufficient for identification of the premises upon which the building is located.

2. A statement that the Building Official has found the building to be dangerous with a brief and concise description of the conditions found to render the building dangerous under this chapter.

3. A statement of the action required to be taken as determined by the Building Official.
   a. If the Building Official has determined that the building or structure must be repaired, the order shall require that all required permits be secured therefore and the work physically commenced within such time (not to exceed 30 days from the date of the order) and completed within such time as the Building Official shall determine is reasonable under all of the circumstances and in accordance with current Building Code as promulgated in Title 9.

   b. If the building or structure is in such condition as to make it immediately dangerous to the life, limb, property or safety of the public or its occupants, it shall be ordered to be vacated within a time certain from the date of the order as determined by the Building Official to be reasonable.

   c. If the Building Official has determined that the building or structure must be demolished, the order shall require that the building be vacated within such time as the Building Inspector shall determine is reasonable (not to exceed 30 days from the date of the order); that all required permits be secured therefore within 30 days from the date of the order; and that the demolition be completed within such time as the Building Official shall determine is reasonable.

4. Statements advising that if any required repair or demolition work (without vacation also being required) is not commenced within the time specified, the Building Official (i) will order the building vacated and post it to prevent further occupancy until the work is completed, and (ii) may proceed to cause the work to be done and charge the costs thereof against the property or its owner, in accordance with SDCL 21-10-6.

5. Statements advising (i) that any person having any record title or legal interest in the building may appeal from the notice and order or any action of the Building Official to the board of appeals, provided the appeal is made in writing as provided in this ordinance and filed with the Building Official within 30 days from the date of service of such notice and order; and (ii) that failure to appeal will constitute a waiver of all right to an administrative hearing and determination of the matter.

6. Such notice may be hand delivered or sent by certified mail, return receipt requested, upon the owner of the property where the nuisance exists, and such notice is deemed given at the time it is personally served, or mailed, and said period to reply or abate begins to run at such time of giving notice.

7. Proof of Service. Proof of service of the notice and order shall be certified to at the time of service by a written declaration under penalty of perjury executed by the person effecting service, declaring the time, date and manner in which service is made. The declaration, together with any receipt card returned in acknowledgment of receipt by certified mail, shall be affixed to the copy of the notice and order retained by the Building Official. Failure by any person to actually receive any document sent to him by certified mail or to sign and return any receipt card acknowledging receipt by certified mail shall not invalidate service made upon such person by certified mail. Such notice is deemed completed at the time it is mailed, and any period to reply or abate begins to run from the date of mailing.

8. Posting of Notice to Vacate. Every notice to vacate shall, in addition to being served as provided in this section, be posted at or upon each exit of the building, and shall be in substantially the following form:

"DO NOT ENTER
UNSAFE TO OCCUPY"
It is a violation to occupy this
building, or to remove or deface this notice.
Building Official
City of Elk Point

3.0304 Appeal.

1. Board of Appeals. In order to provide for final interpretation of the provisions of this chapter and to hear appeals provided for hereunder, there is hereby established a Board of Appeals which shall be the City Council of Elk Point. The Building Official shall be an (ex-officio) member of and shall act as Secretary to said Board. The Board may adopt reasonable rules and regulations for conducting its business and shall render all decisions and findings in writing to the appellant with a copy to the Building Official. Copies of all rules or regulations adopted by the Board shall be delivered to the Building Official who shall make them freely accessible to the public.

2. Form of Appeal. Any persons entitled to service under Section 3.0303 may appeal from any notice and order or any action of the Building Official under this Chapter by filing at the office of the Municipal Finance Officer within 30 days from the date of the service of such order, a written appeal containing:

A. A heading in the words: “Before the Board of Appeals in the City of Elk Point”.

B. A caption reading: “Appeal of _____, giving the names and addresses of all appellants participating in the appeal.

C. A brief statement setting forth the legal interest of each of the appellants in the building or the land involved in the notice and order.

D. A brief statement of the specific order or action protested, together with any material facts claimed to support the contentions of the appellant.

E. A brief statement of the relief sought, and reasons why it is claimed the protested order or action should be reversed, modified, or otherwise set aside.

F. The signatures of all parties named as appellants, and their official mailing addresses.

G. The verification (by declaration under penalty of perjury) of at least one appellant as to the truth of the matters stated in the appeal.

3. Processing of Appeal. Upon receipt of any appeal filed pursuant to this section, the Building Official shall present it at the next regular or special meeting of the Board of Appeals.

4. Scheduling and Noticing Appeal for Hearing. As soon as practicable after receiving the written appeal, the Board of Appeals shall fix a date, time, and place for the hearing of the appeal by the Board. Such date shall be not less than 10 days and not more than 60 days from the date the appeal was filed with the Municipal Finance Officer. Written notice of the time and place of the hearing shall be given at least 10 days prior to the date of the hearing to each appellant by the Secretary of the Board either by causing a copy of such notice to be delivered to the appellant personally or by certified mail, return receipt requested, addressed to the appellant at his address shown on the appeal. Failure by any person to actually receive any document sent to him by certified mail or to sign and return any receipt card acknowledging receipt by certified mail shall not invalidate service made upon such person by certified mail. Such notice is deemed completed at the time it is mailed, and any period to reply or abate begins to run from the date of mailing.

5. Effect of Failure to Appeal. Failure of any person to file an appeal in accordance with the provisions of this section shall constitute a waiver of his right to an administrative hearing and adjudication of the notice and order, or any portion thereof.

6. Scope of Hearings on Appeal. Only those matters or issues specifically raised by the appellant shall be considered in the hearing of the appeal.

7. Staying of Order Under Appeal. Except for vacation orders, enforcement of any notice and order of the Building Official issued under this chapter shall be stayed during the pendency of an appeal therefrom which is properly and timely filed.

8. Form of Notice of Hearing. The notice to appellant shall be substantially in the following form, but may include other information:

"You are hereby notified that a hearing will be held before (the Board or name of hearing examiner) at_____ on the_____ day of_____, 20___, at the hour of _.m., upon the notice and order served upon you. You may be present at the hearing. You may be, but need not be, represented by legal counsel. You may present any relevant evidence and will be given full opportunity to cross-examine all witnesses testifying against you."

9. Inspection of the Premises. The Board or the hearing examiner appointed by the Board may inspect any building or premises involved on the appeal during the course of the hearing provided that (1) notice of such inspection shall be given to the parties before the inspection is made, (2) the parties are given an opportunity to be present during the inspection, and (3) the Board shall state for the record upon completion of the inspection the material facts observed and the conclusions drawn therefrom. Each party then shall have a right to rebut or explain the matters so stated by the Board.

10. Form of Decision. The decision shall be in writing and shall contain findings of fact, a determination of the issues presented, and the requirements to be complied with. A copy of the decision shall be hand delivered to the appellant personally or sent to him by certified mail, return receipt requested. Such notice shall be complete upon its mailing. The effective date of the decision shall be as stated therein.

3.0305 Enforcement.

1. Recordation of Notice and order. If compliance is not made with the order within the time specified therein, and no appeal has been properly and timely filed, the Building Official shall file in the office of the County Auditor a certificate describing the property and certifying (1) that the building is a dangerous building and (2) that the owner has been so notified.

   Whenever the corrections ordered shall thereafter have been completed or the building demolished so that it no longer exits as a dangerous building on the property described in the certificate, the Building Official shall file a new certificate with the County Auditor certifying that the building has been demolished or all required corrections have been made so that the building is no longer dangerous, whichever is appropriate.

2. Notice to Vacate. Whenever the required repair or demolition is not commenced within the time period specified in notice and order issued under this chapter, the Building Official shall post at each entrance of said building a notice to vacate.

3. Abatement of Nuisance. The Building Official may, in addition to any other remedy herein provided, order the building to be repaired to the extent necessary to correct the conditions which render the building dangerous as set forth in the notice and order; or, if the notice and order required demolition, to cause the building to be sold and demolished, or demolished and the materials, rubble and debris therefrom removed and the lot cleaned.

4. Extension of Time to Perform Work. Upon receipt of an application from the person required to conform to the order and an agreement by such person that he will comply with the order if allowed additional time, the Building Official may, in his discretion, grant an extension of time, not to exceed an additional 120 days, within which to

complete said repair, rehabilitation, or demolition, if the Housing Inspector determines that such an extension of time will not create or perpetuate a situation imminently dangerous to life or property.

The Building Official's authority to extend time is limited to the physical repair, rehabilitation, or demolition of the premises and will not in any way affect or extend the time to appeal his notice and order.

3.0306 Violations.

1. No person shall obstruct, impede or interfere with, any officer, employee, contractor or authorized representative of the city, or with any person who owns or holds any estate or interest in any building which has been ordered to be repaired, vacated or demolished under the provisions of this chapter.

2. No person shall enter or occupy any building which has been posted with a notice to vacate. No person shall remove or deface any such notice so posted until the required repairs, demolition, or removal ordered by the Housing Inspector have been completed.

3. Any person violating any provision of this chapter or failing to obey any order of the Building Official or Board of Appeals made pursuant to this chapter, after such order has become final, shall be subject to the penalty as prescribed in Section 11.0101, if convicted, and each day such violation or failure to obey shall occur may be considered a separate violation of this chapter. The Building Official is authorized to initiate prosecutions for the violation of this chapter or for the failure to obey such orders.

3.0307 Recovery of Cost of Repairs or Demolition.

1. Assessment. The City may recover the total cost of the repair of demolition of dangerous buildings or structures through any means available under the laws of the State of South Dakota, including, but not limited to, any special assessment procedure provided by such laws, as from time to time amended.

2. Surplus. Any surplus realized from the sale of such building, over and above the cost of demolition and of cleaning the lot, shall be paid over to the person or persons lawfully entitled thereto.

TITLE 4 - LICENSES

Chapter 4.01 - General Provisions
Chapter 4.02 - Peddlers
Chapter 4.03 - Alcoholic Beverages
Chapter 4.04 - Mobile Home Parks

CHAPTER 4.01 - GENERAL PROVISIONS

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

4.0102 Application for License.
Fees for all licenses shall be fixed by the City Council where not specified in this Title, and all license fees shall be paid in full at the time of application in such manner as approved by the City Council.

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

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

4.0105 Issuance of License. Except as otherwise provided, all licenses shall be issued by the Finance Officer after it 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 - PEDDLERS

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

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

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

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

A. Solicitations, sales, or distributions made by charitable, educational, or religious organizations as recognized under I.R.C. (Internal Revenue Code) section 501(c).

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

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

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

E. Persons or organizations hosting a fundraising event or program.

Adopted this 2nd day May 2022.

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

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

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

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

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

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

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

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

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

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

D. The local and permanent addresses of the applicant.

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

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

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

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

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

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

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

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

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

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

CHAPTER 4.03 - ALCOHOLIC BEVERAGES

4.0301 Definitions. The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Alcoholic beverage, wine, malt beverage and distilled spirits and other such words and terms mean the same as the definitions given them by SDCL 35-1-1.

4.0302 Traffic in Alcoholic Beverages. No person shall produce, transport, store or sell within the City, or within one mile of its territorial limits, any alcoholic beverage, except as authorized by SDCL Title 35.

4.0303 Application for License to Conduct Business Pursuant to this Chapter. Any person desiring to enter into the alcoholic beverage business in the City shall submit an application for a license under the provisions of SDCL Title 35, Alcoholic Beverages, to the City Finance Officer.

4.0304 Action by City Council. The City Council may approve or disapprove an application for a license depending on whether the City Council deems the applicant a suitable person to hold the license and whether the council considers the proposed location suitable. The City Council may, in their discretion, require the applicant to appear personally at any meeting of the City Council and to answer any question which may be asked pertaining to the applicant or the place of business which may in any way pertain to the carrying on of the business applied for. (SDCL 35-2-1.2)

4.0305 Violation as Ground for Revocation or Suspension of License. The City Council may revoke or suspend any license issued under this chapter and SDCL Title 35 upon proof of violation by the licensee, the licensee's agents or employees, or by the manager or contractual operators of retail establishments and their agents or employees operating under a City license, or any of the following:

A. Any provision of SDCL Title 35;
B. Any rule promulgated pursuant to SDCL Title 35; or
C. Any ordinance or regulation relevant to alcoholic beverage control that has been adopted by the City.

For any licensee with multiple alcoholic beverage licenses for the same premises, upon suspension or revocation of any license issued pursuant to this chapter or SDCL Title 35, such licensee shall cease operation under all alcoholic beverage licenses held by such licensee for the same premises for the same period as the suspension or revocation.

4.0306 Annual Additional License Fee for Video Lottery Machines on Licensed Premises. Any person who is licensed pursuant to SDCL § 35-4-2(4), (6), (11), (12), (13), or (16), and who is issued a video lottery establishment license pursuant to SDCL § 42-7A-41 must pay an additional annual fee for locating video lottery machines on the licensed premises. The fee is established at fifty dollars ($50.00) for each video lottery machine and the fee shall be paid at the same time and in the same manner as the fees paid on licenses issued pursuant to SDCL § 35-4-2. All fees received under this section shall be deposited into the general fund of the City. (SDCL 35-4-103)

4.0307 On-Sale and Off-Sale Service and Consumption Restricted.

A. No on-sale or off-sale licensee, licensed under SDCL § 35-4-2(3), (4), (5), (6), (9), (11), (13), or (18), may sell, serve, or allow to be consumed on the premises covered by the license, alcoholic beverages, between the hours of 2:00 a.m. and 7:00 a.m. or at any time on Christmas Day. Such licensees are permitted to sell, serve, or allow to be consumed alcoholic beverages on Sunday and on Memorial Day, except between the hours of 2:00 a.m. and 7:00 a.m.

B. No licensee licensed under SDCL 35-4-2(12), (16), (17), (17A), and (19) may sell, serve, or allow to be consumed on the premises covered by the license, any alcoholic beverages between the hours of 2:00 a.m. and 7:00 a.m.

4.0308 Consuming, Blending, Possessing Alcoholic Beverages in Public Places; Disposal of Containers Containing Alcoholic Beverages Restricted.

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

B. It is unlawful for any person to consume any distilled spirits in any public place, other than upon the premises of a licensed on-sale dealer.

C. For the purposes of this section the term "public place" means any place, whether in or out of a building, commonly and customarily open to or used by the general public, and any street or highway.

D. Exceptions to this subsection are provided for in Section 4.0309.

4.0309 Open Container Permitted. Notwithstanding anything herein to the contrary:

A. No regular on-sale malt beverage licensee may sell or allow to be consumed any malt beverage outside the building of the licensed premises unless the licensee's business operates out of a permanent structure and the consumption of the malt beverage occurs in an outdoor designated area located on the premises of the licensee which is approved by the City Council.

B. The sales and consumption of alcoholic beverages on a sidewalk or walkway subject to a public right-of-way abutting a licensed premises, provided that the license holder derives more than fifty percent (50%) of its gross receipts from the sale of prepared food for consumption on the licensed premises. The sidewalk or walkway subject to a public right- of-way shall be immediately adjacent to and abutting the licensed premises. This provision does not apply to any federal aid-eligible highway unless approved in accordance with the applicable requirements for the receipt of federal aid.

C. The City Council may, in its discretion, for community designated events, permit open containers in public places upon such terms and conditions the City Council may impose.

CHAPTER 4.04 - MOBILE HOME PARKS

4.0401 Definitions. The following words, terms and phrases, when used in this chapter, shall have the meanings to them in this section, except where the context clearly indicates a different meaning:

A. "Manufactured Home" means any dwelling unit, which is fabricated in one or more sections at a location other than the home site by assembly line-type production techniques or by other construction methods unique to an off-site manufacturing

process. A manufactured home is designed to be towed on its own chassis or be site delivered by alternative means. Every section shall bear a label certifying that it is built in compliance with the Federal Manufactured Home Construction and Safety Standards.

B. "Manufactured Home Park" means a contiguous parcel of land operated as a unit, under the same ownership where six or more lots available for the temporary placement of manufacture homes, with all necessary facilities and services, and is licensed by the City of Elk Point.

C. "Licensee" means any person licensed to operate and maintain a Manufactured Home Park under the provisions of this Chapter.

D. "Manufactured home space (lot)" means a plot of ground within a Manufactured Home Park designed for the accommodation of one manufactured home.

E. "Multiple-Family Dwelling" means a building, or portion thereof, containing three (3) or more dwelling units.

F. "Natural or Artificial Barrier" means any river, pond, canal, railroad, levee, embankment, fence or hedge.

G. "Park" means Manufactured Home Park.

H. "Permittee" means any natural individual, firm, trust, partnership, association or corporation.

4.0402 License and Temporary Permit. It shall be unlawful for any person to maintain or operate a Manufactured Home Park within the limits of the City, unless such person shall first obtain a license therefore, except that the maintenance or operation of a Manufactured Home Park in existence on February 4, 2009 may be continued under a temporary permit for such period of time and under such conditions as are hereinafter prescribed.

4.0403 License Fees.

A. The annual license fee for each Manufactured Home Park shall be $100, plus an additional $10 for each manufactured home unit space over six (6) spaces.

B. The fee for transfer of a license shall be $100.

These fees may be adjusted by resolution by the City Council.

4.0404 Application for License.

A. Application for Initial License. Application for an initial Manufactured Home Park license shall be filed with and issued by the City Council. The application shall be in writing, signed by the applicant and shall include the following:

1. The name and address of the applicant;

2. The location and legal description of the Manufactured Home Park;

3. A complete plan of the park in conformity with the requirements of Section4.0406 of this Chapter;

4. Plans and specification of all buildings, improvements and facilities constructed within the Manufactured Home Park;

5. Such further information as may be requested by the City Council to enable it to determine if the proposed park will comply with legal requirements.

The application and all accompanying plans and specifications shall be filed in duplicate. The City Council shall investigate the applicant and inspect the application and the proposed plans and specifications. Be they in compliance with all provisions of this Chapter and all other applicable ordinances and statues, the City Council shall approve the application, and upon completion of the park according to the plans, shall issue the license.

B. Application for Renewal License. Upon application in writing by a licensee for renewal of a license and upon payment of the annual license fee, the City Council shall issue a certificate renewing each license for another year.

C. Application for Transfer of License. Upon application in writing for transfer of a license and payment of the transfer fee, the City Council shall issue a transfer if the transferee is of good moral character.

4.0405 Location. Manufactured Home Parks may be located in a districted designated as R-3 by the Zoning Ordinance of the City of Elk Point and must meet all provisions of the same.

4.0406 Manufactured Home Park Plan. The manufactured home park shall conform to the following requirements:

A. The park shall be located on a well-drained site, properly graded to insure rapid drainage and freedom from stagnant pools of water.

B. Manufactured home spaces shall be provided consisting of a minimum of 6,500 square feet for each space which shall be at least 50 feet wide and clearly defined; provided, however, that manufactured home parks in existence on February 4, 2009 which provide manufactured home spaces having a width or area less than that hereinabove prescribed may continue to operate with spaces of the existing width and area.

C. Manufactured homes shall be so harbored on each space that there shall be at least a 18 foot clearance between manufactured homes. No manufactured home shall be located closer than 10 feet from any building within the park or from a property line bounding the park.

D. All manufactured home spaces shall abut upon a driveway of not less than 20 feet in width, which shall have unobstructed access to a public street, alley or highway.

E. Walkways of not less than four feet wide shall be provided for the manufactured home spaces to the service buildings.

F. All driveways and walkways within the park shall be hard surfaced with a minimum of six (6) inches concrete for driveways and a minimum of four (4) inches concrete for walkways and lighted at night with electric lamps of not less than 100 watts each, spaced at intervals of not more than 200 feet.

G. One-hundred (100) amp electrical service supplying at least 220 volts shall be provided for each manufactured home space.

H. The age of the manufactured home may not exceed ten years from the date of manufacture.

4.0407 Water Supply. All buildings and manufactured homes within the park shall be connected to the municipal water supply system in accordance with Chapter 8.04.

4.0408 Service Buildings.

A. Service buildings housing offices and laundry facilities, or any of such facilities, shall be permanent structures complying will all applicable ordinances and statutes regulating buildings, electrical installations and plumbing and sanitation systems.

B. All service buildings and the grounds of the park shall be maintained in a clean, appealing condition and kept free of any condition that will menace the health of any occupant of the public or constitute a nuisance.

4.0409 Sewage Disposal. Waste from showers, bath tubs, flush toilets, urinals, lavatories, sinks, and laundries in service from each manufactured home unit and any service building within the park shall be discharged into the municipal wastewater collection system in accordance with Chapter 8.05.

4.0410 Garbage Disposal and General Maintenance. Covered garbage containers shall be provided in quantities adequate to permit disposal of all garbage and rubbish. Garbage containers shall be located not farther than 150 feet from any manufactured home space, situated on concrete and screened on four sides. The containers shall be kept in sanitary condition at all times. It shall be the duty of the manufactured home park operator to see that all garbage and refuse is disposed of regularly and in a sanitary manner. It shall also be the manufactured home park operator's responsibility to see that no materials which attract insects or rodents or which afford harborage for insects or rodents is stored or allowed to remain on the premises. All areas of the premises shall be kept clean and free from weeds or heavy undergrowth.

4.0411 Supervision. The licensee or permittee, or a duly authorized attendant or caretaker shall be in charge at all times to keep the manufactured home park, its facilities and equipment in a clean, orderly and sanitary condition. The attendant or caretaker shall be answerable, with the licensee or permittee, for the violation of any provision of this Chapter to which the licensee or permittee is subject.

4.0412 Revocation of License. The City Council may revoke any license to maintain and operate a park when the licensee has been found guilty by a court of competent jurisdiction of violating any provision of this Chapter. After such conviction, the license may be reissued if the

circumstances leading to the conviction have been remedied and the park is being maintained and operated in full compliance with law.

4.0413 Separability Clause. Should any section or provision of this Chapter be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the Chapter as a whole, or any part other than the part so declared to be unconstitutional or invalid.

4.0414 Continuation of Non-Conforming Parks. A lawful Manufactured Home Park existing immediately prior to February 4, 2009 may be continued even though such use does not conform with the district regulation subject to the following provisions:

A. Whenever a nonconforming park has been changed to a more restricted or conforming park, it shall not be changed back to a less restricted park.

B. Should any nonconforming park be destroyed by any means to the extent of more than 50% of its replacement cost, such nonconforming park shall not continue.

C. When a nonconforming park has been discontinued for a period of at least one year, any subsequent use shall be in conformance with the provisions of this Chapter.

D. Any nonconforming use may be extended throughout any part of a park which was arranged or designed for such use previous to the adoption of this Chapter, but shall not be extended outside the park.

E. No existing nonconforming park shall be enlarged, moved, or altered except to conform to the provisions of this Chapter. This is not to include normal repairs and maintenance, which do not enlarge, move or alter a nonconforming park.

TITLE 5 - OFFENSES

Chapter 5.01 - Offenses Against Public Welfare
Chapter 5.02 - Animals
Chapter 5.03 - Fireworks and Firearms
Chapter 5.04 - Minors

CHAPTER 5.01 - OFFENSES AGAINST PUBLIC WELFARE

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

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

B. Makes unreasonable noise;

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

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

E. Obstructs vehicular or pedestrian traffic;

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

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

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

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

5.0103 City Parks and Public Buildings Closed to the Public at Specified Times. For the purpose of preservation and protection to the City park facilities and public buildings it shall be unlawful for any person or persons to enter or remain in such public places after closing hours as specified by the City Council. This section shall not apply to registered overnight campers, city staff or other authorized persons.

5.0104 Indecency. No person shall willfully and lewdly expose his or her person, or the private parts thereof, in any public place where there are present other persons to be offended or annoyed thereby.

5.0105 Public Urination and Defecation Prohibited. Any person who urinates or defecates on any public street, alley, sidewalk, or floor of any public building or of any building where the public gathers or has access, or in any other place, whether public or private, where the act could be observed by any member of the public, except in the place that has been designated as a restroom is guilty of an offense and in violation of this section.

5.0106 Roller Skates and Skateboards Prohibited in the Business District. No person shall ride upon, in or by means of roller skates, coasters, go-karts, skateboards or other similar wheeled device upon a sidewalk in any business district. (SDCL 9-32-1)

A. Definition as used in this Section:

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

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

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

2. A wheeled vehicle used to transport a person under five (5) years of age.

CHAPTER 5.02 - ANIMALS

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

A. At Large.

1. An animal when off or away from the premises and not under the control of the owner, possessor, keeper, agent, servant, or a member of his immediate family by a leash.

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

B. Leash. A cord, thong, or chain, not to exceed six feet in length, by which an animal is controlled by the person accompanying it.

C. Owner. Any person harboring or keeping an animal and who is the head of the household of the residence or the owner or manager in charge of the establishment or premises at which an animal remains or returns to.

5.0202 Running at Large Prohibited. It shall be unlawful for any person to have any animal which is owned, kept, harbored, or allowed to be habitually in or upon the premises occupied by him or under his or their control to be at large and to go in or upon the private premises of others or upon any public property. The fine for an animal running at large is $50.00. The owner of the animal found in violation of this Section may, within 72 hours of the time when the notice of violation was given, pay to the office of the City Finance Officer, as fine for and in full satisfaction of the violation, the sum of $50.00. If the owner fails to pay the sum within the 72-hour period, he or she may pay to the office of the City Finance Officer, within the next 2 weeks from the date of violation, as a fine for and in full satisfaction of the violation, the sum of $75.00. Upon failure of the owner to pay either of the sums to the office of the City Finance Officer within the time periods indicated, and upon conviction of a violation of this Section, the owner shall be fined not less than $100.00 nor more than $125.00 plus court costs, which fine shall be collected by the Magistrate Court. The owner also has the right to contest the charges or plead “not guilty” within the time periods indicated above, and have the matter transferred to Magistrate Court. The penalties in this Section may be adjusted by resolution of the City Council.

Allowing an animal to run at large as defined in the provisions of this section, shall also constitute a violation of this Ordinance, per Section 11.0101. Notwithstanding any other

provision, any animal not having a visible tag and running at large may be deemed a stray and destroyed immediately.

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

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

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

Animal control officers, city employees or officials, and law enforcement officers shall not be responsible for any injury or disease of any animal resulting from the enforcement of this chapter.

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

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

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

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

5.0205 Responsibility of Owner to Place Animal for Observation. When any person owning or harboring a dog, cat, or other animal has been notified that the animal has bitten or attacked

any person, the owner shall within twenty-four (24) hours place the animal under the care and observation of the animal control officer or a licensed veterinarian for a period of not less than ten (10) days.

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

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

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

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

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

5.0206 Vicious Animals.

A. An animal may be declared to be vicious by the animal control officer, a law enforcement officer or other authorized official, under the following guidelines:

1. An animal which, in a vicious or terrorizing manner approaches in an apparent attitude of attack, or bites, inflicts injury, assaults or otherwise attacks a person or other animal upon the streets, sidewalks, or any public grounds or places; or

2. An animal which, on private property, in a vicious or terrifying manner, approaches in an apparent attitude of attack, or bites, or inflicts injury, or otherwise attacks a mailman, meter reader, serviceman, journeyman, delivery person, or other employed person, or any person or animal who is on private property by reason of permission of the owner or occupant of such property or who is on private property by reason of a course of dealing with the owner of such private property.

3. No animal may be declared vicious if the injury or damage is sustained to any person or animal who is committing a willful trespass or other tort upon premises

occupied by the owner of the animal, or who was teasing, tormenting, abusing or assaulting the animal or was committing or attempting to commit a crime.

B. When the animal is declared to be vicious, the City shall notify the owner of such declaration in writing. Said notice shall be sent by certified mail, return receipt requested, or by hand delivery. Failure by any person to actually receive any document sent to him by certified mail or to sign and return any receipt card acknowledging receipt by certified mail shall not invalidate service made upon such person by certified mail. Such notice is deemed completed at the time it is mailed, and any period to reply or abate begins to run from the date of mailing.

C. Any mammal, reptile or fowl which is not naturally found in a domestic setting, and because of its size or other characteristic would constitute danger to human life or property is automatically deemed vicious.

D. The owner of an animal that has been deemed vicious shall comply with the following:

1. Register the animal as vicious with the City and present proof of rabies vaccination within five (5) days of receiving the notice and presenting proof of rabies vaccination on or before March 1 of each and every year thereafter.

2. Whenever the animal is outdoors and attended, the animal shall be muzzled, on a leash no longer than six (6) feet, and under the control of a person over sixteen (16) years of age.

3. When the animal will be outdoors and unattended, the animal must be locked in an escape-proof kennel approved by the City. Minimum standards shall include the following:

   a. Fencing materials shall not have openings with a diameter of more than two (2) inches.

   b. Any gates within such pen or structure shall be lockable and of such design to prevent the entry of children or the escape of the animal.

   c. The required pen or structure shall have secure sides and a secure top. If the pen or structure has no permanent bottom secured to the sides, the sides shall be imbedded into the ground or concrete.

   d. The pen or structure may be required to have double exterior walls to prevent the insertion of fingers, hands or other objects.

4. A universal sign denoting a vicious animal shall be displayed on the kennel or enclosure and on a place visible from the sidewalk or road adjacent to the property where the animal is kept.

5. A non-refundable yearly registration fee of $65.00, which fee shall be in addition to any other license fee required by this chapter.

6. The owner of a vicious animal shall present to the police department, proof that he has procured liability insurance or a surety bond in the amount of not less than

$250,000.00 covering any damage or injury that may be caused by such vicious animal. The policy shall contain a provision requiring that the city be notified immediately by the agent issuing the policy in the event that the insurance policy is cancelled, terminated, or expires. The liability insurance or surety bond shall be obtained prior to the issuing of a permit to keep a vicious animal. The owner of the vicious animal shall sign a statement attesting that he shall maintain and not voluntarily cancel the liability insurance policy during the 12-month period for which a permit is sought, unless he ceases to own or keep the vicious animal prior to the expiration date of the permit period.

E. The vicious animal shall be impounded by animal control at the owner's expense until all provisions of Section D are complied with. If the conditions in Section D are not complied within 10 days after receiving notice, the animal shall be euthanized in a humane manner and proof of euthanasia filed with the City.

F. If a vicious animal has been running at large, or bites a person or bites another animal, the animal control officer, a law enforcement officer or other authorized official shall seize the animal by using such means as are necessary and summon the owner to appear in court to show cause why this animal shall not be destroyed. If the animal cannot be captured, it may be destroyed.

G. No animal that has previously been determined to be dangerous or vicious by any other jurisdiction shall be kept, owned or harbored in the City of Elk Point.

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

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

5.0208 Poisoning Animals. It shall be unlawful for any person to willfully or maliciously administer or cause to be administered, poison of any sort whatsoever to any animal, the property of another, with the intent to injure or destroy such animal, or to willfully or maliciously place any poison or poisoned food where such is accessible to any such animal. (SDCL 9-29-11)

5.0209 Stray, Abandoned, or Unkept Animals. No person shall harbor or keep any stray animals or abandon any animal within the City. Animals known to be strays shall be immediately reported to the animal control officer, a law enforcement officer or authorized official. (SDCL 9-29-12)

5.0210 Number of Pets Limited. It shall be unlawful for any person to have or to keep more than six domestic pets over the age of six months, except birds and fish, on any lot or premises in the City, unless such person residing on or in the lot or premises has a valid kennel license issued by the City. Humane societies, veterinarian offices, and retail pet stores are exempt from the provisions of this section.

5.0211 Licensing of Dog Required. Each owner of a dog of the age of six (6) months or over shall within thirty (30) days after the acquisition of such animal or within thirty (30) days after the time such animal becomes six (6) months old, cause such animal to be licensed by the City.

5.0212 Application for License. Every owner of a dog within the City must submit an application for an animal license for each such animal owned six (6) months old or older and a renewal application within one year and annually from the month of the first license. The application shall be furnished by the Finance Officer. All applications for license certificates must be accompanied by a rabies immunization certificate and the appropriate fee, as shown in Section 5.0213.

A certificate and tag shall be issued upon receipt of a proper application for license. The certificate at all times must be in the possession of the owner. The owner shall contact the Finance Officer to report change of ownership, loss or death of a licensed animal. If a tag or certificate is lost, either may be replaced for a fee of one dollar ($1.00). The tag must be worn by all dogs and cats.

5.0213 License Fee Schedule. The fee for licenses shall be as follows:

Neutered/Spayed dog	$5.00
Unneutered/Unspayed dog	$10.00

The most current fee schedule specifically addresses dog licenses. Documentation from a veterinarian or other sufficient medical proof must be provided when licensing a neutered or spayed dog. The City Council may revise any or all license fees by resolution. The City Council may in special instances, after a hearing, exempt the license fee in individual cases.

5.0214 License Fee Exemptions. The licensing provisions of this chapter shall not apply to dogs in the custody of a veterinarian, or animal shelter or animal rescuer, or whose owners are nonresidents temporarily within the City for a period not exceeding 30 days. Also, when a blind person, physically disabled or hearing impaired person requests that no fee be charged to license his/her guide dog, or service dog, no fee shall be charged, upon submission of medical documentation attesting to said disability and/or service animal certification from a bona fide and recognized authority.

5.0215 Kennel Licenses Issued. The City Finance Officer, upon receipt of an application showing the owner's name and address, the name, breed, age, color and sex of each dog kenneled by the owner, a certificate signed by a qualified veterinarian that each dog has been vaccinated and payment of the appropriate license fee, as established by the City Council, shall issue a kennel license to the owners of dog kennels. All dogs housed in a licensed kennel shall be exempt from the other licensing provision of this ordinance.

5.0216 Harboring of strays. Any person who harbors any animal found astray within the city limits shall within twenty-four (24) hours, notify the police department.

5.0217 Irresponsible Animal Owner. Definition “Irresponsible animal owner” means any animal owner that has:

A. Been convicted or pled guilty three times or more for separate incidents that occurred in any twelve month period concerning:

1. An animal at large;

2. An animal disturbing the peace;

3. An unlicensed animal;

4. An excessive number of animals; or

5. Unsanitary premises due to animals.

B. Been convicted or pled guilty two times or more for separate incidents that occurred in any thirty-six month period concerning:

1. Animal cruelty;

2. Animal neglect,

3. Keeping animals covered by section 5.0223 without obtaining a license; or

4. An animal declared a vicious animal.

5.0218 Determination. The determination of an "irresponsible animal owner" shall be in accordance with the following procedures:

A. The Police Chief or the Police Chief's designee, upon being satisfied that an owner is an irresponsible animal owner, shall cause to be served upon the owner a written notice of said determination.

B. The written notice shall contain:

1. A finding that the owner is an irresponsible animal owner.

2. A description of the acts relied upon in determining the owner is an irresponsible animal owner.

3. A copy of the appropriate municipal code.

4. A statement advising the owner of the right to request a hearing.

C. Notice. Notice shall be by personal service or by certified mail to the owner.

D. Request for hearing and appeal. Any owner advised that the owner is declared an irresponsible animal owner may have, upon request, a hearing with the officials making said determination as to whether the owner is an irresponsible animal owner. A request for a hearing must be made in writing with ten (10) days and delivered to the office of the city administrator or the city administrator's designee within the time stated in the notice or it will be conclusively presumed that the owner is an irresponsible animal owner.

The Police Chief or the Police Chief's designee will act as hearing officer. At the conclusion of the hearing or within three days thereafter, the hearing officer shall render a written decision as to whether the owner is an irresponsible animal owner. An appeal

from this decision may be had by filing a written notice within five (5) with the hearing officer. This appeal will be heard before the city council at a time and place fixed by the council. The findings of the council shall be conclusive.

5.0219 Owner – Banned. If an owner is declared to be an irresponsible animal owner the owner shall be banned from having animals within the city limits of Elk Point.

5.0220 Impound. If an owner has been declared an irresponsible animal owner and is found to have an animal within the city, the Police Chief or the Police Chief's designee shall cause the animal to be impounded with the Siouxland Humane Society in Sioux City, Iowa.

5.0221 Impoundment Notice. If the animal is impounded, then the city, within three (3) days after impoundment, shall provide written notice of impoundment, either by in person or mail service, to the owner. The letter shall include a notice of hearing, which shall occur within ten (10) days after the date of service of the notice of impoundment. The owner may waive the hearing, consent to a later hearing date, or consent to the impoundment. If there is a Complainant, notice of the hearing shall also be provided to the complainant.

5.0222 Impoundment Hearing. At the impoundment hearing, the city shall have the burden of proving by a preponderance of the evidence that continued impoundment is justified. The council shall consider the factors set forth in Section 5.0217, and issue a written order. If the animal is not impounded, and a petition regarding the irresponsible owner is still pending, then the council may order that the owner keep the animal in the city pending the outcome of the impoundment hearing and may order any other conditions for keeping possession of the animal as it sees fit.

5.0223 Violations – Penalties. Any person who violates Sections 5.0204 through 5.0218 of this Ordinance shall be subject to a fine of Five Hundred Dollars ($500.00). Each day a violation occurs shall be deemed a separate offense and subject to an additional Five Hundred Dollar ($500.00) fine.

5.0224 General Prohibitions and Duties.

A. No person shall aid or cause any animal, whether owned by such person or not, to escape confinement or impoundment, whether such confinement or impoundment be upon the such person's property or that of another, by opening any gate, door or window, by making an opening in any fence, enclosure or structure, or by unleashing such animal.

B. It shall be prohibited for any person to permit or allow an animal owned by that person or under that person's custody or control to defecate upon public property, park property, public right-of-way, or the property of another.

C. It shall be the duty of every person owning or having the custody or control of an animal to clean up, remove and dispose of the feces deposited by such animal upon public property, park property, public right-of way, or the property of another.

D. It shall be the duty of every person owning or having the custody or control of an animal to physically restrain the animal within an enclosure or upon a leash when such animal is left unattended outside or is not at heel. The animal must be restrained so as

to prevent the animal from leaving the premises of its owner or from coming in contact with public right-of-way or the property of another.

E. It is unlawful for a person, owning or having the care or custody or control of an animal to permit such animal to disturb the peace and quiet of the neighborhood by barking, howling, whining, or making any other loud or unusual noise. Leaving an animal unattended that subsequently disturbs the peace and quiet of the neighborhood shall be in violation of this Chapter.

F. In the event an animal is making any noise to the disturbance of the peace and quiet of the neighborhood and the person owning or having the care or custody or control over the animal cannot be found to remedy the situation or if found refuses to do so, the animal may be impounded. A notice of the impoundment must be left with the person or in an obvious place on the premises where the dog was removed. A written notice of impoundment must also be sent by certified mail, with return receipt requested, as soon as possible to the licensed owner of the animal if known; or the lessee of the premises upon which the animal was found, if known; or the record owner of the premises. Such notice is deemed completed at the time it is mailed, and any period to reply or abate begins to run from the date of mailing. The animal may be claimed on any regular work day during regular work hours. The impoundment fee will be assessed prior to release of the animal.

G. It shall be prohibited for any person in any manner to interfere with any employee or designated representative of the City so as to hinder, delay or prevent his or her executing his or her duties pursuant to this Chapter.

H. No person may set traps in the City for the purpose of apprehending wild or domesticated animals. This section does not prohibit:

1. Trapping mice, rats or other household vermin;

2. The setting of traps to destroy moles and other underground pests so long as the traps used may be triggered only by subsurface action; or

3. The setting of traps in the line of duty by an animal control officer or with written permission from and under supervision of an animal control officer or licensed pest-control operators.

Adopted this 6th day of September 2016.

CHAPTER 5.03 - FIREWORKS AND FIREARMS

5.0301 Discharge of Fireworks Prohibited Without Permit. It shall be unlawful for any person to shoot, discharge or explode, or cause to be shot, discharged or exploded, any firecrackers, sky rockets, bottle rockets, blank cartridges, fireworks, or other explosives used for fireworks or fireworks display, in the City of Elk Point. Nothing in this section shall prohibit the use of a public display of fireworks in the City, provided that any person responsible for such public display shall, prior thereto, receive a permit from the City Council.

Exception: The City of Elk Point shall follow SDCL #34-37-16.1 for dates on which fireworks can be discharged for the 4th of July holiday. The time limits set by Elk Point City Ordinance will be between the hours of 10:00 a.m. to 11:00 p.m. Additionally, fireworks may be discharged on December 31st and January 1st of each year, between the hours of 11:45pm and 12:15am. No fireworks may be discharged on Main Street or upon city park property of Elk Point.

Adopted the 13th day of August, 2021

5.0302 Discharging Weapon. No person shall discharge any pistol, gun, revolver, or other firearm, or any bow and arrow, or any device capable of firing a projectile either by air or compressed gas or any other means which would likely cause injury to any person, or discharge any dangerous weapon, within the City limits.

The following uses are exempt from this section:

1. Proper use of weapons in a licensed shooting gallery.
2. Use by law enforcement or animal control officers in the discharge of their official duties, or to persons who are authorized by the Chief of Police.
3. Use by persons engaged in instructional courses using air guns, BB guns, or bows and arrows if the course has obtained a permit from the Chief of Police, is conducted by a certified instructor, is covered by adequate liability insurance, and has been approved by the supervising unit if conducted on city property. The Chief of Police may establish conditions for granting a permit to protect the health, safety, and well-being of the general public.
4. The owner or inhabitant of a parcel of real estate within the City of Elk Point may use air guns or BB guns to control predators or pests on such property, provided all such activities comply with South Dakota Statute.
5. Use of any air guns, BB guns or bow and arrow to shoot at an object, such as a padded disk with a marked surface, or other objects such as cans, wood, debris or the like, for the purpose of testing a person's skill or accuracy in the use of an air gun, BB gun, bow and arrow, or other weapon or device.

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

Dated this 6th day of August 2018.

CHAPTER 5.04 - MINORS

5.0401 Curfew Hours and Exceptions. No minor under the age of eighteen (18) years shall be or remain in or upon the public streets, alleys, parks, playgrounds, public grounds, public places, public buildings, public places of amusement and entertainment, vacant lots, or other unsupervised public places within the city between the hours of 11:00 p.m. and 4:00 a.m. of the following day, unless accompanied by his parent, guardian or other adult person having the care and custody of the minor or where the minor is upon an emergency errand or legitimate business directed or authorized by his parent, guardian or such other adult person having the care and custody of the minor.

5.0402 Responsibility of Officers. It shall be the right of any authorized officer or person to arrest and detain any minor violating the curfew and to keep the minor detained until the parent,

guardian or custodian is notified, when the minor may be released upon the giving of a promise by the minor and his parent or guardian or custodian that such minor together with his parent, guardian or custodian will appear at a stated time before the proper authority to answer to the charges.

5.0403 Responsibility of Parents or Guardians. It shall be unlawful for the parents, guardian or other adult person having the care and custody of a minor under the age of eighteen (18) years to knowingly permit such a minor to be or remain in or upon the public streets, alleys, parks, playgrounds, public grounds, public places, public buildings, public places of amusement and entertainment, vacant lots or other unsupervised public places within the City between the hours of 11:00 p.m. and 4:00 a.m. of the following day, except when the minor is accompanied by his parent, guardian or other adult person having the care and custody of the minor or when the minor is upon an emergency errand or legitimate business directed or authorized by his or her parent, guardian or other adult person having the care and custody of the minor.

CHAPTER 5.05-ILLEGAL DUMPING

5.0501 Definitions. The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section.

Litter means garbage, rubbish, waste material or animal waste improperly disposed of by discarding, abandoning, allowing to accumulate, scattering or depositing the same outside of an approved container.

Public Property means any property that is not owned by a private individual or a company. This property belongs to the community, and is owned by the City of Elk Point.

Rubble Site means land used to dump only grass, untreated lumber, and metal.

Security Cameras means cameras placed at the gate of the rubble site to ensure that only the right materials are being dumped at the rubble site.

5.0502 Authority. No person may dump, drop off, throw away, discard, deposit, or leave litter at the rubble site without payment and permission. Cut grass, metal, and untreated lumber may still be dropped off at the rubble site.

The rubble site gate will be supervised by security cameras 24/7.

5.0503 Penalty. Any person caught littering at the rubble site will be subject to a fine of Five Hundred Dollars ($500.00).

Dated this 6th day of August 2018.

TITLE 6 - STREETS, SIDEWALKS AND PUBLIC PLACES

Chapter 6.01 - Street Names and Addresses
Chapter 6.02 - Streets, Sidewalks, Curb and Gutter

Chapter 6.03 - Snow Removal
Chapter 6.04 - Moving Buildings
Chapter 6.05 - Municipal Trees
Chapter 6.06 - Municipal Parks
Chapter 6.07 - Hike and Bike Trail
Chapter 6.08 - Municipal Cemetery

CHAPTER 6.01 - STREET NAMES AND ADDRESSES

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 office of the Finance Officer. Other streets shall be named in accordance with guidelines included in the City subdivision regulations. Any such act of naming, establishing, or vacating any street, alley or other public way in the City shall be so designated on such map. (SDCL 9-45-2)

6.0102 Numbering Plan. A numbering plan for residences and businesses shall be maintained by the City Council. A listing of the assigned numbers and a map showing the location of addresses shall be maintained and filed in the Finance Office. The Finance Officer shall be responsible for assigning new numbers and updating the listing of such numbers and the location map. (SDCL 9-45-2)

6.0103 Duty of Numbering. That all houses and lots within the corporate limits of City of Elk Point, South Dakota, shall be numbered in accordance with the provisions of 6.01. It shall be the duty of the owner of such houses and lots to so place and construct such numbers as to be easily visible from the street and said numbers shall be not less than four (4) inches in height. If the owner of any dwelling house, building, business establishment or lot fronting on a street or avenue within the City shall fail, refuse or neglect to place the number, or replace the number when necessary, an authorized agent of the City may cause to be mailed by certified mail, return receipt requested, or by hand delivery to such owner, occupant or person, or by posting on the property a notice to the last known address ordering him to do so. Failure by any person to actually receive any document sent to him by certified mail or to sign and return any receipt card acknowledging receipt by certified mail shall not invalidate service made upon such person by certified mail. Such notice is deemed completed at the time it is mailed, hand delivered or posted, and any period to reply or abate begins to run from the date of mailing, hand delivery or posting. In case of failure of such owner to comply with such notice within ten (10) days after the date of such notice, the authorized agent may cause the same to be done, and assess the cost thereof against the property or premises numbered. (SDCL 9-45-2)

CHAPTER 6.02 - STREETS, SIDEWALKS, CURB AND GUTTER

6.0201 Street Excavations. No person shall make or cause to be made any excavation except as hereafter provided, in or under any street, sidewalk, alley, or public ground or remove any earth, soil, paving, gravel or materials therefrom without first having called One Call and having had any underground utilities identified. Application for such approval shall state where such excavation is to be made, the extent thereof, and the purpose of such excavation.

6.0202 Excavation Permits. Applications for excavations other than emergency situations may require a deposit in such sum as deemed necessary by the City Council to ensure proper

replacement and refilling of any such excavation or to cover the costs of any damages which may be caused by such excavation.

Any required deposit shall be paid to the City before approval of an application is made and any unused portion of said deposit shall be refunded to the applicant upon recommendation and approval of the City.

6.0203 Excavation Repairs. Approval for any excavation covered by this Chapter shall be issued only upon the express condition that the applicant shall refill such excavation in accordance with the requirements of the City, and shall restore the pavement or surfacing, as the case may be, to its former condition. The City may adopt and amend as necessary such requirements which shall set forth the manner in which various types of excavations shall be backfilled or refilled and the manner in which any street surfacing shall be replaced. Applicant shall be responsible to the City for any such excavation for a period of two years.

6.0204 Excavation Inspections. It shall be the duty of the Public Works Director or his or her designee to inspect all authorized excavation work at any stage of construction and to ensure compliance with approved requirements. If all backfilling, refilling, or surfacing is not completed in accordance with approved requirements, notice thereof in writing shall be given to the applicant, who shall put the same in proper order within a maximum of ten (10) days. If the applicant fails after such notice to complete all requirements, the City Council may authorize the necessary repairs and such applicant shall pay the costs thereof.

6.0205 Excavation Barriers. Any person receiving approval to make excavations in or upon any street, alley, sidewalk or public ground shall, during the progress and continuance of the work, erect and maintain around the same both day and night signs, fences or signals so as to prevent injury to persons, animals, or vehicles on account of such excavations. No open trench shall be left open for any more time than considered absolutely necessary or reasonable.

6.0206 Sidewalks. Unless otherwise determined by the City Council, the inside of the sidewalk shall be the property line. Sidewalk construction shall include base material of three inches in thickness, of approved materials. Sidewalks shall be no less than four (4) inches in thickness, of Portland Cement Construction, and not less than four (4) feet nor more than five (5) feet wide in residential areas, with slope toward street of one-fourth inch per foot. When considered necessary and advisable for the peace, welfare, and safety of the people, the City Council may direct that new sidewalk be constructed and assessed to any abutting property owner in accordance with SDCL 9-46.

6.0207 Driveway Approaches. No driveway approaches shall protrude or extend into the streets beyond the curb line, unless otherwise so authorized by the City Council. Concrete driveway approaches shall be of five (5) inch Portland Cement Construction, with the slope gradual to accommodate modern vehicles. On gravel thoroughfares driveway approaches constructed shall permit flow of surface water without drainage interference and shall permit proper blading and maintaining of streets. (SDCL 9-45-1)

6.0208 Curb and Gutter. Curb and gutter shall be of Portland Cement Construction, not less than three thousand (3,000) PSI, with curb six (6) inches in width, and extending six (6) inches above the gutter. Gutter shall be of six and one-half (6.5) inch thickness, extending twenty-four (24) inches into the street and shall include two (2) No. 4 Rebar centered on pan. The

City Council may direct that curb and gutter be constructed and the cost assessed against any abutting property owner. (SDCL 9-45-5)

6.0209 Permits. When constructed separately from an over all construction project, property owners or their agents shall submit applications for permits for approval by the Public Works Director for sidewalks, driveway approaches, curbs, or curb and gutter. When these improvements are constructed simultaneously or as one project, only one application is necessary to include all improvements, and where any or all are part of new construction projects, only one permit for the overall construction shall be issued. All improvements, installations, and engineering recommendations shall be in conformance with specifications or recommendations approved by the City Council or its Engineer.

6.0210 Barrier-Free Construction. Whenever any person, firm or corporation makes new installations of sidewalks, curbs or gutters, in both business and residential areas, it shall be required that they install ramps at crosswalks, so as to make the transition from street to sidewalk easily negotiable for handicapped persons in wheelchairs and for blind persons. All such ramps shall be constructed or installed in accordance with design specifications according to the most current American National Standards Specifications published by the American National Standards Institute or according to Americans with Disabilities Act specifications. (SDCL 9-46-1.2)

6.0211 Permission to Deposit Materials. No person shall deposit, place, store, or maintain, upon any public place of the municipality, including street rights-of-way, any dumpster, container, stone, brick, sand, concrete or any other materials, unless approved by the City.

CHAPTER 6.03 - SNOW REMOVAL

6.0301 Duty to Remove. It shall be the duty of the owner, tenant, or person in possession of any property abutting on any sidewalk to keep such sidewalk and boulevard free from snow and to cause any accumulated snow to be removed within twenty-four (24) hours after the termination of any snowfall, or snow accumulation. When it is impossible to take snow and ice from such walk by reason of its being frozen to the sidewalk, the owner or occupant or person in charge of such lot shall sprinkle or spread some suitable material upon the same to prevent the walk from becoming slippery and dangerous to travel.

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

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

CHAPTER 6.04 - MOVING BUILDINGS

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

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

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

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

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

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

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

6.0407 Approval and Fee. No moving permit shall be issued unless the appropriate nonrefundable fee, established by resolution of the City Council, is paid to the Finance Office.

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

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

CHAPTER 6.05 - MUNICIPAL TREES

6.0501 Authority and Jurisdiction. The City Council shall have the authority to regulate the planting, maintenance, and removal of trees along public streets and other publicly owned property to insure the public safety and to preserve the aesthetics of such public sites. The City Council shall also have the authority to determine the type and kind of trees to be planted upon municipal streets or in parks and may assist in the dissemination of news and information regarding the selection, planting, and maintenance of trees within the corporate limits or within the area over which the City has jurisdiction, whether the same be on private or public property, and to make recommendations from time to time as to desirable ordinances concerning the tree program and activities for the City. (SDCL 9-38-2)

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

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

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

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

6.0504 Removal of Hazards. Where any tree branches or hedges protrude or overhang on any thoroughfare within the City so as to be determined as in violation with this Chapter or affecting motor vehicle traffic and good maintenance practices, notification shall be given by the Public Works Director to the property owner to remove such obstructions or undesirable branches or hedges within two weeks of the notice. The notification shall be sent by certified

mail, return receipt requested, or by hand delivery to such owner, occupant or person, or by posting on the property. Failure by any person to actually receive any document sent to him by certified mail or to sign and return any receipt card acknowledging receipt by certified mail shall not invalidate service made upon such person by certified mail. Such notice is deemed completed at the time it is mailed, hand delivered or posted, and any period to reply or abate begins to run from the date of mailing, hand delivery or posting. (SDCL 9-38-2)

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

Dated this 12th day of September 2018.

CHAPTER 6.06 - MUNICIPAL PARKS

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

6.0602 Restricted Hours.

A. Usage. It shall be unlawful to be in, occupy, or use said City Park or any of its facilities between the hours of 11:00 p.m. and 4:00 a.m. Central Standard Time, with the exception of overnight campers using the designated camping sites.

B. Fees. The fee will be $10.00 per night with a maximum of seven (7) days per month, unless special approval is received from Elk Point City Hall. When special permission is granted for stays longer than seven (7) days the fee will be $50.00 per week or $200.00 per month. A box for camping fee collections shall be provided in the City Park. At its discretion, the City Council can revise these fees by Resolution.

C. Improper Use/Fines. The police will check campers to verify payment, and if camping fee has not been paid they shall pay said fee to the police or be required to leave the park; if they refuse, the police shall call a towing service and have the camper towed out of the City Park at the owner's expense and also be subject to a fine of $50.00, plus towing costs. The owner or operator of the vehicle found in violation of this Section may, within 72 hours of the time when the notice of violation was attached to the vehicle, pay to the office of the City Finance Officer, as a fine for and in full satisfaction of the violation, the sum of $50.00, plus towing costs. If the owner or operator fails to pay the sum within the 72-hour period, he or she may pay to the office of the City Finance Officer, within the next 2 weeks from the date of violation, as a fine for and in full satisfaction of the violation, the sum of $75.00, plus towing costs. Upon failure of the owner or operator to pay either of the sums to the office of the City Finance Officer within the time periods indicated, and upon conviction of a violation of this Section, the owner or operator shall be fined not less than $100.00 nor more than $125.00 plus court costs and towing costs, which fine shall be collected by the Magistrate Court. The owner or operator also has the right to contest the charges or plead "not guilty" within the time periods indicated above, and have the matter

transferred to Magistrate Court. The penalties in this Section may be adjusted by resolution of the City Council.

6.0603 Lawful Manner. Any person using or occupying such City Park or any of its facilities shall conduct him or herself in a carefully, prudent, peaceable and lawful manner, shall honor and respect the rights and privileges of other visitors in the park, and shall at all times maintain and take every precaution to prevent the injury of persons and property in the park.

6.0604 Unnecessary Acts. Any person using or occupying such City Park or any of its facilities shall not do or commit any unreasonable or unnecessary acts that may unreasonably annoy other visitors in the park or unreasonably prevent such visitors in the park from the full use and enjoyment of the park.

6.0605 Definitions. The following words, when used in this Chapter, shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning:

Child means a person under the age of sixteen (16).

CHAPTER 6.07 - HIKE AND BIKE TRAIL

6.0701 Bicycle Trails and Routes Authorized. It shall be the duty of the Chief of Police and the Public Works Director to cause to be placed and maintained, at such places as he deems it necessary for the safety of pedestrians and operators of bicycles and tricycles entering, traveling upon, or exiting from bikeways, bicycle trails, designated bicycle lanes and bicycle routes and for the protection of bicycle trails from the intrusion of heavy vehicles or equipment, appropriate signs of standard design controlling pedestrian, bicycle and tricycle travel on such bikeways, bicycle trails, designated bicycle lanes and bicycle routes and controlling both vehicular and bicycle traffic on, across or adjacent to any such bikeway, bicycle trail, designated bicycle lane or bicycle route.

Any sign or signal intended to direct and control the operation of bicycles and tricycles only shall be of substantially the same form and design as a comparable sign or signal intended to direct and control in like manner the operation of motor vehicles on the public highways, except that such sign or signal may have printed thereon the word "bicycle" or drawn thereon the standard bicycle symbol.

6.0702 Traffic Limited. Generally, pedestrians, bicycles, wheelchairs, medically necessary modes of transportation, or other city pre-authorized vehicles may enjoy the use of the parkway.

It shall be unlawful for the operator of any motor vehicle, gator/4-6 wheeler, moped or snowmobile to drive or operate the same upon any bicycle trail or designated bicycle lane; and the location of any such bicycle trail or designated bicycle lane shall be indicated by the appropriate placement of one (1) or more signs stating, "No Motor Vehicles" and other uniformly designed signs stating or indicating "Bicycle Lane Ahead" or "Bicycle Only."

6.0703 Pedestrians to Have Right-of-Way. It shall be the duty of any person riding or operating a bicycle or tricycle upon any bicycle trail or designated bicycle lane to yield the right-of-way to any pedestrian traveling thereon.

6.0704 Riders Subject to Traffic Regulations. Every person riding a bicycle or tricycle upon a bicycle trail or designated bicycle lane shall be subject to the provisions of this chapter applicable to the driver of a motor vehicle on a public highway except as to special regulations of this chapter and except as to those provisions thereof which by their very nature have no application.

6.0705 Enforcement.

A. Public Works Director maintains signs: The Public Works Director of the City shall cause all bicycle lanes and specially designated bicycle routes to be signposted to give notice that this Chapter is in effect.

B. Punishment for violations: The violation of any provision of this Chapter shall be subject to a $100.00 fine. Any person found in violation of this Section may, within 72 hours of the time when the notice of violation was given, pay to the office of the City Finance Officer, as a fine for and in full satisfaction of the violation, the sum of $100.00. If a person found in violation fails to pay the sum within the 72-hour period, he or she may pay to the office of the City Finance Officer, within the next 2 weeks from the date of violation, as a fine for and in full satisfaction of the violation, the sum of $125.00. Upon failure of a person found in violation to pay either of the sums to the office of the City Finance Officer within the time periods indicated, and upon conviction of a violation of this Section, the person found in violation shall be fined not less than $150.00 nor more than $175.00 plus court costs, which fine shall be collected by the Magistrate Court. Any person claimed to be in violation also has the right to contest the charges or plead "not guilty" within the time periods indicated above, and have the matter transferred to Magistrate Court. The penalties in this Section may be adjusted by resolution of the City Council.

CHAPTER 6.08 - MUNICIPAL CEMETERY

6.0801 Definitions. As used in 6.08, the following words and phrases will have the following meanings:

Cemetery or city cemetery: The cemetery owned and managed by the City, located in Elk Point, South Dakota, and including any land added thereto at any time in the future.

Person: Any person, firm, corporation or association.

6.0802 Grave Decorations, Flowers. The placing of cut flowers or plastic flowers over individual graves shall be permitted; however, the City shall not be responsible for the care of such flowers, or the containers that they are placed in. Further, the City shall remove without notice, all flowers, real or artificial, not in permanent containers, that remain over fifteen (15) days.

6.0803 Trees, Shrubs and Flowers. Planting of trees, shrubs and flowers by unauthorized persons shall not be permitted.

6.0804 Monuments, Markers. Headstones, only, shall be allowed; no stones or markers shall be permitted at the foot of the grave, except for those footstones at ground level. No monuments or markers shall be placed until approved by the Cemetery Sexton.

6.0805 Unlawful Entry. It shall be unlawful for any person, other than duly authorized officers, officials or employees of the City, to enter into or be upon the cemetery grounds of the City during the time after sunset and before sunrise of any day without first obtaining the permission of the Sexton or City Officer in charge of the cemetery. Further, no pets will be allowed on the Cemetery grounds.

6.0806 Fine. Any person violating any of the provisions of this Chapter shall, upon conviction, be subject to a fine of $100.00. Any person in violation of this Section may, within 72 hours of the time when the notice of violation was given, pay to the office of the City Finance Officer, as a fine for and in full satisfaction of the violation, the sum of $100.00. If the person found in violation fails to pay the sum within the 72-hour period, he or she may pay to the office of the City Finance Officer, within the next 2 weeks from the date of violation, as a fine for and in full satisfaction of the violation, the sum of $125.00. Upon failure of the owner or operator to pay either of the sums to the office of the City Finance Officer within the time periods indicated, and upon conviction of a violation of this Chapter, the person found in violation shall be fined not less than $150.00 nor more than $175.00 plus court costs, which fine shall be collected by the Magistrate Court. Any person claimed to be in violation also has the right to contest the charges or plead "not guilty" within the time periods indicated above, and have the matter transferred to Magistrate Court. The penalties in this Section may be adjusted by resolution of the City Council.

6.0807 Fees. Fees for burial spaces, opening of burial spaces, recording fees; and other cemetery fees shall be established by Resolution, from time to time, by the Elk Point City Council.

Adopted this 18th day of June, 2012.

TITLE 7 - TRAFFIC CODE

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

CHAPTER 7.01 - GENERAL PROVISIONS

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

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

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

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

D. Department - The police department of the City of Elk Point.

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

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

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

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

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

J. Pedestrian - Any person afoot.

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

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

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

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

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

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

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

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

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

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

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

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

7.0103 Directing Traffic. Police 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 safeguard pedestrians, members of the police or fire department may direct traffic as conditions may require. (SDCL 9-29-19)

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

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

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

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

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

CHAPTER 7.02 - OPERATION OF VEHICLES

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

The foregoing provision of this section shall not be deemed to prevent the marking of lanes for traffic upon any street and the allocation of designated lanes to designated speeds.

7.0202 Overtaking and Passing. The driver of any vehicle overtaking another vehicle proceeding in the same direction shall first give audible warning of his intention to pass and shall then pass within the speed limit and at a safe distance to the left thereof, but only when such left side is clearly visible and is free from oncoming traffic for a sufficient distance ahead to permit such overtaking and passing to be made in safety and shall not cut in front of the overtaken vehicle until safely clear of same, and in no case shall a vehicle pass another vehicle in a street intersection. The driver of a vehicle shall move to the right of the roadway a sufficient distance to allow passing when so signaled from a vehicle behind desiring to pass, and shall not increase the speed of his vehicle until completely passed by the overtaking vehicle. Vehicles shall not travel two (2) abreast on any street.

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

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

7.0205 Right-of-Way at Intersection. Subject to the exception stated in the next succeeding Section, the right-of-way rule as between vehicles at intersections is hereby declared as follows:

A. The operator of a vehicle approaching an intersection shall yield the right-of-way to a vehicle which has fully entered the intersection;
B. When two vehicles approach an intersection at approximately the same time, the operator of the vehicle on the left shall yield the right-of-way to the vehicle on the right;

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

7.0206 Exceptions to Right-of-Way. The operator of a vehicle entering a public street shall yield the right-of-way to authorized emergency vehicles when the latter are operated upon official business and the operators thereof sound audible signal by bell, siren, or exhaust whistle. This provision shall not relieve the operator of an emergency vehicle from the duty to drive

with due regard for the safety of all persons, nor shall it protect the operator of any such vehicle from the consequences of an arbitrary exercise of such right-of-way.

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

7.0208 Turning Around at Intersections Prohibited. At any intersection where traffic is controlled by traffic control signals or by a law enforcement officer, or where warned by an official traffic control sign displaying the words "No U Turn," or "No Left Turn," it shall be unlawful for the operator of a vehicle to turn such vehicle at the intersection in a complete circle, or so as to proceed in the opposite direction or to make a left turn.

7.0209 Right-of-Way, Left Turn. The operator of a vehicle within an intersection intending to turn to the left shall yield the right-of-way to any vehicle approaching from the opposite direction which is within the intersection or so close thereto as to constitute an immediate hazard. The operator having so yielded and having given a signal when and as required may make such left turn and the operators of all other vehicles approaching the intersection from said opposite direction shall yield the right-of-way to the vehicle making the left turn. (SDCL 32-26-18)

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

7.0211 Action Required at Stop Sign. Except when directed to proceed by a law enforcement officer or traffic control signal, every operator of a vehicle approaching a stop intersection indicated by a stop sign shall come to a full stop at a clearly marked stop line, but if none, before entering the crosswalk on the near side of the intersection or if none, then at the point nearest the intersection roadway where the driver has a view of approaching traffic on the intersecting roadway before entering the intersection. After having stopped, the operator shall yield the right-of-way to any vehicle which has entered or is approaching the intersection from another highway and shall not proceed into the intersection until certain that such intersecting roadway is free from oncoming traffic which may affect safe passage. (SDCL 32-29-2.1)

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

7.0213 Pedestrian’s Right-of-Way. The operator of any vehicle shall yield the right-of-way to a pedestrian crossing the roadway within any marked crosswalk or within any unmarked crosswalk at the end of a block, except at intersections where the movement of traffic is being regulated by law enforcement officers or traffic control signals. Whenever any vehicle has stopped at a marked crosswalk or at any intersection to permit a pedestrian to cross a

roadway, it shall be unlawful for the operator of any other vehicle approaching from the rear to overtake and pass such stopped vehicle. (SDCL 32-27-1)

CHAPTER 7.03 - VEHICLE EQUIPMENT

7.0301 Lights Required. A motor vehicle upon a highway within the state during the period from a half (1/2) hour after sunset to a half (1/2) hour before sunrise and at any other time when there is not sufficient light to render clearly discernible any person on the highway at a distance of two hundred (200) feet shall be equipped with at least two (2) lighted lamps on the front and (2) on the rear of such motor vehicle, such lamps to conform to SDCL 32-17, provided that a motorcycle or motor bicycle shall be required to display but one (1) lighted lamp in front and one (1) in the rear.

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

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

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

7.0305 Vehicles with Lugs Prohibited. No person shall operate or move any tractor or vehicle equipped with mud lugs, ice spurs, or spikes upon or across any street that is surfaced with portland cement concrete or surfaced with bituminous material or any other hard surfacing material without first laying planks at least two (2) inches in thickness over the surface of such street in a manner so as to protect such street surface from any damage.

7.0306 Pneumatic Tires with Metal Studs Prohibited. It shall be lawful to operate, upon the streets of the City of Elk Point, motor vehicles equipped with pneumatic tires in which there are embedded metal studs or wires of tungsten or other similar metal from October 1 to April 30 as provided by the state law.

7.0307 Projecting Loads. No person shall drive any vehicle upon any street with any load or part of a load projecting more than four (4) feet beyond the rear end or front ends or more than two (2) feet beyond the sides of the body, or carrying part of such vehicles unless there be attached to the extreme ends and sides of such projecting load some warning sign or signal plainly discernible to other drivers and clearly indicating the projecting parts of such load.

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

unless said load and any covering is securely fastened so as to prevent said covering or load from becoming loose, detached or in any manner a hazard to other users of the highway.

CHAPTER 7.04 - SPEED RESTRICTIONS

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

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

A. Fifteen (15) miles an hour when approaching within fifty (50) feet of a railroad grade crossing when the driver's view is obstructed. A driver's view shall be deemed to be obstructed when at any time during the last two hundred (200) feet of his approach to such crossing he does not have a clear and uninterrupted view of such crossing and of any traffic on such railway for a distance of four hundred (400) feet in such direction from such crossing.

B. Fifteen (15) miles an hour when passing a school during a school recess or while children are going to or leaving school during the opening or closing hours.

C. Fifteen (15) miles an hour when approaching within fifty (50) feet and in traversing an intersection of streets when the driver's view is obstructed. A driver's view shall be deemed to be obstructed when at any time during the last fifty (50) feet of his approach to such intersection he does not have a clear and uninterrupted view of such intersection for a distance of two hundred (200) feet from such intersection.

D. Except as provided above, twenty-five (25) miles per hour on all streets, or as otherwise designated.

E. Fifteen (15) miles per hour in the City parks, and in the city cemetery.

CHAPTER 7.05 - PARKING, STOPPING

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

A. Within an intersection;

B. On a crosswalk;

C. Within fifteen (15) feet of a fire hydrant;

D. In front of a private driveway;

E. Within fifteen (15) feet of the driveway entrance to any fire station, or directly across the street from such entrance;

F. On a sidewalk;

G. Within fifteen (15) feet of inside boundary line of the sidewalk, or if no sidewalk is in place, within twenty-five (25) feet of the intersecting roadway, except that this provision shall not apply to alleys;

H. Parking against direction of traffic on through streets.

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

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

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

7.0504 Penalty. The offending automobile or other vehicle will be tagged with a tag, listing the date of the offense, license number of the vehicle, make, violation number, and location of offense with reference to street. Whenever a notice is left by any member of the police department in or on any vehicle which has violated the parking regulations, the person in charge of such vehicle shall pay the amount of the assessment described thereon by taking such notice and amount of the assessment to the city finance office and depositing the same with the city finance officer. The assessment for each violation shall be twenty-five dollars ($25).

If the owner or operator fails to comply within seven (7) days from the date of notice of violation, then in that case, a summons will be issued and the assessment shall be raised to thirty-five dollars ($35) for the violation. The increased assessment can be paid at the City Finance Office within the above time frame. If the summons is not complied with, a warrant may be issued to bring the owner or operator of the vehicle into court and a fine of fifty dollars ($50) will be assessed by the court for the violations.

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

department shall be immediately deposited with the City Finance Officer to be paid into the general fund.

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

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

7.0507 Parking During Snow Removal.

A. Definitions. For the purposes of this Section, the following terms and words shall have the meaning given herein:

1. Snow Removal Alert. Such times as there is a snow accumulation on the public streets of 2 inches or more, or such times as the Public Works Director or his or her designee declares that snow removal operations on the public streets will commence and that the provision of this Chapter in regard to parking on public streets during snow removal operations are effective and will be enforced.

2. Street. The entire width of any public roadway within the City, and it shall not be limited to those roadways designated as a *Street* but shall include all other names by which public roadways are designated.

B. Declaration of Snow Removal Alert. When the Public Works Director or his or her designee determines that snow removal from the public streets will commence, the Public Works Director or his or her designee will announce through local news media and whatever other sources are available that there has been declared a snow removal alert and that the provisions of this Chapter will be effective and be enforced, designating a particular date and time when the alert shall commence. The determination to declare a snow removal alert will be based on the then existing weather conditions, and the amount of snow then on the ground or expected according to forecasts from the National Weather Service.

C. Termination of Snow Removal Alert. After a snow removal alert has been declared, there will be no declaration of its termination, but the alert shall terminate and the provisions of this Section become not effective nor enforceable as to any particular street or portion of a street, as soon as that street or portion thereof has been plowed and cleared of snow accumulation, curb-to-curb, and the snow removal equipment is no longer operating in that area, after which normal parking may be resumed until the next declared snow removal alert.

D. Violation of Snow Removal Alert. Parking contrary to and in violation of this Section shall be deemed prohibited parking and any vehicle or trailer parked in violation shall be subject to a fine of $25.00. The owner or operator of the vehicle found in violation of this Section may, within 72 hours of the time when the notice of violation was

attached to the vehicle, pay to the office of the City Finance Officer, as a fine for and in full satisfaction of the violation, the sum of $25.00. If the owner or operator fails to pay the sum within the 72-hour period, he or she may pay to the office of the City Finance Officer, within the next 2 weeks from the date of violation, as a fine for and in full satisfaction of the violation, the sum of $50.00. Upon failure of the owner or operator to pay either of the sums to the office of the City Finance Officer within the time periods indicated, and upon conviction of a violation of this Section, the owner or operator shall be fined not less than $75.00 nor more than $100.00 plus court costs, which fine shall be collected by the Magistrate Court. The owner or operator also has the right to contest the charges or plead "not guilty" within the time periods indicated above, and have the matter transferred to Magistrate Court. The penalties in this Section may be adjusted by resolution of the City Council.

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

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

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

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

CHAPTER 7.06 - TRUCKS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

B. The provisions of this Ordinance relating to the operation of trucks shall not apply to emergency vehicles of the Police Department, Fire Department or to any public utility vehicles 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 or any of its political subdivisions.

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

D. Whenever any truck route has been established and identified, any person driving a truck having a gross weight of or more than ten thousand (10,000) pounds shall drive such truck on such routes and none other, except when it is impracticable to do so or where it becomes necessary to traverse another street or streets to a destination for the purpose of loading or unloading commodities, or for the purpose of towing a disabled or damaged motor vehicle to or from public or private property, and then only by such deviation from the nearest truck route as is reasonably necessary.

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

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

Any police officer having reason to believe that the weight of a vehicle and load is unlawful shall require any person driving or in control of said vehicle to proceed to any public or private scale available for the purpose of weighing and determining whether this Chapter has been complied with provided that such vehicle is driven to the nearest scale but in no event more than five (5) miles. It shall be unlawful for any person driving or in control of any such vehicle to fail to comply with their requirement.

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

CHAPTER 7.07 - SNOWMOBILES

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7.0711 Emergency Use.

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

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

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

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

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

B. Adequate brakes in good working condition.

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

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

E. A brightly colored vehicle flag hung or suspended at least six (6) feet high and is firmly attached to the snowmobile.

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

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

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

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

CHAPTER 7.08 - MISCELLANEOUS PROVISIONS

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

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

7.0803 Notice to Appear. A person charged with violation of a traffic ordinance shall be given a notice to appear before the circuit court magistrate or the county clerk of courts at the time stated in such notice, which shall be written within ten (10) days from the time of the offense; and that in event of failure to do so, a warrant will be issued for his arrest. The notice shall state the name and address of the offender, if known; the license number and make of the vehicle involved in the violation; the nature, date, and location of the offense; and the time and place where the offender is to appear to answer to the charges. The notice shall be made in duplicate and the portion of the original stating the offense and the place and time to appear shall be given to the owner or driver charged with the offense or left in or upon the vehicle involved in the violation.

7.0804 Appearance and Deposit for Fine. A person who has received a notice of a traffic violation as provided in the preceding section shall appear at the time and place specified in such notice. In cases of parking violations and other minor traffic violations for which the person charged has been ordered to appear before the circuit court magistrate or county clerk of courts; he may make a deposit for the fine as authorized by the court and sign a statement authorizing a circuit court magistrate or county clerk of courts to enter his plea of guilty to the offense, then he shall not be required to appear in court. Any person who has been guilty of three (3) or more violations of the provisions of the traffic ordinances of this city shall not be permitted to

deposit the fine as herein above authorized, but must post a bond for his appearance in court at the time specified by the department, said bond to be in an amount set by the city council and on file at the office of the finance officer.

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

CHAPTER 7.09 - GOLF CARTS

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

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

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

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

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

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

7.0905 Permit. It shall be unlawful to operate a golf cart within the City unless the same is permitted in the City of Elk Point. Upon submittal of proper application, the Finance Officer shall issue a permit sticker that shall be displayed in a readily identifiable location upon the golf cart. Permit fees and durations shall be set by resolution by the Elk Point City Council.

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

7.0907 Violation of Golf Cart Operation. Operating contrary to and in violation of this Chapter shall be deemed prohibited and any operator in violation shall be subject to a fine of $25.00. The operator of the golf cart found in violation of this Section may, within 72 hours of the time when the notice of violation was given, pay to the office of the City Finance Officer, as a fine for and in full satisfaction of the violation, the sum. If the operator fails to pay the sum within the 72-hour period, he or she may pay to the office of the City Finance Officer, within the next 2 weeks from the date of violation, as a fine for and in full satisfaction of the violation, the sum of $50.00. Upon failure of the owner or operator to pay either of the sums to the office of the City Finance Officer within the time periods indicated, and upon conviction of a violation of this Section, the owner or operator shall be fined not less than $75.00 nor more than $100.00 plus court costs, which fine shall be collected by the Magistrate Court. Any person claimed to be in violation also has the right to contest the charges or plead "not guilty" within the time periods indicated above, and have the matter transferred to Magistrate Court. The penalties in this Section may be adjusted by resolution of the City Council.

TITLE 8 - MUNICIPAL UTILITIES

Chapter 8.01 - General Provisions
Chapter 8.02 - Electric Utility Provisions
Chapter 8.03 - Electric System Marketing Policy
Chapter 8.04 - Water Provisions
Chapter 8.05 - Sewer Provisions
Chapter 8.06 - Determining Wastewater Charges
Chapter 8.07 - Procedure for Construction of Sewers
Chapter 8.08 - Gas Space Heating Provisions

CHAPTER 8.01- GENERAL PROVISIONS

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

8.0102 Deposit. Any applicant for City utility service shall make a deposit in an amount set by the City Council. For property owners, the deposit will be released when the customer has paid twelve (12) months of consecutive payments without incurring any delinquent charges. The deposit will be applied as payment to the customer's account on the next billing or may be refunded by check to the customer at their request. The deposit for renters shall be refunded when the renter's account is closed and shall be applied to the final bill. No interest is paid on utility deposits.

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

8.0104 Consumer's Bills. All utility bills rendered are net, due and payable on receipt and delinquent if not paid by the 5th day of the following month. If bills are not paid by the due date, a 5% additional charge shall be assessed. Provided, however, when a due date falls on a weekend or holiday, bills will not be delinquent until the close of business the next following work day. Bill payments mailed to the City must be received by the City on the day after the due date. Postmarks shall not be considered.

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

A. Pay the amount in full;

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

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

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

A. Failure to pay all charges and penalties;

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

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

D. Customer tampering.

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

8.0107 Extension. A single 30-day extension shall be allowed before disconnection of service upon receipt of a physician's certificate or notice from a public health or social service official that a disconnection of utility services will aggravate an existing medical condition of the customer or other permanent resident of the premises.

8.0108 Restoration of Service. All utilities disconnected for nonpayment must pay a reconnect fee as set by resolution by the City Council plus payment in full of the account before any utilities will be reconnected. Reconnections will be made only during business hours, 7:30 a.m. to 4:00 p.m., Monday through Friday. Utilities voluntarily disconnected shall also require a reconnect fee as set by resolution by the City Council and on file in the office of the Utility Manager.

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

8.0110 Tampering With City Equipment. Should the City discover damage to its equipment or an attempt to tamper with such equipment or an attempt to falsify the amount of water, sewer, or electric current used, or the amount due the City for utility service, the City may serve notice upon the consumer of a hearing that is to be held where the consumer may show cause why service should not be discontinued. This notice shall state the reason for the hearing and the time and place it is to be held.

Should the City Council find that a violation of this section has occurred and that there is no justification for said violation, the City Council may order immediate termination of service and service shall be reinstated only upon conditions established by the City Council.

8.0111 User Responsible for Operation and Maintenance of Water and Sewer Lines. Each occupied residence must have a usable city domestic water and sanitary sewer service. The City of Elk Point shall be responsible for the maintenance and proper operation of the domestic watermains, sanitary sewer mains and domestic water service line from the main to the curb stop. Any domestic water service line past the curb stop or sanitary sewer service line from the sanitary sewer main to the structure, shall be the exclusive responsibility of the property owner. Owners at their own expense must keep and maintain their sanitary sewer service lines, from the point of connection at the main line, and all other equipment in good working order and properly protected from frost and other damage. Owners at their own expense must keep their domestic water service line from the point of connection at the curb stop to the structure in good working order and properly protected from frost and other damage. Thirty (30) days after written notice from the Director of Public Works, if the repair has not been replaced, the Director of Public Works shall cause such repairs to be made and the cost of these repairs shall be assessed against the property. In the event that a property owner must excavate to repair a line, it shall be his sole responsibility to fill in such excavation to the satisfaction of the Director of Public Works. It shall be the responsibility of the City to replace the gravel base course and asphalt pavement displaced by such excavation at the cost of the property owner.

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

8.0113 Construction of Sewer and Water Connections. That whenever a property owner or developer shall deem it necessary to construct sewer and water service connections from the mains to the curb line on any street, highway, alley or public place, in advance of the permanent improvement of such street, highway, alley or public place, it shall be the duty of the owners of property fronting thereon to make such service connections at the cost of the

property owner. If no mainline sanitary sewer or domestic waterlines exist in front of said property, it is and shall be the sole responsibility of the property owner to pay for all costs of extending said utilities. All costs associated with the extension and connection of utilities including but not limited to surveying, engineering, road replacement, pipe materials, valves, and miscellaneous items will be the sole responsibility of the property owner.

8.0114 Written Notice for Owners. Whenever the City Council shall have ordered, by resolution, any such connections to be made, it shall serve written notice on the owners of said property, either by hand delivery or by certified mail, return receipt requested, or by posting on the property, to make said connections by a date fixed, which shall not be less than ten (10) days after such notice is given, or to show cause in writing, filed with the City Finance Officer within said time, why such connections should not be made. At the expiration of the time fixed, the City Council shall consider all the objections so filed and if over-ruled, shall thereupon, by resolution, order the making of such connections as they shall deem necessary. Failure by any person to actually receive any document sent to him by certified mail or to sign and return any receipt card acknowledging receipt by certified mail shall not invalidate service made upon such person by certified mail. Such notice is deemed completed at the time it is mailed, hand delivered or posted, and any period to reply or abate begins to run from the date of mailing, hand delivery or posting.

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

CHAPTER 8.02 - ELECTRIC UTILITY PROVISIONS

8.0201 Residential Electric Service. Residential electric service shall be available to all customers in single family residences where authorized.

8.0202 Commercial Electric Service. Commercial electric service shall be available to commercial and non-residential customers whose normal demand does not exceed 40 kw where authorized. Single phase motors or other power or heating equipment shall not exceed 10 hp or 10 kw individual capacity. All service shall be taken through one meter and shall not be for resale.

8.0203 Large Power Electric. Large power electric service shall be available to any customer whose normal demand is 40 kw or more, provided the entire service requirements are taken through one meter. This service is not applicable to resale, standby, temporary, supplemental, auxiliary or shared services. Customers shall use either the large power rate, or the large power-coincidental demand rate, but not both, as applicable to the service for periods of not less than one year. The minimum payable each month shall be the demand charge, but not less than $210.00 per month, which may be adjusted by resolution by the Elk Point City Council. The billing demand shall be the maximum integrated 30 minute kilowatt load occurring during the billing period, but not less than 50% of the highest demand established during the preceding 11 months. The customer shall maintain at his expense a power factor of at least 95%. The energy charge will be discounted 2% where metering is on the primary side of city-owned transformers, or 5% if metered on the other side.

8.0204 Service Connection Fee. In addition to the utility deposit, a service connection fee shall be required of each new account established as follows:

A. Residential - $25.00 plus tax

B. Commercial - $50.00 plus tax

C. Demand - $50.00 plus tax and plus a contribution in aid of construction may be required.

These fees may be adjusted by resolution by the Elk Point City Council.

8.0205 Refusal. The City may refuse service for any of the following reasons:

A. The applicant is indebted for past utility service and refuses to liquidate the debt;

B. The utility deposit, service fee and or security deposit is not paid;

C. A customer has tampered with a utility service meter; the applicant, although not personally liable to the City for utility services, is attempting to return service to an indebted premise and no attempts are forthcoming to liquidate the debt of that premise;

D. Property has a delinquent bill from previous owner.

8.0206 Installation of Meters by City. All meters, service wires and other electrical facilities installed by the City at its expense, upon customer's premises for the purpose of delivering and metering electric energy to the customer will continue to be the property of the City and may be repaired, inspected, relocated, replaced or removed by the City. All meters shall be installed out of doors.

8.0207 Access to Customer Premises. The customer will provide and maintain, without cost to the City, subject to City approval, an easily accessible location on or within the premises to be supplied service, with sufficient and proper facilities for installation of meters and other apparatus and the necessary right-of-way to this point.

8.0208 Relocation of Inaccessible Meter. Where meters or services originally installed in accessible locations satisfactory to the City are rendered inaccessible thereafter by virtue of alterations or new constructions or upgrading of service requirements by the owner of the premises or his agent, such meters or services shall be reinstalled at a location, subject to City approval, at the expense of the owner.

8.0209 Compliance with Electrical Codes. All installations shall comply with the current edition of the state electrical wiring bulletin and the current edition of the National Electrical Code.

8.0210 Meter Tests. Customers may have their meters tested upon payment of the actual cost for test. If the meter is found to be in error, the fee shall be refunded.

8.0211 Cost Adjustments. The City may adjust rates for electricity to reflect base costs of "Power Production Cost Adjustment" and/or "Energy Cost Adjustment" charged to the City by its power supplier.

8.0212 Tax Clause. The City may adjust rates for electricity by the amount of any new or increased governmental tax imposed or levied on the transmission, distribution, production or sale of electricity.

8.0213 Special Water Heating and Air Conditioning Credits. The following credits shall be available to customers having qualified demand controlled electric equipment and meet the requirements:

A. Water Heater Credit. A monthly credit of ($4.40) plus tax on the usage between 300 kwh and 700 kwh.

8.0214 New Underground Residential and Small Commercial Secondary Service (200-amp or less).

A. The City will provide:
   1. All underground cable, conduits and fittings from the transformer to the top of the meter socket.
   2. The meter socket and meter.
   3. All trenching, backfilling and labor to lay cable and conduit in trench and connect to the City equipment.
   4. All primary service.

B. The customer will provide or pay for:
   1. A fee of $250.00 plus $2.50 per foot for underground service.
   2. All secondary wiring from the bottom of the meter socket to the customer service entrance equipment.
   3. Any associated costs with boring under concrete, which was poured prior to the line being buried or reburying the line due to landscaping work exposed or cutting the line.

C. Underground service to mobile home courts:
   1. The City will designate a junction point for the connection of the customer secondary underground service.
   2. The junction point shall be a service pedestal, secondary junction box or the terminals of a pad mount transformer.
   3. The City will install, own, operate, and maintain all facilities on the source side of the junction point, including the junction enclosure, and connections.
   4. The customer will install, own, operate, and maintain all secondary facilities on the load side of the junction point including the secondary cable, conduit, and meter pedestal. The City will own the electric meter.
   5. All lots to be individually metered.

6. The junction points will normally be located within front lot line easements if at all possible, unless it is necessary or desirable to designate locations along rear or side property lines that are closer to meter points. All utility easements requested by the City are to be granted to the City by the customer at no cost to the City.

8.0215 New Large Commercial or Industrial Secondary Service (over 200 amps). All commercial or industrial services, underground, over 200 amps shall be approved by the City prior to installation. The following work shall be completed by the City of Elk Point.

A. All primary cables, conduits, poles and fittings shall be installed.

B. All trenching, setting of poles and back filling for the primary cable shall be completed.

C. All transformers, switches and other high voltage equipment shall be installed.

D. The primary equipment and cable shall be connected and installed.

E. Instrument metering material shall be installed.

All materials necessary to complete the above work shall be supplied by the City of Elk Point and the cost thereof shall be split equally between the City of Elk Point and the customer requesting the service. The following items shall be completely by the customer and the customer shall be solely responsible for the payment of the following:

All secondary wiring from pad mounted transformer to the customer service entrance equipment and the termination of secondary wires inside of transformer.

8.0216 Existing Services.

A. Secondary services, once installed, will be maintained by the City.

B. Existing secondary service requested to be upgraded by the customer will be done at the owner's expense.

C. Existing secondary services, when upgraded by the City (moving meter from indoors to outdoors, changing out wires, etc.) will be done at the expense of the City.

D. Customer will replace all concrete or asphalt placed over existing service at their expense should such service wire need replacement.

8.0217 Connect or Disconnect of Electric Service. Each customer or property owner will be allowed one voluntary disconnect and reconnect per calendar year at no charge. Each additional voluntary disconnect or connect within the current calendar year will be at a service charge of $35.00. The service charge may be amended by resolution of the City Council.

8.0218 Easements and Maps.

A. In all new developments the developer shall provide the planning commission with a platted map of the development showing all streets, alleys and lots. The planning commission should then refer such map to the appropriate City department heads for

their comments and approval before the planning commission gives their final approval to the developer.

B. All proper easements granting the City access shall be signed by the owner before any underground City utility work shall begin.

8.0219 Temporary Service and Fees. The City will provide temporary secondary service at a new construction site as per the following rate schedule. All service to be metered.

A. Residential: Hook up fee $100.00 plus KWH used at current residential rate.

B. Commercial: Three-phase hook up fee $150.00 plus KWH at current commercial rate. Single-phase hook up fee $100.00 plus KWH used at current commercial rate.

8.0220 Street Lighting. All street lighting material in new developments shall be furnished and installed by the City and paid for by the developer.

8.0221 Conversion to Underground Electric Secondary Service Lines to All Residential and Small Commercial Secondary Service (under 200 amp) electric customers.

A. The City of Elk Point hereby finds that it is in the best interest of providing reliable electric service to residential and small commercial customers to install underground service lines to all residential and small commercial customers. The installation of underground electric service is deemed necessary to prevent unnecessary outages and to provide safe service to residential customers.

B. Thirty days prior to conversion, the City electric department shall provide notice to property owners at their usual electric billing address informing them of the intent to install underground electric service and notifying them of the cost recovery to be collected as established under subsection (C) of this Section.

C. The City of Elk Point shall recover from all residential and small commercial customers who are identified in a zone to receive an upgrade to underground service a portion of the costs associated with changing said service to underground. Customers who already have underground service shall not be responsible for the costs. The amount and payment method of recovering said costs shall be established by the Elk Point City Council from time to time by resolution.

8.0222 Aggregation of Retail Customer Demand Response.

A. The Elk Point Municipal Electric System or its authorized designee is the sole entity permitted to bid demand response on behalf of retail customers served by the Elk Point Municipal Electric System directly into any commission-approved independent system operator's or regional transmission organization's organized electric markets.

B. Retail customers served by the Elk Point Municipal Electric System wishing to bid their demand response into a commission-approved independent system operator's or regional transmission organization's organized electric markets may do so by participating in the program established by the Elk Point Municipal Electric System or its authorized designee. Retail customers are not permitted to participate in the demand

response program of any other entity without the express prior authorization of the Elk Point Municipal Electric System.

8.0223 Ancillary Services Provided by Demand Response Resources.

A. The Elk Point Municipal Electric System or its authorized designee is the sole entity permitted to bid demand response on behalf of retail customers served by the Elk Point Municipal Electric System directly into any commission-approved independent system operator's or regional transmission organization's organized markets for energy imbalance, spinning reserves, supplemental reserves, reactive power and voltage control, or regulation and frequency response ancillary services (or its functional equivalent in the commission-approved independent system operator's or regional transmission organization's tariff).

B. Retail customers served by the Elk Point Municipal Electric System wishing to bid their demand response into a commission-approved independent system operator's or regional transmission organization's organized markets for energy imbalance, spinning reserves, supplemental reserves, reactive power and voltage control, or regulation and frequency response ancillary services (or its functional equivalent in the commission-approved independent system operator's or regional transmission organization's tariff) may do so by participating in the program established by the Elk Point Municipal Electric System or its authorized designee. Retail customers are not permitted to participate in the demand response program of any other entity without the express prior authorization of the Elk Point Municipal Electric System.

Adopted this 1st day of December, 2014.

CHAPTER 8.03 - ELECTRIC SYSTEM MARKETING POLICY

8.0301 Objective. The objective of this Chapter is to establish the policy for promoting the retention of customer-owned electric equipment and the encouragement of increased use of electrical equipment by customers. This Chapter is intended to promote the increased sales of kilowatt-hours by the City of Elk Point while maintaining or improving load factor.

8.0302 Special Marketing Rates. The City of Elk Point may offer special marketing rates or incentives to new electric loads. These loads may be at new or existing service locations. The City Council, in approving any marketing rate or incentives, will insure that the rate or incentive does not cause other customers to subsidize any part of the energy costs, demand costs, or distribution system improvements associated with the new load. The City may use up to 12 months of account data to confirm the validity of any marketing rate or incentive as it impacts annual revenue and expenditures at each account.

8.0303 Rebates. The City of Elk Point shall pass through to any qualifying applicant all rebates available from East River Electric Cooperative for the installation of qualifying controlled electric equipment.

8.0304 Water Heater Program.

A. The City of Elk Point will apply for and pass through to qualified customers water heater rebates offered by East River Electric Cooperative. These are:

1. $3.00/gallon of capacity on water heater.

2. $3.00/gallon of on electric water heaters with a 10-year warranty at a new construction.

B. The Participating customer will agree that as a condition of receiving any electric water heater rebate, a load management receiver will be provided by the City of Elk Point and will remain attached to the water heater for at least three years. The customer will also agree that if the water heater is disconnected from the load management receiver, a prorated portion of the rebates will be returned to the City of Elk Point within one month of the time that the load management receiver is disconnected.

C. To be eligible for the rebate to be paid, the electric water heater installation must be visually inspected by a representative of the City of Elk Point.

D. Customers who have qualified water heater installations will receive a monthly credit of $4.40 plus tax credit, said credit amount to be computed at a rate of on usage over 300 kwhrs recorded on the main meter during each month the credit is claimed.

Adopted this 7th day of March 2016.

8.0305 All Electric Credit:

A. A credit of 1.2 cents per kwh will be given to all residential or commercial customers using all-electric systems. An additional meter installation will be made to measure the kwh usage. The City shall furnish and remain the owner of the meter and meter socket, and the customers shall pay the cost of installation.

CHAPTER 8.04 - WATER PROVISIONS

8.0401 Connection With City Watermain. No person shall make any connection with any city water main or tap the same or conduct water there from upon his premises or use any water there from without first making application therefore to the Public Works Director.

8.0402 City Engineer Prescribing Connections. All connections hereafter made with the city water mains shall be at the expense of the person desiring the same and shall be made under the supervision of the City Engineer; in all such cases the City Engineer may prescribe the place where and the manner in which the connection shall be made, the size of the service pipe to be used, the place where the valve box and fire hydrant shall be placed and the manner and materials in which the plumbing shall be done.

8.0403 Meter Installation. All persons hereafter making application to be furnished with water shall be required to install a meter for the measurement of the amount of water used and shall pay for such water used at the rate hereinafter specified but two or more premises will not be supplied with water measured by the same meter unless one person is liable for the payment for the whole of such water furnished; such meter shall be so placed as to measure all water used. When a meter is placed on a pipe connected to a boiler or other hot water apparatus a check valve must be placed between such meter and boiler or other hot water apparatus to protect meter from back pressure of steam or hot water; in case of the breakage of any pipe or meter or if there be a leak in the same, the water shall be shut off until such breakage or leak is repaired.

8.0404 Meter Requirements. All meters shall be of the kind prescribed by the City Engineer and shall be placed as to be easily read and charged monthly.

8.0405 Meter Tests. Customers may have their meters tested upon payment of the actual cost for test. If the meter is found to be in error, the fee shall be refunded. If the test of the meter shows that it fails to register correctly within 2%, the Utility Superintendent shall make a charge or allow a credit in proportion to the error, for all water registered in excess of the minimum amounts allowed by the established rates, the same to be retroactive for three (3) billing periods only.

8.0406 Unnecessary Waste of Water. It shall be the responsibility of all consumers of water paying the rates mentioned to prevent unnecessary waste of water and to keep all water outlets closed when not in actual use; unpermissable uses; not to permit other persons or families to use water from any of their faucets, hydrants or pipes.

8.0407 Connection to Water Mains. It shall be unlawful for any person, firm or corporation to connect any water pipe or pipe of any kind to any of the water mains of the municipal water works system of the City of Elk Point or to in any manner tamper with or bore into said water mains for any purpose whatever, except as hereinafter provided.

8.0408 Exceptions. The City of Elk Point, through the Director of Public Works may allow connections to the water mains of said system upon application of any person desiring the same and shall make such connections only on streets where said mains may be located and bring the water to the curb along said street in which said water mains may be located and shall make said connections at the expense of the applicant desiring connection. The Director of Public Works, through the City Engineer, will review and approve plans and specifications for the utility extension. The applicant shall be responsible for all construction and engineering costs associated with the project.

8.0409 Standard Workmanship. The connections so made to the City of Elk Point utility as aforesaid shall be of standard workmanship of pipe and made according to the provisions of the ordinances of said City heretofore enacted as to size and quality of pipe, material and workmanship, including curb box and other attachments as approved by the City Engineer.

CHAPTER 8.05 - SEWER PROVISIONS

8.0501 Definitions.

A. Biochemical oxygen demand (BOD) shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at 20° degrees Centigrade, expressed in milligrams per liter.

B. “Building drain” shall mean that part of the lowest horizontal piping of a drainage system which receives the discharge from the soil, waste and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five feet (1.5 meters) outside the inner face of the building wall.

C. “Building sewer” shall mean the extension from the building drain to the public sewer or other place of disposal also called house connection.

D. “Combined sewer” shall mean a sewer intended to receive both wastewater and storm or surface water.

E. “Director of Public Works” shall mean the superintendent of wastewater facilities and/or of wastewater treatment works and/or of water pollution control of the City of Elk Point, or his authorized deputy, agent or representative.

F. Easement” shall mean an acquired legal right for the specific use of land owned by others.

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

H. “Garbage” shall mean the animal and vegetable matter resulting from the handling, preparation, making of foods.

I. “Industrial wastes” shall mean the wastewater from industrial processes, trade or business as distinct from domestic or sanitary wastes.

J. “Natural outlet” shall mean any outlet, including storm sewers and combined sewer overflows, into a watercourse, pond, ditch, lake or other body of surface or groundwater.

K. “May” is permissive (see “shall”, S).

L. “Person” shall mean any individual, firm, company, association, society, corporation or group.

M. “pH” shall mean the logarithm of the reciprocal of the hydrogen ion concentration. The concentration is the weight of hydrogen ions, in grams, per liter of solution. Neutral water, for example, has a pH value of 7 and a hydrogen ion concentration of 10^ -7.

N. “Properly shredded garbage” shall mean the wastes from the preparation, cooking and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than ½ inch (1.27 centimeters) in any dimension.

O. “Public sewer” shall mean a common sewer controlled by a governmental agency or public utility.

P. “Sanitary sewer” shall mean a sewer that carries liquid and water-carried wastes from residences, commercial buildings, industrial plants and institutions together with minor quantities of ground, storm and surface waters that are not admitted intentionally.

Q. “Sewage” is the spent water of a community. The preferred term is “wastewater” see Subsection Y.

R. “Sewer” shall mean a pipe or conduit that carries wastewater or drainage water.

S. “Shall” is mandatory (see “may”, Sec. K).

T. "Slug" shall mean any discharge of water or wastewater which is concentration of any given constituent or in quantity of flow exceeds for any period of duration than fifteen minutes more than five times the average twenty-four (24) hour concentration or during normal operation.

U. "Storm drain" (sometimes termed "storm sewer") shall mean a drain or sewer for conveying water, groundwater, subsurface water or unpolluted water from any source.

V. "Superintendent" shall mean the superintendent of wastewater facilities and/or of wastewater treatment works and/or of water pollution control of the City of Elk Point, or his authorized deputy, agent or representative.

W. "Suspended solids" shall mean total suspended matter that either floats on the surface of or is in suspension in water, wastewater or other liquids and that is removable by laboratory filtering as prescribed in "Standard Methods for the Examination of Water and Wastewater" and referred to as non-filterable residue.

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

Y. "Wastewater" shall mean the spent water of a community. From the standpoint of source, it may be a combination of the liquid and water-carried wastes from residences, commercial buildings, industrial plants and institutions together with any groundwater, surface water and storm water that may be present.

Z. "Wastewater facilities" shall mean the structures, equipment and processes required to collect, carry away and treat domestic and industrial wastes and dispose of the effluent.

AA. "Wastewater treatment works" shall mean an arrangement of devices and structures for treating wastewater, industrial wastes and sludge. Sometimes used as synonymous with "waste treatment plant" or wastewater treatment plant" or "water pollution control plant".

BB. "Watercourse" shall mean a natural or artificial channel for the passage of water either continuously or intermittently.

CC. "City" shall mean the City of Elk Point, South Dakota.

8.0502 Use of Public Sewers Required.

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

B. It shall be unlawful to discharge to any in the city or in any area under the jurisdiction of said city, any sewage or other polluted waters, except where suitable treatment has been approved in accordance with subsequent provisions of 8.05.

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

D. The owner(s) of all houses, buildings or properties used for the human occupancy, employment, recreation or other purposes situated within the city and abutting on any street, alley or right-of-way in which there is now located or may in the future be located a public sanitary sewer of the city, is hereby required at the owner(s) expense to install suitable toilet facilities therein and to connect such facilities directly with the proper public sewer in accordance with the provisions of 8.05 within thirty (30) days after date of official notice to do so.

8.0503 Sanitary Sewers, Building sewers and Connections.

A. No unauthorized person shall uncover, make any connections with or opening into, use, alter or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the Public Works Director.

B. There shall be two (2) classes of building sewer permits: (a) For residential and commercial service and (b) for service to establishments producing industrial wastes. In either case the owner(s) or his agent shall make application on a special form furnished by the city. The permit application shall be supplemented by any plans, specifications or other information considered pertinent in the judgment of the City Engineer. A permit and inspection fee shall be established by resolution by the Elk Point City Council.

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

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

E. Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the City Engineer, to meet all requirements of 8.05.

F. The size, slope, alignment, materials of construction of all sanitary sewers including building sewers and the methods to be used in excavating, placing of the pipe, jointing, testing and backfilling the trench, shall all conform to the requirements of the buildings and plumbing code or other applicable rules and regulations of the city. In the absence of suitable code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the American Society for Testing and Materials (ASTM) and Water Pollution Control Federation (WPCF) Manual of Practice No. 9 or Ten States Standards shall apply.

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

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

I. The connection of the building sewer into the public sewer shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the city or the procedures set forth in appropriate specifications of the American Society for Testing and Materials (ASTM) and the Water Pollution Control Federation (WPCF) Manual of Practice No 9 or Ten States Standards. All such connections shall be made gas tight and watertight and verified by proper testing. Any deviation from the prescribed procedures and materials must be approved by the City Engineer before installation.

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

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

8.0504 Use of the Public Sewers.

A. No person(s) shall discharge or cause to be discharged any unpolluted waters such as storm water, surface water, groundwater, roof runoff, subsurface drainage or cooling water to any sewer, except storm water runoff from limited areas, which storm water may be polluted at times, may be discharged to the sanitary sewer by permission of the City Engineer.

B. Storm water other than that exempted under 8.0504(A), and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as combined sewers or storm sewers or to a natural outlet approved by the Public Works Director and other regulatory agencies. Unpolluted industrial cooling water or process waters may be discharged, on approval of the City Engineer, to a storm sewer, combined sewer or natural outlet.

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

1. Any gasoline, benzene, naptha, fuel oil or other flammable or explosive liquid, solid, or gas.

2. Any waters containing toxic or poisonous solids, liquids or gases in sufficient quantity, either singly or by interaction with other wastes, to contaminate the sludge of any municipal system to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance or create any hazard in or have an adverse effect on the waters receiving any discharge from the treatment works.

3. Any waters or wastes having a pH lower than (5.5) or having any other corrosive property capable of causing damage or hazard to structures, equipment and personnel of the wastewater works.

4. Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers or other interference with the proper operation of the wastewater facilities such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, paper hand towels, entrails and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.

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

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

1. Wastewater having a temperature higher than 150 Fahrenheit (65 Celsius).

2. Wastewater containing more than 25 milligrams per liter of petroleum oil, non-biodegradable cutting oils or product of mineral oil origin.

3. Wastewater from industrial plants containing floatable oils, fat or grease.

4. Any garbage that has not been properly shredded (see 8.0501, Section 13). Garbage grinders may be connected to sanitary sewers from homes, hotels, institutions, restaurants, hospitals, catering establishments or similar places where garbage originates from the preparation of good in kitchens for the purpose of consumption on the premises or when served by caterers.

5. Any waters or wastes containing iron, chromium, copper, zinc and similar objectionable or toxic substances to such degree that any such material received

in the composite wastewater at the wastewater treatment works exceeds the limits established by the Public Works Director for such materials.

6. Any waters or wastes containing odor-producing substances exceeding limits which may be established by the City Engineer.

7. Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established compliance with applicable state or federal regulations.

8. Quantities of flow, concentrations, or both which constitute a "slug" as defined herein.

9. Waters or wastes containing substances which are not amenable to treatment or reduction by wastewater treatment processes employed or are amenable to treatment only to such degree that the wastewater treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.

10. Any water or wastes which, by interaction with other water or wastes in the public sewer system, release obnoxious gases, form suspended solids which interfere with the collection system or create a condition deleterious to structures and treatment processes.

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

1. Reject the wastes,

2. Require pretreatment to an acceptable condition for discharge to the public sewers,

3. Require control over the quantities and rates of discharge and/or

4. Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges under provisions of Section A.

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

F. Grease, oil and sand interceptors shall be provided when, in the opinion of the City Engineer, they are necessary for the proper handling of liquid wastes containing floatable grease in excessive amounts as specified in Section D (3) or any flammable wastes, sand or other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the City Engineer and shall be located as to be readily and

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

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

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

I. The City Engineer may require a user of sewer services to provide information needed to determine compliance with 8.05. These requirements may include:

1. Wastewaters discharge peak rate and volume over a specified time period.

2. Chemical analyses of wastewater.

3. Information on raw materials, processes and products affecting wastewater volume and quality.

4. Quantity and disposition of specific liquid, sludge, oil, solvent or other materials important to sewer use control.

5. A plot plan of sewers of the user's property showing sewer and pretreatment facility location.

6. Details of wastewater pretreatment facilities.

7. Details of systems to prevent and control the losses of materials through spills to the municipal sewer.

J. All measurements, tests and analyses of the characteristics of waters and wastes to which reference is made in 8.0504 shall be determined in accordance with the latest edition of "Standard Methods for the Examination of Water and Wastewater", published by the American Public Health Association. Sampling methods, location, times, durations and frequencies are to be determined on an individual basis subject to approval by the City Engineer.

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

8.0505 Damage of Wastewater Facilities. No person shall maliciously, willfully or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is a part of the wastewater facilities. Any person violating this provision shall be subject to immediate arrest under charge of disorderly conduct.

8.0506 Powers and Authority of Inspectors. The Public Works Director and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all properties upon reasonable notice for the purposes of inspection, observation, measurement, sampling, and testing pertinent to utility service to the community system in accordance with the provisions of this Title.

CHAPTER 8.06 - DETERMINING WASTEWATER CHARGES

8.0601 Determining Each Users Wastewater Service Charge. Each non-residential user's wastewater treatment cost contributions as determined in 8.0803 and 8.0804 shall be added together to determine such user's annual wastewater service charge. Residential users may be considered to be one class of user and an equitable service charge may be determined for each user based upon an estimate of the total wastewater contribution of this class of user. Each user's wastewater treatment cost contribution will be assessed in accordance with the attached rate schedule.

8.0602 Wastes Prohibited from Being Discharged to the Wastewater Treatment System. The discharge of any waters containing toxic or poisonous solids, liquids or gases in sufficient quantity, either singly or by interaction with other wastes, to contaminate the sludge of any municipal systems or to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance or create any hazard in or have an adverse effect on the waters receiving any discharge from the treatment works is hereby prohibited.

8.0603 Prohibition of Clear Water Connections. No person shall make connection of roof downspouts, exterior foundation drains, areaway drains or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer. No clear water connections will be allowed.

8.0604 Proper Design and Construction of New Sewers and Connections. The size, slope, alignment, materials of construction of all sanitary sewers and sewer connections and the methods to be used in excavating, placing of the pipe, jointing, testing and backfilling the trench, shall all conform to the requirements of the building and plumbing code or other applicable rules and regulations of the City of Elk Point and the State of South Dakota. In the absence of code provision or in amplification thereof, the materials and procedures set forth in appropriate specifications of the American Society for Testing and Materials (ASTM) and Water Pollution Control Federation (WPCF) Manual of Practice No. 9 or Ten States Standards shall apply. (The City's "Regulations of Sewer Construction" Ordinance contains additional requirements covering the proper design and construction of the City's sanitary sewers; building sewers and connections.)

8.0605 Containing Certain Substances. If any waters or wastes are discharged or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in A-K listed below and which in the judgment of the City Engineer may have a deleterious effect upon the waste water facilities process, equipment or

receiving waters or which otherwise create a hazard to life or constitute a public nuisance, the City Engineer may:

1. Reject the wastes;

2. Require pretreatment to an acceptable condition for discharge to the public sewers;

3. Require payment to cover the added quantities and rates of discharge; and/or

4. Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges under the provisions of paragraph (10) of this subsection.

A. Any water or wastes which contain strengths greater than 200 mg/l BOD and 250 mg/l SS.

B. Waste water having a temperature higher than one hundred fifty (150) degrees Fahrenheit (65 degrees Celsius).

C. Waste water containing more than twenty-five (25) milligrams per liter of petroleum oil, non-biodegradable cutting oils or product of mineral oil origin.

D. Waste water from industrial plants containing floatable oils, fat or grease.

E. Any garbage that has not been properly shredded (see subsection (a) (14). Garbage grinders may be connected to sanitary sewers from homes, hotels, institutions, restaurants, hospitals, catering establishments or similar places where garbage originates from the preparation of food in kitchens for the purpose of consumption on the premises or when served by caterers.

F. Any waters or wastes containing iron, chromium copper, zinc and similar objectionable or toxic substances to such degree that any such material received in the composite waste water at the waste water treatment works exceeds the limits established by the city engineer for such material.

G. Any waters or wastes containing odor-producing substances exceeding limits which may be established by the City Engineer.

H. Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the city engineer in compliance with applicable state or federal regulations.

I. Quantities of flow, concentration or both which constitute a slug as defined in the City's "Regulation of Sewer Use".

J. Water or wastes containing substances which are not amenable to treatment or reduction by the waste water treatment processes employed or are amenable to treatment only to such degree that the waste water treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.

K. Any water or wastes which, by interaction with other water or wastes in the public sewer system, release obnoxious gases, form suspended solids which interfere with the collection system or create a condition deleterious to structures and treatment processes.

CHAPTER 8.07 - PROCEDURE FOR CONSTRUCTION OF SEWERS

8.0701 Purpose. The purpose of 8.07 shall be to protect the health and well being of the residents of Elk Point and the environment and to insure that all sewers and sewer appurtenances are constructed in a good workman-like manner and in accordance with good engineering practice and Ten (10) States Standards.

8.0702 Type of Sewers.

A. Community Sewers. In general and except for special reasons, the Elk Point City Council will approve plans for new systems and extensions or replacement sewers. No "combined" sewers will be allowed.

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

1. They shall be PVC of sufficient properties for the flow, depth and SD DENR requirements.

2. They shall have a nominal inside diameter of not less than six (6) inches.

3. House sewer joints and connections to public sewers should be watertight and root proof.

4. They should be laid on a slope of ¼ inch per foot and in no case less than 1/8 inch per foot.

8.0703 Design Period. In general, sewer systems should be designed for the estimated ultimate tributary population, except in considering parts of the systems that can be readily increased in capacity. Similar consideration should be given to the maximum anticipated capacity of institutions, industrial parks, etc.

8.0704 Design Factors. In determining the required capacities of sanitary sewers, the following factors should be considered:

A. Maximum hourly sewage flow from residences.

B. Additional maximum sewage or want flow from industrial plants and institutions.

C. Groundwater infiltration.

D. Capacity of pumps in sewage pumping stations.

E. Follow Ten States Standards design recommendations.

8.0705 Design Basis.

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

1. Laterals and Sub-main Sewers: 400 gallons per capita per day.

2. Main, Trunk and Outfall Sewers: 250 gallons per capita per day.

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

8.0706 Details of Sewer Design and Construction.

A. Minimum Size. No community sewer shall be less than eight (8") inches in diameter. Six inch diameter pipe may be used as laterals where there are relatively low flows, a small number of people to be served, future extensions not anticipated and the sewer incapable of handling the design flows. The justification for using the six-inch pipe shall be provided by the consultant. The possibility of cleaning problems shall be pointed out and accepted by the City Engineer.

B. Depth. Gravity sewers should be placed deep enough to serve all basements assuming a two (2) percent grade on house sewers (absolute minimum of 1 percent). They should be well below the frost line at all points and lower than any water lines placed in the same street.

C. Slope.

1. All sewers shall be so designed and constructed to give mean velocities, when flowing full, of not less than 2 feet per second, based on Manning's formula using an "n" value of 0.013. Use of other practical "n" values may be permitted by the department if deemed justifiable on the basis of research or field data request. The following are the minimum slopes which should be provided; however, slopes greater than these are desirable:

Sewer Size	Minimum Slope in Post Per, 100
6 inch	0.60
8 inch	0.40
10 inch	0.28
12 inch	0.22
14 inch	0.17
15 inch	0.15
16 inch	0.14
18 inch	0.12
21 inch	0.10

24 inch	0.08
27 inch	0.067
30 inch	0.058
36 inch	0.046

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

3. Sewers shall be laid straight with uniform slope between manholes.

D. Alignment. Sewers 24 inches or less shall be laid with straight alignment between manholes.

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

F. High Velocity Protection. Where velocities greater than 10 feet per second are attained, sewers shall be anchored securely with concrete anchors or equal to protect against displacement by erosion and shock.

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

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

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

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

H. Joints and Infiltration. The method of making joints and materials used should be included in the specifications. Sewer joints shall be designed to minimize infiltration and to prevent the entrance of roots. Leakage test shall be specified. This may include appropriate water or low pressure air testing. The leakage outward or inward (exfiltration or infiltration) shall not exceed 200 gallons per inch of pipe diameter per mile per day for any section of the system. The use of a television camera or other visual methods for inspection prior to placing in sewer is recommended.

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

8.0707 Manholes.

A. Location. Manholes shall be installed at the end of each line; at all changes in grade, size or alignment; at all intersections; and at distances not greater than 400 feet. Approval for greater spacing may be given in cases where adequate modern cleaning equipment for such spacing is provided. Greater spacing may be permitted in larger sewers and in those carrying a settled effluent. The distance between manholes for sewers less than 15 inches in diameter may be increased to 450 feet if justification is provided by the consultant.

B. Cleanouts. Cleanouts may be used only for special conditions and shall not be substituted for manholes or installed at the end of the laterals greater than 150 feet in length.

C. Drop Type. A drop pipe should be provided for a sewer entering a manhole at an elevation of 24 inches or more above the manhole invert. Where the difference in elevation between the incoming sewer and the manhole invert is less than 24 inches, the invert should be filleted to prevent solids deposition.

D. Diameter. The minimum diameter of manholes shall be 48 inches; large diameters are preferable.

E. Flushing. Flap gates are desirable manholes at the upstream end of laterals which are at minimum grades and which are not to be extended at an early date.

F. Flow Channel. The flow channel through manholes should be made to conform in shape and slope to that of the sewers.

G. Watertightness. Watertight manhole covers or raised manhole frames and covers are to be used wherever the manhole tops may be flooded by street runoff or high water. Manholes of brick or segmented block should be water-proofed on the exterior with plaster coatings; supplemented by a waterproof coating where ground water conditions are unfavorable.

H. Steps. No steps will be allowed in manholes.

8.0708 Inverted Siphons. Inverted siphons should have not less than two barrels, with a minimum pipe size of six inches and shall be provided with necessary appurtenances for convenient flushing and maintenance; the manholes shall have adequate clearances for rodding; and in general, sufficient head shall be provided and pipe sizes selected to secure velocities of at

least 3.0 feet per second for average flows. The inlet and outlet details shall be arranged so that the normal flow is diverted to one barrel and so that either barrel may be cut out of service for cleaning.

8.0709 Sewer Extension. In general newer extensions shall be allowed only if the receiving sewage treatment facility is either:

A. Capable of adequately processing the added hydraulic and organic load.

B. Provision of adequate treatment facilities on a time schedule acceptable to the City Engineering Department is accrued.

C. All costs borne by developer or builder.

8.0710 Protection of Water Supplies.

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

B. Relation to Water Works Structures. While no general statement can be made to cover all conditions, sewers shall be at least 100 feet from water supply wells, 50 feet from underground water reservoirs and 30 feet from a well if the sewer is constructed as mentioned in 8.0710(C)(3).

C. Relation to Water Main.

1. Horizontal Separation. Whenever possible, sewers should be laid at least 10 feet horizontally from any existing or proposed water main. Should local conditions prevent a lateral separation of 10 feet, a sewer may be laid closer than 10 feet to a water main if:

a. It is laid in a separate trench or

b. It is laid in the saw trench with the water main located at one side on a beach of undisturbed earth.

c. In either case the elevation of the crown of the sewer is at least 18 inches below the invert of the water main.

2. Vertical Separation. Whenever sewers must cross under water mains, the sewer shall be laid at such an elevation that the top of the sewer is at least 18 inches below the bottom of the water main. When the elevation of the sewer cannot be buried to meet the above requirement, the water main shall be relocated to provide this separation or reconstructed with slip-on or mechanical joint cast-iron pipe, asbestos cement pressure pipe or pre-stressed concrete cylinder pipe for a distance of 10 feet on each side of the sewer. One full length of water main should be centered over the sewer so that both joints will be as far from the sewer as possible.

3. Special Conditions. When it is impossible to obtain proper horizontal and vertical separation as stipulated above, the water main should be constructed of slip-on or mechanical joint cast-iron pipe, asbestos cement pressure pipe or pre-stressed concrete cylinder pipe and the sewer constructed of mechanical joint cast-iron pipe, schedule 40 ABS or PVC or equal and both services should be pressure tested to assure watertightness.

4. House Sewers. The requirements in section 8.0710 (C), 1a to 4 shall apply to building sewers and water service lines to buildings except that the vertical separation mentioned in sections 8.0710, 2 and 3 may be reduced to 12 inches.

8.0711 Deviations from Design Criteria. The City Engineer may consider and allow deviations where adequate documentation is provided to prove the need for such deviation.

CHAPTER 8.08 - GAS SPACE HEATING PROVISIONS

8.0801 Gas Burning Heating Equipment. No gas burning space heating equipment shall be installed, connected or used within the Town of Elk Point unless:

A. Such gas space heating equipment is installed and in regular operation prior to the enactment of 8.08.

B. Such gas space heating equipment replaces gas fired equipment of equal or greater capacity previously installed and regularly operated at the same premises for the same purpose.

C. Such gas space heating equipment is used for industrial or commercial purposes where the users thereof maintain complete stand-by facilities and sufficient stand-by fuel to enable them to maintain continuous plant operations on such stand-by equipment and fuel in the event of full curtailment of the supply of gas.

D. Such gas heating equipment is installed in existing and new buildings to the extent that the total amount of gas that will be required by such installation shall not exceed the contract capacity allocated to Elk Point by MidAmerican Energy under Federal Power Commission Tariffs and regulations and under the following conditions:

1. Where the gas can be supplied through existing service pipes into the premises or as required by franchise.

2. In the order in which applications for new buildings were made to MidAmerican Energy for said heating gas on the regular forms of said company.

3. In the order in which applications for heating existing buildings were made to MidAmerican Energy for said heating gas on the regular forms of said company.

4. Gas heating applications for new buildings shall have preference over applications for heating existing buildings.

8.0802 Discontinuation of Service. Any distributor of gas shall discontinue gas service to the premises wherein any gas fired space heating equipment is installed, connected or used contrary to the provisions of 8.08. Upon the determination of any such distributor that new

space heating equipment in this town has been installed, connected or used contrary to the provisions of 8.08, such distributor shall forthwith notify in writing the owners or occupants of the premises where such equipment is installed that all gas service to such premises for space heating purposes will be discontinued twenty (20) days after service of such notice and such distributor shall discontinue such service at the end of such period unless such equipment has been disconnected and removed.
No person, firm or corporation shall connect or install gas burning space heating equipment where the use of such equipment or the connection thereof is contrary to the provisions of 8.08.

TITLE 9 - PLANNING, ZONING AND BUILDING REGULATIONS

Chapter 9.01 - Planning Commission
Chapter 9.02 - Building Code
Chapter 9.03 - Residential Code
Chapter 9.04 - Zoning Regulations (Appendix A)
Chapter 9.05 - Subdivision Regulations (Appendix B)

CHAPTER 9.01 - PLANNING COMMISSION

9.0101 Creation. The Elk Point Planning Commission is hereby created pursuant to SDCL 11-6 for the City of Elk Point, South Dakota.

9.0102 Number, Appointment and Tenure of Planning Commission Members. The Elk Point Planning Commission shall consist of not less than five (5) members appointed by the Mayor and subject to approval by the City Council. The term of each of the appointed members shall be five years except when the Planning Commission is first appointed, at least three members shall be appointed for one year and the balance of the members shall be appointed for two years. Thereafter appointments of each member shall be for terms of five years so that there will be an overlapping of tenure. Administrative officials of the City may be appointed as ex-officio members of the Planning Commission.

9.0103 Vacancies. Any vacancy in the membership of the Planning Commission shall be filled for the unexpired term in the same manner as for appointment.

9.0104 Organization. The Planning Commission shall elect a Chairman from among its members for a term of one year with eligibility for re-election and shall also elect a Vice Chairman and Secretary in a manner prescribed by the rules of the members. The Planning Commission shall hold at least one regular meeting each month and shall adopt rules for transaction of its business and keep a record of its resolutions, transactions, findings and determinations which shall be a public record. The Planning Commission may appoint such employees as it may deem necessary for its work and may also contract with planners, engineers, architects and other consultants for such services as it may require, provided however, that such appointments and contracts shall be approved by the City Council.

9.0105 Removal for Cause. The Mayor, with confirmation of the City Council, shall after public hearing have the authority to remove any member of the Planning Commission for cause, which cause shall be stated in writing and made a part of the record of such hearing.

9.0106 Powers and Duties of Commission. The Elk Point Planning Commission, its members and employees, shall have all such powers as may be necessary to enable it to perform its functions, promote planning and carry out all the purposes and powers enumerated in SDCL 11-4 and 11-6 and acts amendatory thereof.

9.0107 Preparation of Comprehensive Plan. The Planning Commission of Elk Point shall propose a comprehensive plan for the physical development of the City pursuant to the terms of SDCL 11-4 and 11-6. The general purpose of the comprehensive plan shall be to guide and accomplish a coordinated and harmonious development within the City. After the comprehensive plan has been adopted according to law, no substantial amendment or modification thereof shall be made, without the proposed change first being referred to the Planning Commission for its recommendations.

9.0108 Zoning Regulations. It shall be a duty of the Planning Commission to recommend the boundaries of zoning districts and appropriate regulations to be enforced therein, in accordance with the comprehensive plan. The Planning Commission shall prepare regulations governing land uses and building or set-back lines in accordance with SDCL 11-4 and 11-6. All applications and proposals for changes in or amendments to the zoning regulations shall first be submitted to the Planning Commission for its recommendations.

9.0109 Subdivision Plans and Regulations. All plans, plats or re-plats or subdivisions or resubdivisions of land within the jurisdiction of the City shall first be submitted to the Planning Commission for its recommendation before approval by the City Council. The Planning Commission shall prepare and recommend to the City Council regulations governing the subdivision of land within its jurisdiction. No amendments or changes thereto shall be made without recommendation by the Planning Commission.

CHAPTER 9.02 - NON-RESIDENTIAL BUILDING CODE

9.0201 Adopted. The City Council hereby adopts the International Building Code, 2018 Edition, including Appendices C and I, as published by the International Code Council, Inc. as the building code of the City for regulating the erection, construction, enlargement, alteration, movement, repair, conversion, equipment, use, occupancy, location, removal, demolition, height, area, and maintenance of all buildings and structures, one- and two-family dwellings and town houses not more than three stories in height with a separate means of egress and their accessory structures, and provides for the issuance of permits and the collection of fees therefore. The minimum building standards in the 2018 edition of the International Building Code and amendments thereto shall be applied to any building permit issued after June 30, 2018. A copy of this Code shall be kept on file in the office of the Building Official.

9.0202 Local amendments, additions, and deletions to the 2018 International Building Code.

The following sections and subsections of the building code adopted in this Ordinance shall be amended, added, or deleted as follows. All other sections or subsections of the 2018 International Building Code shall remain as originally published.

101.1 Title. These regulations shall be known as the Building Code of the City of Elk Point, and shall be referred to herein as “this code”.

101.2 Scope. The provisions of this code shall apply to the construction, alteration, relocation, enlargement, replacement, repair, equipment, use and occupancy, location, maintenance, removal, and demolition of every building or structure or any appurtenances connected or attached to such buildings or structures.

Exceptions:

1. Detached one- and two-family dwellings and multiple single-family dwellings (town houses) not more than three stories above grade plane in height with a separate means of egress and their accessory structures shall comply with the International Residential Code.

2. Existing buildings undergoing repair, alterations, or additions and change of occupancy shall be permitted to comply with the International Existing Building Code.

101.4.3 Plumbing. The provisions of the current plumbing code adopted by the South Dakota State Plumbing Commission, with revisions, shall apply to the installation, alteration, repair, and replacement of plumbing systems, including equipment, appliances, fixtures, fittings, and appurtenances, and where connected to a water or sewage system and all aspects of a medical gas system.

101.4.6 Energy. Not adopted by the City.

101.4.8 Electrical. The provisions of the current electrical code adopted by the State of South Dakota shall apply to the installation of electrical systems, including alterations, repairs, replacement, equipment, appliances, fixtures, fittings, and appurtenances thereto.

103.1 Creation of enforcement agency. Building services is hereby created and the official in charge thereof shall be known as the Building Official.

103.2 Appointment. Not adopted by the City.

104.8 Liability. The Building Official, member of the board of appeals, or employee charged with the enforcement of this code, while acting for the City in good faith and without malice in the discharge of the duties required by this code or other pertinent law or ordinance, shall not thereby be rendered liable personally and is hereby relieved from personal liability for any damage accruing to persons or property as a result of any act or by reason of an act or omission in the discharge of official duties. Any suit instituted against an officer or employee because of an act performed by that officer or employee in the lawful discharge of duties and under the provisions of this code shall be afforded all the protection provided by the City's insurance pool and any immunities and defenses provided by other applicable state and federal law and defended by legal representative of the City until the final termination of the proceedings. The Building Official or any subordinate shall not be liable for cost in any action, suit or proceeding that is instituted in pursuance of the provisions of this code.

This code shall not be construed to relieve or lessen the responsibility of any person owning, operating, or controlling any building or structure for any damages to persons or property caused by defects, nor shall the City, or its officers and employees, be held as assuming any such liability by reason of the inspections authorized by this code or any permits or certificates issued under this code.

105.1 Required. Any owner or authorized agent who intends to construct, enlarge, alter, repair, move, demolish, or change the occupancy of a building or structure, or to erect, install, enlarge, alter, repair, remove, convert, or replace any gas or mechanical system, the installation of which is regulated by this code, or to cause any such work to be done, shall first make application to the Building Official and obtain the required permit. The Building Official may exempt permits for minor work.

105.2 Work exempt from permit. Exemptions from permit requirements of this code shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of this code or any other laws or ordinances of this jurisdiction. Permits shall not be required for the following:

Building:

1. Oil derricks.

2. Retaining walls that are not over 4 feet in height measured from the bottom grade elevation to the top of the wall, unless supporting a surcharge or impounding Class I, II or IIIA liquids.

3. Water tanks supported directly on grade if the capacity is not greater than 5,000 gallons and the ratio of height to diameter or width is not greater than 2:1.

4. Sidewalks and driveways not more than 30 inches above adjacent grade, and not over any basement or story below and not part of an accessible route.

5. Painting, papering, tiling, carpeting, cabinets, countertops, and similar finish work.

6. Temporary motion picture, television, and theater stage sets and scenery.

7. Prefabricated swimming pools accessory to a Group R-3 occupancy that are less than 18 inches deep.

8. Shade cloth structures constructed for nursery or agricultural purposes, not including service systems.

9. Swings and other playground equipment accessory to detached one- and two-family dwellings.

10. Window awnings in Group R-3 and U occupancies supported by an exterior wall that do not project more than 54 inches from the exterior wall and do not require additional support.

11. Nonfixed and movable fixtures, cases, racks, counters, and partitions not over 5 feet 9 inches in height.

Gas:

1. Portable heating appliance.

2. Replacement of any minor part that does not alter approval of equipment or make such equipment unsafe.

Mechanical:

1. Portable heating appliance.

2. Portable ventilation equipment.

3. Portable cooling unit.

4. Steam, hot or chilled water piping within any heating or cooling equipment regulated by this code.

5. Replacement of any part that does not alter its approval or make it unsafe.

6. Portable evaporative cooler.

7. Self-contained refrigeration system containing 10 pounds or less of refrigerant and actuated by motors of 1 horsepower or less.

107.1 General. Submittal documents, consisting of two complete sets of hard copy plans and an electronic submittal in PDF format along with other construction documents, such as a statement of special inspections, geotechnical report, and other data, shall be submitted with each permit application. The construction documents shall be prepared by a registered design professional where required by the State of South Dakota. Where special conditions exist, the Building Official is authorized to require additional construction documents to be prepared by a registered design professional.

Exception: The Building Official is authorized to waive the submission of construction documents and other data not required to be prepared by a registered design professional if it is found that the nature of the work applied for is such that review of construction documents is not necessary to obtain compliance with this code.

107.3.1 Approval of construction documents. When a Building Official issues a permit, the construction documents shall be reviewed and marked, in writing or by stamp, as "Reviewed for Code Compliance." One set of construction documents so reviewed shall be retained by the Building Official. The other set shall be returned to the applicant, shall be kept at the site of work, and shall be open to inspection by the Building Official or a duly authorized representative.

107.3.2 Previous reviews. This code shall not require changes in the construction documents, construction, or designated occupancy of a structure for which a lawful permit has been heretofore issued or otherwise lawfully authorized, and the construction of which has been pursued in good faith within one hundred and eighty days after the effective date of this code and has not been abandoned.

107.3.3 Phased review. The Building Official is authorized to issue a permit for the construction of foundations or any other part of a building or structure before the construction documents for the whole building or structure have been submitted, provided that adequate information and detailed statements have been filed complying with pertinent requirements of this code. The holder of such permit for the foundation or other parts of a building or structure shall proceed at the holder's own risk with the building operation and without assurance that a permit for the entire structure will be granted.

108.1 General. The Building Official is authorized to issue a permit for temporary structures and temporary uses. Such permits shall be limited as to time of service, but shall not be permitted for more than 365 days.

108.3 Temporary power. The Building Official is authorized to give permission to temporarily supply and use power in part of an electric installation before such installation has been fully completed and the final certificate of completion has been issued. The part covered by the temporary certificate shall comply with the requirements specified for temporary lighting, heat, or power in the current electrical code adopted by the State of South Dakota.

109.1 Payment of fees. A permit shall not be valid until all permit fees have been paid nor shall an amendment to a permit be released until the additional fee, if any, has been paid.

109.2 Schedule of permit fees. On buildings, structures, electrical, gas, mechanical, and plumbing systems, or alterations requiring a permit, a fee for each permit shall be paid as required, in accordance with the fee schedule adopted by resolution by the City Council.

109.7 Plan review fees. When submittal documents for plan review are required, a plan review fee shall be paid with the building permit application. Said plan review fee shall be twenty-five percent of the building permit fee. Said plan review fees are separate fees from the permit fees specified in Section 109.1 and are in addition to the permit fees.

109.8 Delinquent accounts. The City may refuse to issue permits or conduct inspections for any person or business who is financially delinquent to the City.

110.3.1 Footing and foundation inspection. Footing inspections shall be made after excavations for footings are complete and any required reinforcing steel is in place. If an inspection is required for concrete foundations, any required forms shall be in place prior to inspection. Materials for the foundation shall be on the job, except where concrete is ready mixed in accordance with ASTM C 94, the concrete need not be on the job.

111.2 Certificate issued. After the Building Official inspects the building or structure and finds no violations of the provisions of this code or other laws that are enforced by the department of building safety, the Building Official shall issue a certificate of occupancy that contains the following:

1. The building permit number.

2. The address of the structure.

3. The name and address of the owner or the owner's authorized agent.

4. A statement that the described portion of the structure has been inspected for compliance with the requirements of this code for the occupancy and division of occupancy and the use for which the proposed occupancy is classified.

5. The name of the Building Official.

6. The edition of the code under which the permit was issued.

7. The use and occupancy in accordance with the provisions of Chapter 3.

8. The type of construction as defined in Chapter 6.

9. The design occupant load in assembly occupancies only.

10. If an automatic sprinkler system is provided, whether the sprinkler system is required.

11. Any special stipulations and conditions of the building permit.

113.1 Designation of Board of Appeals. In order to hear and decide appeals of orders, decisions, or determinations made by the Building Official relative to the application and interpretation of this code, the City Council hereby assumes the responsibilities of the Board of Appeals for this code. All decisions and findings of the Board shall be final and shall be rendered in writing to the appellant with a duplicate copy to the Building Official.

113.2 Limitations on authority. An application for appeal shall be based on a claim that the true intent of this code or the rules legally adopted hereunder have been incorrectly interpreted, the provisions of this code do not fully apply, or an equally good or better form of construction is proposed. If the appeal is based on a claim that an equally good or better form of construction was improperly denied, the appellant must submit the alternate material, design, or method of construction they are proposing. The appellant also has the burden to demonstrate to the Board that the alternative method or material that they are proposing is an equally good or better form of construction. The Board shall have no authority to waive the requirements of the International Building Code as adopted by the City.

113.3 Qualifications. Not adopted by the City.

113.3 Submission of appeals. All appeals must be submitted in writing to the Building Official within ten days of the order, decision, or determination of the Building Official that is being appealed. Once the appeal is received by the Building Official, he shall place the appeal on the City Council's next regular meeting agenda that is more than seven days (inclusive) from the date of receipt of the appeal.

113.3.1 Appeal hearings. All hearings before the Board shall be open to the public. The appellant, the appellant's representative, the Building Official, any member of the City's staff, or any person whose interests are affected shall be given an opportunity to be heard.

SECTION 202 DEFINITIONS All definitions will remain the same except for those specifically changed as follows:

APPROVED AGENCY. An established and recognized agency or design professional regularly engaged in conducting tests or furnishing inspection services, when such agency has been approved.

CERTIFICATE OF COMPLIANCE. A certificate stating that materials and products meet specified standards or that work was done in compliance with reviewed construction documents.

FIRE AREA. The aggregate floor area enclosed and bounded by fire walls, fire barriers, exterior walls, or horizontal assemblies of a building.

SPECIAL INSPECTION. Inspection as herein required of the materials, installation, fabrication, erection, or placement of components and connections requiring special expertise to ensure compliance with reviewed construction documents and referenced standards (see Section 1704).

STRUCTURAL OBSERVATION. The visual observation of the structural system by a registered design professional for general conformance to the reviewed construction documents at significant construction stages and at completion of the structural system. Structural observation does not include or waive the responsibility for the inspection required by Section 110, 1704, or other sections of this code.

SWIMMING POOL. Any structure intended for swimming, recreational bathing, or wading that contains water over 18 inches deep. This includes in-ground, aboveground, and on-ground pools; hot tubs; spas; and fixed-in place wading pools.

TOWNHOUSE. A single-family dwelling unit constructed in a group of two or more attached units, with each unit located on a separate lot, in which each unit extends from foundation to roof and with open space on at least two sides. Also known as single-family attached dwellings or zero lot line homes.

305.2.3 Twelve or fewer children in a dwelling unit. A facility such as the above within a dwelling unit and having twelve or fewer children receiving such day care shall be classified as a Group R-3 occupancy or shall comply with the International Residential Code.

308.5.4 Twelve or fewer persons receiving care in a dwelling unit. A facility such as the above within a dwelling unit and having twelve or fewer persons receiving custodial care shall be classified as a Group R-3 occupancy or shall comply with the International Residential Code.

502.1 Address identification. New and existing buildings shall be provided with approved address identification. The address identification shall be legible and placed in a position that

is visible from the street or road fronting the property. Address identification characters shall contrast with their background. Address identification characters shall be Arabic numbers or alphabetical letters which shall be a minimum of 4 inches high with a minimum stroke width of 1/2 inch. Where access is by means of a private road and the building address cannot be viewed from the public way, a monument, pole or other sign or means shall be used to identify the structure and be located at the edge of said public way. Multi-building campus/complex developments addressed on private or public streets shall be provided with signage at the entrance to the campus/complex indicative of the address ranges within. Address identification shall be maintained.

507.1.2 Property lines. Portions of an unlimited area building may be divided by platted property lines without requiring the construction of party walls if the whole building has:

1. Permanent open space on all sides as required by Sections 507.2, 507.3, 507.4, or 507.5; and

2. Proper legal agreements are submitted and approved by the Building Official and are recorded with the deed for each of the separate properties. These recorded agreements shall require that the buildings, as divided by property lines, be in conformance with the applicable provisions of the building and fire codes, as if the buildings were a single building on a single piece of property. In addition, the agreement must state that no individual building or property owner may modify any portion of the building in any way that would not be in compliance with the building and fire codes.

714.4.1.2 Through-penetration fire-stop system. Through penetrations of the fire-resistive membrane shall be protected by an approved through-penetration fire-stop system installed and tested in accordance with ASTM E 814 or UL 1479, with a minimum positive pressure differential of 0.01 inch of water. The system shall have an F rating/T rating of not less than 1 hour, but not less than the required rating of the floor penetrated.

Exceptions:

1. Floor penetrations contained and located within the cavity of a wall above the floor or below the floor do not require a T rating.

2. Floor penetrations by floor drains, tub drains or shower drains contained and located within the concealed space of a horizontal assembly do not require a T rating.

716.2.6.1 Door closing. Fire doors shall be self- or automatic-closing in accordance with this section. Self-closing chute intake doors shall not fail in a "door open" position in the event of a closer failure.

Exceptions:

1. Fire doors located in common walls separating sleeping units in Group R-1 shall be permitted without automatic or self-closing devices.

2. The elevator car doors and the associated hoistway enclosure doors at the floor level designated for recall in accordance with Section 3003.2 shall be permitted to remain open during Phase I emergency recall operation.

3. Interior doors located in exit enclosures, smokeproof enclosures, and exit passageways in Group R and I-1 occupancies shall be automatic closing fire door assemblies in accordance with NFPA 80 and controlled in accordance with NFPA 72.

903.2.6 Group I. An automatic sprinkler system shall be provided throughout buildings with a Group I fire area.

Exceptions:

1. An automatic sprinkler system installed in accordance with Section 903.3.1.1 shall be permitted in Group I-1 facilities.

2. An automatic sprinkler system is not required where day care facilities are at the level of exit discharge and where every room where care is provided has at least one exterior exit door.

3. In buildings where Group I-4 day care is provided on levels other than the level of exit discharge, an automatic sprinkler system in accordance with Section 903.3.1.1 shall be installed on the entire floor where care is provided and all floors between the level of care and the level of exit discharge, all floors below the level of exit discharge, other than areas classified as an open parking garage.

903.2.8 Group R. An automatic sprinkler system installed in accordance with Section 903.3 shall be provided throughout all buildings with Groups R-1 and R-4 fire areas. An automatic fire-extinguishing system shall be provided throughout all buildings with a Group R-2 fire area more than two stories in height, including basements, or having more than 4 dwelling units.

903.3.1.1.1 Exempt locations. Automatic sprinklers shall not be required in the following rooms or areas where such rooms or areas are protected with an approved automatic fire detection system in accordance with Section 907.2 that will respond to visible or invisible particles of combustion. Sprinklers shall not be omitted from any room merely because it is damp, of fire-resistance-rated construction, or contains electrical equipment.

1. Any room where the application of water, or flame and water, constitutes a serious life or fire hazard.

2. Any room or space where sprinklers are considered undesirable because of the nature of the contents when approved by the Building Official. Such rooms shall be separated from the remainder of the building by fire barrier walls and horizontal assemblies having a fire-resistance rating of not less than two hours.

3. Generator and transformer rooms separated from the remainder of the building by walls and floor/ceiling or roof/ceiling assemblies having a fire-resistance rating of not less than two hours.

4. Rooms or areas that are of noncombustible construction with wholly noncombustible contents.

5. Fire service access elevator machine rooms and machinery spaces.

6. Machine rooms and machinery spaces associated with occupant evacuation elevators designed in accordance with Section 3008.

904.12.2 System interconnection. The actuation of the fire suppression system shall automatically shut down the fuel and/or electrical power supply to the cooking equipment and all electrical receptacles located beneath the hood. The fuel and electrical supply reset shall be manual.

907.2.1.1 System initiation in Group A occupancies with an occupant load of 1,000 or more. Activation of the fire alarm in Group A occupancies with an occupant load of 1,000 or more shall initiate a signal using an emergency voice/alarm communications system in accordance with Section 907.5.2.2.

Exceptions:

1. Group A-3 occupancies used for religious worship.

2. Where approved, the prerecorded announcement is allowed to be manually deactivated for a period of time, not to exceed 3 minutes, for the sole purpose of allowing a live voice announcement from an approved, constantly attended location.

907.2.2 Group B. A manual fire alarm system shall be installed in Group B occupancies where one of the following conditions exists:

1. The combined Group B occupant load of all floors is 500 or more.

2. The Group B occupant load is more than 100 persons above or below the lowest level of exit discharge.

3. The fire area contains an ambulatory care facility.

4. The Group B occupancy has more than two occupied levels.

Exception: Manual fire alarm boxes are not required where the building is equipped throughout with an automatic sprinkler system installed in accordance with Section 903.3.1.1 and the occupant notification appliances will activate throughout the notification zones upon sprinkler waterflow.

907.2.6.2 Group I-2. An automatic smoke detection system shall be installed in corridors in nursing homes, long-term care facilities, detoxification facilities, and spaces permitted to be open to the corridors by Section 407.2. The system shall be activated in accordance with Section 907.5. Hospitals shall be equipped with smoke detection as required in Section 407.

Exception: Corridor smoke detection is not required in smoke compartments that contain sleeping units where such units are provided with smoke detectors that comply with UL 268. Such detectors shall provide a visual display on the corridor side of each sleeping unit and shall provide an audible and visual alarm at the care provider station attending each unit. Smoke detectors installed as part of an intelligent or addressable fire alarm system capable of annunciation of room origin at a constantly attended location shall be acceptable.

907.2.8.2 Automatic smoke detection system. An automatic smoke detection system that activates the occupant notification system in accordance with Section 907.5 shall be installed throughout all interior corridors serving sleeping units and at the top of each stairwell.

Exception: An automatic smoke detection system is not required in buildings that do not have interior corridors serving sleeping units and where each sleeping unit has a means of egress door opening directly to an exit or to an exterior exit access that leads directly to an exit.

907.2.8.4 Heat detectors. Heat detectors shall be installed in each attic subdivision or similar areas not otherwise covered by an automatic fire-extinguishing system.

Exceptions:

1. Heat detection is not required in areas protected by an automatic fire-extinguishing system installed in accordance with Section 903.3.1.1 or in addition to the requirements of Section 903.3.1.2.

2. Heat detectors are not required where the fire partitions extend into and through the interstitial attic space.

907.2.9 Group R-2. Fire alarm systems and smoke alarms shall be installed in Group R-2 occupancies as required in Sections 907.2.9.1 through 907.2.9.5.

907.2.9.1 Manual fire alarm system. A manual fire alarm system that activates the occupant notification system in accordance with Section 907.5 shall be installed in Group R-2 occupancies where:

1. Any dwelling unit or sleeping unit is located three or more stories above the lowest level of exit discharge.

2. Any dwelling unit or sleeping unit is located more than one story below the highest level of exit discharge of exits serving the dwelling unit or sleeping unit; or

3. The building contains more than 16 dwelling units or sleeping units; or

4. The building contains four or more dwelling units or sleeping units above the level of exit discharge.

Exceptions:

1. A fire alarm system is not required in buildings not more than two stories in height where all dwelling units or sleeping units and contiguous attic and crawl spaces are separated from each other and public or common areas by at least 1-hour fire partitions and each dwelling unit or sleeping unit has an exit directly to a public way, egress court, or yard.

2. Manual fire alarm boxes are not required where the building is equipped throughout with an automatic sprinkler system installed in accordance with Section 903.3.1.1 or 903.3.1.2 and the occupant notification appliances will automatically activate throughout the notification zones upon a sprinkler waterflow.

3. A fire alarm system is not required in buildings that do not have interior corridors serving dwelling units and are protected by an approved automatic sprinkler system installed in accordance with Section 903.3.1.1 or 903.3.1.2, provided that dwelling units either have a means of egress door opening directly to an exterior exit access that leads directly to the exits or are served by open-ended corridors designed in accordance with Section 1026.6, Exception 4.

907.2.9.4 Smoke detectors. System smoke detection shall be provided in each stairway and all exit corridors.

907.2.9.5 Heat detectors. Heat detectors shall be installed in each attic subdivision, any attached garages and similar areas not otherwise covered by an automatic fire-extinguishing system.

Exceptions:

1. Heat detection is not required in areas protected by an automatic fire-extinguishing system installed in accordance with Section 903.3.1.1 or in addition to the requirements of Section 903.3.1.2.

2. Heat detectors are not required where the fire partitions extend into and through the interstitial attic space.

907.2.12.1.2 Duct smoke detection. Duct smoke detectors complying with Section 907.3.1 shall be located as follows:

1. In the main return air and exhaust air plenum of each air-conditioning system having a capacity greater than 2,000 cubic feet per minute. Such detectors shall be located in a serviceable area downstream of the last duct inlet.

2. At each connection to a vertical duct or riser serving two or more stories from a return air duct or plenum of an air-conditioning system. In Group R-1 and R-2 occupancies, a smoke detector is allowed to be used in each return air riser carrying not more than 5,000 cfm and serving not more than 10 air-inlet openings.

3. Duct smoke detectors installed more than 10 feet above a finished floor, above a ceiling, or on a rooftop shall be installed with remote test/indicators in an approved location below and in proximity to the unit served.

912.2.1 Visible location. Fire department connections shall be located on the street side of buildings, fully visible and recognizable from the street or nearest point of fire department vehicle access or as otherwise approved by the Building Official. A weather-rated horn/strobe connected to the fire detection or sprinkler system shall be located not lower than 8 feet above the fire department connection and within 10 feet horizontally of the connection. The weather-rated horn/strobe must be visible from the fire lane or street.

1005.3.1 Stairways. The capacity, in inches, of means of egress stairways shall be calculated by multiplying the occupant load served by such stairway by a means of egress capacity factor of 0.3 inch per occupant. Where stairways serve more than one story, only the occupant load of each story considered individually shall be used in calculating the required capacity of the stairways serving that story.

1005.3.2 Other egress components. The capacity, in inches, of means of egress components other than stairways shall be calculated by multiplying the occupant load served by such component by a means of egress capacity factor of 0.2 inch per occupant.

1010.1.7 Thresholds. Thresholds at doorways shall not exceed 3/4 inch in height above the finished floor or landing for sliding doors serving dwelling units or 1/2 inch above the finished floor or landing for other doors. Raised thresholds and floor level changes greater than 1/4 inch at doorways shall be beveled with a slope not greater than one unit vertical in two units horizontal (50 percent slope).

Exception: In occupancy Group R-2 or R-3, threshold height for sliding and side-hinged exterior doors shall be permitted to be up to 8 inches in height if all of the following apply:

1. The door is not part of the required means of egress.

2. The door is not part of an accessible route as required by Chapter 11.

3. The door is not part of an accessible unit, Type A unit, or Type B unit.

1010.1.9.4 Locks and latches. Locks and latches shall be permitted to prevent operation of doors where any of the following exists:

1. Places of detention or restraint.

2. In buildings in occupancy Group A having an occupant load of 300 or less, Groups B, F, M, and S, in places of religious worship, and exterior decks allowed to have one exit where the exit access from the deck extends back into the building, the main exterior door or doors are permitted to be equipped with key-operated locking devices from the egress side provided:

    2.1. The locking device is readily distinguishable as locked;

    2.2. A readily visible durable sign is posted on the egress side on or adjacent to the door stating: THIS DOOR TO REMAIN UNLOCKED WHEN BUILDING IS OCCUPIED. The sign shall be in letters 1 inch high on a contrasting background.

    2.3. The use of the key-operated locking device is revocable by the Building Official for due cause.

3. Where egress doors are used in pairs, approved automatic flush bolts shall be permitted to be used, provided that the door leaf having the automatic flush bolts has no doorknob or surface-mounted hardware.

4. Doors from individual dwelling or sleeping units of Group R occupancies having an occupant load of 10 or less are permitted to be equipped with a night latch, dead bolt, or security chain, provided such devices are openable from the inside without the use of a key or tool.

5. Fire doors after the minimum elevated temperature has disabled the unlatching mechanism in accordance with listed fire door test procedures.

1011.5.2 Riser height and tread depth. Stair riser heights shall be 7 inches maximum and 4 inches minimum. The riser height shall be measured vertically between the nosings of adjacent treads. Rectangular tread depths shall be 11 inches minimum measured horizontally between the vertical planes of the foremost projection of adjacent treads and at a right angle to the tread's nosing. Winder treads shall have a minimum tread depth of 11 inches between the vertical planes of the foremost projection of adjacent treads at the intersections with the walk line and a minimum tread depth of 10 inches within the clear width of the stair.

Exceptions:

1. Alternating tread devices in accordance with Section 1009.13.

2. Ship ladders in accordance with Section 1009.14.

3. Spiral stairways in accordance with Section 1009.12.

4. Aisle stairs in assembly seating areas where the stair pitch or slope is set, for sightline reasons, by the slope of the adjacent seating area in accordance with Section 1028.11.2.

5. In Group R-3 occupancies; within dwelling units in Group R-2 occupancies; and in Group U occupancies that are accessory to a Group R-3 occupancy or accessory to individual dwelling units in Group R-2 occupancies; the maximum riser height shall be 8 inches; the minimum tread depth shall be 10 inches; the minimum winder tread depth at the walk line shall be 10 inches; and the minimum winder tread depth shall be 6 inches. A nosing projection not less than 3/4 inch but not more than 1 1/4 inches, shall be provided on stairways with solid risers where the tread depth is less than 11 inches.

6. See Section 3404.1 or the International Existing Building Code for the replacement of existing stairways.

7. In Group I-3 facilities, stairways providing access to guard towers, observation stations, and control rooms not more than 250 square feet in area shall be permitted to have a maximum riser height of 8 inches and a minimum tread depth of 9 inches.

1011.5.5.3 Solid risers. Not adopted by the city.

1011.14 Alternating tread devices. Alternating tread devices are limited to an element of a means of egress in buildings of Groups F, H, and S from a mezzanine not more than 250 square feet in area and which serve not more than five occupants; in buildings of Group I-3 from a guard tower, observation station or control room not more than 250 square feet in area for access to unoccupied roofs, penthouses, equipment platforms, and mechanical rooms.

1011.15 Ship ladders. Ship ladders are permitted to be used as a component of a means of egress to and from control rooms or elevated facility observation stations not more than 250 square feet with not more than three occupants for access to unoccupied roofs and penthouses, mechanical rooms, and equipment platforms. Ship ladders shall have a minimum tread depth of 5 inches. The tread shall be projected such that the total of the tread depth plus the nosing projection is no less than 8 1/2 inches. The maximum riser height shall be 9 1/2 inches. The minimum clear width at and below the handrails shall be 20 inches.

Exception. Equipment and appliances on roofs and elevated structures are allowed to be accessed by ladders in accordance with the mechanical code.

1015.4 Opening limitations. Required guards shall not have openings which allow passage of a sphere 5 inches in diameter from the walking surface to the required guard height.

Exceptions:

1. The triangular openings at the open sides of a stair formed by the riser, tread, and bottom rail shall not allow passage of a sphere 6 inches in diameter.

2. At elevated walking surfaces for access to and use of electrical, mechanical, or plumbing systems or equipment, guards shall not have openings which allow passage of a sphere 21 inches in diameter.

3. In areas that are not open to the public within occupancies in Group B, I-3, F, H, M, or S, and for alternating tread devices and ship ladders, guards shall not have openings which allow passage of a sphere 21 inches in diameter.

4. In assembly seating areas, guards at the end of aisles where they terminate at a fascia of boxes, balconies and galleries shall not have openings which allow passage of a sphere 5 inches in diameter up to a height of 26 inches. From a height of 26 inches to 42 inches above the adjacent walking surfaces, guards shall not have openings which allow passage of a sphere 8 inches in diameter.

5. Within individual dwelling units and sleeping units in Group R-2 and R-3 occupancies, guards on the open sides of stairs shall not have openings which allow passage of a sphere 5 inches in diameter.

1020.4 Dead ends. Where more than one exit or exit access doorway is required, the exit access shall be arranged such that there are no dead ends in corridors more than 20 feet in length.

Exceptions:

1. In occupancies in Group I-3 of Occupancy Condition 2, 3 or 4 (see Section 308.5), the dead end in a corridor shall not exceed 50 feet.

2. In occupancies in Groups B, E, F, M, R-1, R-2, S and U, where the building is equipped throughout with an automatic sprinkler system in accordance with Section 903.3.1.1, the length of the dead-end corridors shall not exceed 50 feet.

3. A dead-end corridor shall not be limited in length where the length of the dead-end corridor is less than 2.5 times the least width of the dead-end corridor.

1023.8 Discharge identification. An interior exit stairway and ramp shall not continue below its level of exit discharge unless an approved barrier or a directional exit sign is provided at the level of exit discharge to prevent persons from unintentionally continuing into levels below. Directional exit signs shall be provided as specified in Section 1013.

1030.2 Minimum size. Emergency escape and rescue openings shall have a minimum net clear opening of 5.0 square feet.

1030.3 Maximum height from floor. Emergency escape and rescue openings shall have the bottom of the clear opening not greater than 48 inches measured from the floor.

1030.4.2 Ladders or steps. Window wells with a vertical depth of more than 48 inches shall be equipped with an approved permanently affixed ladder or steps. Ladders or rungs shall have an inside width of at least 12 inches, shall project at least 3 inches from the wall and shall be spaced not more than 18 inches on center vertically for the full height of the window well. The ladder or steps shall not encroach into the required dimensions of the window well by more than 6 inches. The ladder or steps shall not be obstructed by the emergency escape and rescue opening. Ladders or steps required by this section are exempt from the stairway requirements of Section 1011.

1102.1 Design. Buildings and facilities shall be designed and constructed to be accessible in accordance with this code and ICC A117.1. The scoping provision of ANSI shall be per section 1103.

1104.4 Multilevel buildings and facilities. At least one accessible route shall connect each accessible level, including mezzanines, in multilevel buildings and facilities.

Exceptions:

1. An accessible route from an accessible level is not required in facilities that are less than three stories in height or have less than 3,000 square feet per story. This exception shall not apply to:
   1.1 Multiple tenant facilities of Group M occupancies containing five or more tenant spaces;
   1.2 Levels containing offices of health care providers (Group B or I); or
   1.3 Passenger transportation facilities and airports (Group A-3 or B).
2. Levels that do not contain accessible elements or other spaces as determined by Section 1107 or 1108 are not required to be serviced by an accessible route from an accessible level.
3. In air traffic control towers, an accessible route is not required to serve the cab and the floor immediately below the cab.
4. Where a two-story building or facility has one story with an occupant load of five or fewer persons that does not contain public use space, that story shall not be required to be connected by an accessible route to the story above or below.
5. Vertical access to elevated employee work stations within a courtroom is not required at the time of initial construction, provided a ramp, lift, or elevator complying with ICC A117.1 can be installed without requiring reconfiguration or extension of the courtroom or extension of the electrical system.

1106.8 Signage. Accessible parking spaces and access aisles are required to be identified by signs. Signs shall be located at the head of accessible parking stalls and access aisles. The bottom of the lowest signs shall be located at least 60 inches above the pavement.

As referenced below, standard and van accessible parking space signs shall state, "RESERVED PARKING" and include the International Symbol of Accessibility; supplemental signage must additionally state, "STATE PERMIT OR LICENSE REQUIRED. $100 MINIMUM FINE AND CLASS 2 MISDEMEANOR FOR VIOLATORS." A van accessible parking space must have additional signage stating, "VAN ACCESSIBLE." A van accessible access aisle must be provided with signage including the International Symbol of Accessibility which states, "WHEELCHAIR ACCESS AISLE. ABSOLUTELY NO PARKING."

1106.9 Access aisles and markings. Each access that is part of an accessible route shall extend the full length of the parking space it serves. The aisle must have diagonally striped markings spaced every 4 feet. Boundaries of the access aisle must be marked. The end may be a squared or curved shape. Two parking spaces may share an access aisle.

Access aisles shall be placed on a level surface with a slope not to exceed 1:48.

Where an access aisle is located immediately adjacent to a sidewalk that provides the closest accessible route, the sidewalk must be provided with a curb ramp access to serve the access aisle.

1107.6.2.2.1 Type A units. In Group R-2 occupancies containing more than 20 dwelling units or sleeping units, at least 2 percent but not less than one of the units shall be a Type A unit. All Group R-2 units on a site shall be considered to determine the total number of units and the required number of Type A units. Type A units shall be dispersed among the various classes of units.

Exceptions:

1. The number of Type A units is permitted to be reduced in accordance with Section 1107.7.

2. Existing structures on a site shall not contribute to the total number of units on a site.

3. The following provisions of the 2009 ICC/ANSI A117.1-2009 referenced in Section 1003 Type A dwelling are applicable.

   3.1 A work surface in the kitchen referenced in Section 1003.12.3 Clear Floor Space of ICC/ANSI A117.1-2009 is not required.

   3.2 The reduced work height of the kitchen sink at 34 inches referenced in Section 1003.12.4.2 ICC/ANSI A117.1-2009 is not required.

   3.3 Appliances referenced in Section 1003.12.5 Appliances ICC/ANSI A117.1-2009 and Laundry Equipment requires only the clear floor space referenced in Section 305 Clear Floor Space of ICC/ANSI A117.1-2009.

1202.1 General. Buildings shall be provided with natural ventilation in accordance with Section 1202.5 or mechanical ventilation in accordance with the International Mechanical Code.

Where the air infiltration rate in a dwelling unit is less than 5 air changes per hour when tested with a blower door at a pressure 0.2 inch w.c. in accordance with Section 402.4.1.2 of the International Energy Conservation Code, the dwelling unit shall be considered to be ventilated by mechanical means in accordance with Section 403 of the International Mechanical Code. Ambulatory care facilities and Group I-2 occupancies shall be ventilated by mechanical means in accordance with Section 407 of the International Mechanical Code.

1205.3.3 Court drainage. The bottom of every court shall be properly graded and drained to a public sewer or other approved disposal system complying with the State plumbing code.

1502.1 General. Design and installation of roof drainage systems shall comply with Section 1502 of this code and shall be sized and discharge in accordance with the plumbing code.

Unless roofs are sloped to drain over roof edges, roof drains or scuppers shall be installed at each low point of the roof.

Roofs shall be sloped a minimum of 1 unit vertical in 48 units horizontal (2 percent slope) for drainage unless designed for water accumulation in accordance with Section 1611.2 Ponding Instability.

Roof drainage water from a building shall not be allowed to flow over public property.

1502.2 Secondary (emergency overflow) drains or scuppers. Where roof drains are required, secondary (emergency overflow) roof drains or scuppers shall be provided where the roof perimeter construction extends above the roof in such a manner that water will be entrapped if the primary drains allow buildup for any reason. The installation and sizing of secondary emergency overflow drains, leaders, and conductors shall comply with the Plumbing Code.

1507.1.2 Ice barrier. In areas where there has been a history of ice forming along the eaves causing a backup of water, an ice barrier that consists of at least two layers of underlayment cemented together or of a self-adhering, polymer-modified, bitumen sheet shall be used in lieu of normal underlayment and extend from the lowest edges of all roof surfaces to a point at least twenty-four inches inside the exterior wall line of the building.

Exception: Detached accessory structures that contain no conditioned floor area.

If the ice dam is not inspected, the contractor shall provide an affidavit that the ice dam was installed properly.

1601.1 Scope. The provisions of this chapter shall govern the structural design of buildings, structures, and portions thereof regulated by this code.

It shall not be the responsibility of the Building Official to determine engineering requirements of this code. Exclusive of conventional light-frame wood construction provisions referenced in Section 2308, the method to resist loads as referenced in this chapter is the responsibility of a structural engineer or other qualified design professional.

1603.1 General. Construction documents shall show the size, section, and relative locations of structural members with floor levels, column centers, and offsets dimensioned. The design loads and other information pertinent to the structural design required by Sections 1603.1.1 through 1603.1.8 shall be indicated on the construction documents.

Exception: Construction documents for buildings constructed in accordance with the conventional light-frame construction provisions of Section 2308 shall indicate the following structural design information:

1. Floor and roof live loads.
2. Ground snow load, P_g.
3. Ultimate design wind speed, V_{ult}, (3-second gust), miles per hour (mph) and nominal design wind speed, V_{asd}, as determined in accordance with "Section 1609.3.1 and wind exposure.
4. Seismic design category and site class.
5. Flood design data, if located in flood hazard areas established in Section 1612.3.

6. Design load-bearing values of soils.

Engineer design data shall be provided for roof areas where drifting occurs. The design data shall be shown on the plans.

1612.3 Establishment of flood hazard areas. To establish flood hazard areas, the City Council has adopted a flood hazard map and supporting data. The flood hazard map shall include, at a minimum, areas of special flood hazard as identified by the Federal Emergency Management Agency in an engineering report entitled "The Flood Insurance Study for Lincoln County, South Dakota," effective April 2, 2008, as amended or revised with the accompanying Flood Insurance Rate Map (FIRM) and Flood Boundary and Floodway Map (FBFM) and related supporting data along with any revisions thereto. The adopted flood hazard map and supporting data are hereby adopted by reference and declared to be part of this section. If there is a conflict between the provisions of this code and the city's floodplain management ordinance, the provisions of the floodplain management ordinance shall prevail.

1703.1 Approved agency. An approved agency or the design professional of record shall provide all information as necessary for the Building Official to determine that the agency meets the applicable requirements.

1704.2 Special inspections. Where application is made for construction as described in this section, the owner or the registered design professional in responsible charge acting as the owner's agent shall employ one or more approved agencies to perform inspections during construction on the types of work listed under Section 1705. These inspections are in addition to the inspections identified in Section 110.

Exceptions:

1. Special inspections are not required for construction of a minor nature or as warranted by conditions in the jurisdiction as approved by the Building Official.

2. Unless otherwise required by the Building Official, special inspections are not required for Group U occupancies that are accessory to a residential occupancy including, but not limited to, those listed in Section 312.1.

3. Special inspections are not required for portions of structures designed and constructed in accordance with the cold-formed steel light-frame construction provisions of Section 2211.7 or the conventional light-frame construction provisions of Section 2308.

4. The frequency and amount of special inspections shall be as determined by the design professional of record. The continuous and periodic inspections referenced in Tables 1705.2.2, 1705.3, 1705.6, 1705.7 and 1705.8 are considered as guidelines.

1705.3 Concrete construction. The special inspections and verifications for concrete construction shall be as required by this section and Table 1705.3.

Exception: Special inspections shall not be required for:

1. Isolated spread concrete footings of buildings three stories or less above grade plane that are fully supported on earth and rock.

2. Continuous concrete footings and foundation walls supporting walls of buildings three stories or less above grade plane that are fully supported on earth or rock where:

   2.1. The footings and foundations support walls of light-frame construction.

   2.2. The footings are designed in accordance with Table 1809.7.

   2.3. The structural design of the footing and foundations is based on a specified compressive strength, *f'c*, no greater than 3000 pounds per square inch, regardless of the compressive strength specified in the construction documents or used in the footing construction.

3. Nonstructural concrete slabs supported directly on the ground, including prestressed slabs on grade, where the effective prestress in the concrete is less than 150 psi.

4. Concrete foundation walls constructed in accordance with Table 1807.1.6.2.

5. Concrete patios, driveways, and sidewalks on grade.

SECTION 1710
PREFABRICATION

1710.1 General.

1710.1.1 Purpose. The purpose of this section is to regulate materials and establish methods of safe construction where any structure or portion thereof is wholly or partially prefabricated.

1710.1.2 Scope. Unless otherwise specifically stated in this section, all prefabricated construction and materials used therein shall conform to all the requirements of this code.

1710.1.3 Definitions.

PREFABRICATED ASSEMBLY. A structural unit, the integral parts of which have been built or assembled prior to incorporation in the building.

PREFABRICATED STRUCTURES. Structures, the parts of which are fabricated and assembled in a central assembly point where on-site building, electrical, plumbing, and mechanical rough-in inspections occur at the assembly location.

1710.2 Tests of materials. Every approval of a material not specifically mentioned in this code shall incorporate as a proviso the kind and number of nationally recognized testes to be made during prefabrication.

1710.3 Tests of assemblies. The Building Official may require special tests to be made on assemblies to determine their durability and weather resistance.

1710.4 Connections. Every device used to connect prefabricated assemblies shall be designed as required by this code and shall be capable of developing the strength of the members connected, except in the case of members forming part of a structural frame as specified in Chapter 16. Connections shall be capable of withstanding uplift forces as specified in this code and in Chapter 16.

1710.5 Pipes and conduits. In structural design, due allowances shall be made for any material to be removed for the installations of pipes, conduit, and other equipment.

1710.6 Permits, materials, plans, fees, certificate, and inspections.

1710.6.1 Materials. Materials and the assembly thereof shall be inspected to determine compliance with this code. Every material shall be graded, marked, or labeled as required elsewhere in this code.

1710.6.2 Plans. One complete set of plans and specifications shall be submitted to the Building Official for approval prior to issuing a building permit for a prefabricated structure. Plans shall be of sufficient detail and clarity to indicate compliance with all applicable codes (electrical, plumbing, building, mechanical, and zoning).

1710.6.3 Permits and fees. The fee for a building permit shall conform to the permit fee schedule adopted by resolution by the City Council.

1710.6.4 Certificate. A certificate of approval shall be furnished with every prefabricated assembly and prefabricated structure, except where the assembly is readily accessible to inspection at the site. The certificate of approval shall certify that the assembly in question has been inspected and meets all the requirements of this code. When mechanical equipment is installed so that it cannot be inspected at the site, the certificate of approval shall certify that such equipment complies with the laws applying thereto.

1710.6.5 Certifying agency. To be acceptable under this code, every certificate of approval shall be made by the approved agency.

1710.6.6 Field erection. The Building Official shall inspect placement of prefabricated assemblies at the building site to determine compliance with this code. Installation and finishing work at the building site must be performed by locally licensed contractors where required. Final inspections are to be made after the installation and finishing work have been completed and the building is ready for occupancy.

1710.6.7 Continuous inspection. If continuous inspection is required for certain materials where construction takes place on the site, it shall also be required where the same materials are used in prefabricated construction.

Exception: Continuous inspection will not be required during prefabrication if the approved agency certifies to the construction and furnishes evidence of compliance.

1710.6.8 Moving permits. A moving permit, if necessary, shall be obtained for each prefabricated structure being moved within the City.

1804.8 Grading permits required. No person shall excavate or grade without first obtaining a permit. If a building permit is not obtained, a separate grading permit must be obtained for each site and may cover both excavations and fills.

Exceptions:

1. A separate Grading Permit is not required where a site plan for a new building, structure, or addition is submitted for plan review where an excavation below finished grade for basements, footings, and foundations of a building, retaining wall, or other structure is authorized by a valid Building Permit.
2. Cemetery graves.
3. Excavations for wells, tunnels, or utilities.
4. Exploratory excavations under the direction of soils engineers or engineering geologists.
5. Land disturbance for gardening purposes or for agricultural purposes within the agricultural zoning district.
6. Mining, quarrying, excavating, processing, or stockpiling of rock, sand, gravel, aggregate, or clay where established and provided for by law, provided such operations do not affect the lateral support or increase the stresses in or pressure upon any adjacent or contiguous property.
7. Excavation, removal, or stockpiling of rock, sand, dirt, clay, or other like material as may be required by the state, county, or city authorities in connection with the construction or maintenance of roads and highways. This shall not exempt work for street construction when such work is performed by private developers. When the private developer has obtained a permit to perform site grading, a second permit will not be required for street grading.
8. Land disturbance (grading, excavation, or fill) of an area of less than twenty thousand square feet within a twelve-month period which does not modify or obstruct the existing drainage pattern or is outside of a FEMA-designated Flood Hazard Area.

Exemptions from the permit requirements of this chapter shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of this chapter or any other laws or ordinances of the City.

1804.8.1 Grading Permit requirements. Grading shall be performed in accordance with an approved grading plan. Submitted plans shall indicate existing elevation contours, proposed elevation contours, the volume of material to be excavated or filled, and methods of erosion control. The work authorized by a Grading Permit must begin within six months of permit issuance and be completed within twelve months of permit issuance unless otherwise first authorized by the Planning & Zoning Official.

1806.2 Presumptive load-bearing values. The load-bearing values used in design for supporting soils near the surface shall not exceed the values specified in Table 1806.2 unless data to substantiate the use of higher values are submitted and approved. Where the Building Official has reason to doubt the classification, strength, or compressibility of the soil, the requirements of Section 1803.5.2 shall be satisfied.

Presumptive load-bearing values shall apply to materials with similar physical characteristics and dispositions. Where a presumed soil-bearing capacity is in excess of 3,000 psf, data to substantiate the use of the presumed higher value must be submitted from a soils engineer for

approval from the Building Official. Mud, organic silt, organic clays, peat, or unprepared fill shall not be assumed to have a presumptive load-bearing capacity unless data to substantiate the use of such a value are submitted.

Exception: A presumptive load-bearing capacity shall be permitted to be used where the Building Official deems the load-bearing capacity of mud, organic silt, or unprepared fill is adequate for the support of lightweight or temporary structures.

1809.5 Frost protection. Except where otherwise protected from frost, foundation walls, piers, and other permanent supports of buildings and structures shall be protected from frost by one or more of the following methods:

1. Extending below the frost line of the locality;

2. Constructing in accordance with ASCE 32; or

3. Erecting on solid rock.

Exception: Freestanding buildings meeting all of the following conditions shall not be required to be protected:

1. Assigned to Risk Category I, in accordance with Section 1604.5.

2. Area of 1,000 square feet (138 m^2) or less, with a maximum truss span of twenty-four feet (24'), for light-frame construction or 400 square feet (37 m^2) or less for other than light-frame construction.

3. Eave height of 10 feet (3048 mm) or less.

Shallow foundations shall not bear on frozen soil unless such frozen condition is of a permanent character.

2701.1 Scope. This chapter governs the electrical components, equipment, and systems used in buildings and structures covered by this code. Electrical components, equipment, and systems shall be designed and constructed in accordance with the provisions of the current electrical code adopted by the State of South Dakota.

2901.1 Scope. This chapter governs the plumbing components, equipment, and systems used in buildings and structures covered by this code. Plumbing components, equipment, and systems shall be designed and constructed in accordance with the provisions of the current plumbing code adopted by the State of South Dakota. Private sewage disposal systems shall comply with ARSD 74:53:01.

3002.7 Common enclosure with stairway. Elevators shall not be in a common shaft enclosure with a stairway unless allowed as per Section 1022.

Exception: Elevators within open parking garages need not be separated from stairway enclosures.

3109.1 General. Swimming pools shall comply with the requirements of Sections 3109.2 through 3109.5 and other applicable sections of this code. These requirements shall be applicable to all new swimming pools hereafter constructed and shall apply to all existing pools that have a depth of 18 inches or more of water. No person in possession of land within the City, either as an owner, purchaser, lessee, tenant, or a licensee, upon which is situated a swimming pool having a depth of 18 inches or more, shall fail to provide and maintain such a fence or wall as herein provided.

3109.4.1 Barrier height and clearances. The top of the barrier shall be not less than 42 inches (1,066 mm) above grade measured on the side of the barrier that faces away from the swimming pool. The vertical clearance between grade and the bottom of the barrier shall be not greater than 2 inches (51 mm) measured on the side of the barrier that faces away from the swimming pool. Where the top of the pool structure is above grade, the barrier is authorized to be at ground level or mounted on top of the pool structure, and the vertical clearance between the top of the pool structure and the bottom of the barrier shall be not greater than 4 inches (102 mm).

3109.4.1.3 Closely spaced horizontal members. Not adopted by the city.

3109.4.1.4 Widely spaced horizontal members. Not adopted by the city.

3109.4.1.5 Chain-link dimensions. Not adopted by the city.

3109.4.1.6 Diagonal members. Not adopted by the city.

3109.4.1.7 Gates. Access doors or gates shall comply with the requirements of Sections 3109.4.1.1 through 3109.4.1.6 and shall be equipped to accommodate a locking device. Pedestrian access doors or gates shall be self-closing and have a self-latching device. Doors or gates other than pedestrian access doors or gates shall have a self-latching device.

3109.4.1.8 Dwelling wall as a barrier. Not adopted by the city.

3109.4.4 Modifications. Modification in individual cases, upon a showing of good cause with respect to height, nature, or location of a fence, wall, gates, or latches, or the necessity thereof, may be made by the Building Official, provided the protection as sought hereunder is not reduced thereby. The Building Official may grant permission for other protective devices or structures to be used as long as the degree of protection afforded by this substitute device or structure is not less than the protection afforded by the wall, fence, gate, or latch described herein. A reasonable period within which to comply with the requirements of this section for existing swimming pools shall be allowed, which period shall not exceed 90 days after notification by the Building Official.

3303.1 Construction documents. No person shall demolish or wreck a building or structure without first obtaining a demolition permit. Construction documents and a schedule for demolition shall be submitted where required by the Building Official. Where such information is required, no work shall be done until such construction documents or schedule, or both, are approved. The applicant shall secure insurance covering any possible liability that could incur during demolition.

3303.6 Utility connections. Service utility connections shall be discontinued and capped in accordance with the approved rules and the requirements of the applicable governing authority.

Before a demolition permit can be issued, the applicant must furnish evidence to the Building Official that applicable permits have been secured to ensure that all utilities will be properly disconnected and inspected. The applicant shall be responsible for notifying affected utilities of such anticipated demolition.

I105.2 Footings. A patio cover shall be permitted to be supported on a concrete slab on grade without footings, provided the slab conforms to the provisions of Chapter 19 of this code, is not less than three and one-half inches (3½") thick, and further provided that the columns do not support loads in excess of seven hundred and fifty (750) pounds per column.

CHAPTER 9.03 - EXISTING BUILDING CODE

9.0301 Adopted. The City Council hereby adopts Chapters 1 through 16 the International Existing Building Code, 2018 Edition, including Resource A (Guidelines on Fire Ratings of Archaic Materials and Assemblies), as published by the International Code Council, Inc., and amendments and additions thereto as provided in this Section, as the Existing Building Code of the City as an alternative for regulating and governing the repair, alteration, change of occupancy, addition, and relocation of existing buildings, including historic buildings, as herein provided and provides for the issuance of permits and the collection of fees therefore. The alternate minimum building standards of the 2018 International Existing Building Code and amendments thereto shall be applied to any building permit issued on or after June 30, 2018. A copy of this Code shall be kept on file in the office of the Building Official.

9.0302 Local amendments, additions, and deletions to the 2018 Existing Building Code. The following sections and subsections of the existing building code adopted in this Ordinance shall be amended, added, or deleted as follows. All other sections or subsections of the 2018 International Existing Building Code shall remain as originally published.

101.1 Title. These regulations shall be known as the Existing Building Code of the City of Elk Point, South Dakota, hereinafter referred to as "this code."

103.1 Enforcement agency. Building Services is hereby created, and the official in charge thereof shall be known as the Building Official.

103.2 Appointment. Not adopted by the City.

104.8 Liability. The Building Official, member of the Board of Appeals, or employee charged with the enforcement of this code, while acting for the jurisdiction in good faith and without malice in the discharge of the duties required by this code or other pertinent law or ordinance, shall not thereby be rendered liable personally and is hereby relieved from personal liability for any damage accruing to persons or property as a result of any act or by reason of an act or omission in the discharge of official duties. Any suit instituted against an officer or employee because of an act performed by that officer or employee in the lawful discharge of duties and under the provisions of this code shall be afforded all the protection provided by the City's insurance pool and immunities and defenses provided by other applicable state and federal laws. The Building Official or any subordinate shall not be liable

for cost in any action, suit, or proceeding that is instituted in pursuance of the provisions of this code.

This code shall not be construed to relieve from or lessen the responsibility of any person owning, operating, or controlling any building or structure for any damages to persons or property caused by defects, nor shall the Building Official or the City be held as assuming any such liability by reason of the inspection authorized by this code or any permits or certificates issued under this code.

105.1 Required. Any owner or authorized agent who intends to repair, add to, alter, relocate, demolish, or change the occupancy of a building or to repair, install, add, alter, remove, convert, or replace any electrical, gas, mechanical, or plumbing system, the installation of which is regulated by this code, or to cause any such work to be done, shall first make application to the Building Official and obtain the required permit. The Building Official may exempt permits for minor work.

107.1 General. The Building Official is authorized to issue a permit for temporary uses. Such permits shall be limited as to time of service but shall not be permitted for more than 365 days. Extensions beyond 365 days are not allowed. Structures used as a temporary business office shall be provided with an accessible route that meets accessibility requirements of this code.

109.3.1 Footing or foundation inspection. Footing and foundation inspections shall be made after excavations for footings are complete and any required reinforcing steel is in place. If an inspection is required for concrete foundations, any required forms shall be in place prior to inspection. Materials for the foundation shall be on the job, except where concrete is ready mixed in accordance with ASTM C 94, the concrete need not be on the job.

110.1 Altered area use and occupancy classification change. No building undergoing a change in occupancy shall be used or occupied, and no change in the existing occupancy classification of a building or portion thereof shall be made until the Building Official has issued a certificate of occupancy therefor as provided herein. Issuance of a certificate of occupancy shall not be construed as an approval of a violation of the provisions of this code or of other ordinances of the City.

110.2 Certificate issued. After the Building Official or his designee inspects the building and finds no violations of the provisions of this code or other laws that are enforced by Building Services, the Building Official shall issue a certificate of occupancy that shall contain the following:

1. The building permit number.

2. The address of the structure.

3. The name and address of the owner or the owner’s authorized agent.

4. A statement that the described portion of the structure has been inspected for compliance with the requirements of this code for the occupancy and division of occupancy and the use for which the proposed occupancy is classified.

5. The name of the Building Official.

6. The edition of the code under which the permit was issued.

7. The use and occupancy in accordance with the provisions of the International Building Code.

8. The type of construction as defined in the International Building Code.

9. The design occupant load in assembly occupancies only.

10. If fire protection systems are provided, whether the fire protection systems are required.

11. Any special stipulations and conditions of the building permit.

112.1 Designation of Board of Appeals. In order to hear and decide appeals of orders, decisions, or determinations made by the Building Official relative to the application and interpretation of this code, the City Council hereby assumes the responsibilities of the Board of Appeals for this code. All decisions and findings of the Board shall be final and shall be rendered in writing to the appellant with a duplicate copy to the Building Official.

112.2 Limitations on authority. An application for appeal shall be based on a claim that the true intent of this code or the rules legally adopted hereunder have been incorrectly interpreted, the provisions of this code do not fully apply, or an equally good or better form of construction is proposed. If the appeal is based on a claim that an equally good or better form of construction was improperly denied, the appellant must submit the alternate material, design, or method of construction they are proposing. The appellant also has the burden to demonstrate to the Board that the alternative method or material that they are proposing is an equally good or better form of construction. The Board shall have no authority relative to the administrative provisions of this code nor shall the Board have authority to waive the requirements of the International Existing Building Code as adopted by the City.

112.3 Submission of appeals. All appeals must be submitted in writing to the Building Official within ten days of the order, decision, or determination of the Building Official that is being appealed. Once the appeal is received by the Building Official, he shall place the appeal on the City Council's next regular meeting agenda that is more than seven days (inclusive) from the date of receipt of the appeal.

112.3.1 Appeal hearings. All hearings before the Board shall be open to the public. The appellant, the appellant's representative, the Building Official, any member of the City's staff, or any person whose interests are affected shall be given an opportunity to be heard.

302.3 Additional codes. Alterations, repairs, additions and changes of occupancy to, or relocation of, existing buildings and structures shall comply with the provisions for alterations, repairs, additions and changes of occupancy or relocation, respectively, in this code and the International Fuel Gas Code, International Mechanical Code, International Property Maintenance Code, International Residential Code and electrical and plumbing codes of the State of South Dakota. Where provisions of the other codes conflict with provisions of this code, the provisions of this code shall take precedence.

406.1 Material. Existing electrical wiring and equipment undergoing repair shall be allowed to be repaired or replaced with like material. Minor additions, alterations, and repairs to existing electrical systems or equipment may be installed in accordance with the law in effect at the time the original installation was made, when approved by the electrical inspector.

406.1.4 Group B and I-2 receptacles. Non-"hospital grade" receptacles in patient care locations of Group B, medical offices and ambulatory health care facilities, and Group I-2 shall be replaced with "hospital grade" receptacles, as required by NFPA 99 and Article 517 of NFPA 70.

406.1.6 New electrical service entrances in existing single-family and multiple-family dwellings. When adding a new service entrance with increased amperage, the existing electrical system shall, at a minimum, comply with the following:

1. *Kitchens.* Each kitchen shall have a minimum of one 20-ampere circuit serving a countertop receptacle and a grounded receptacle serving a refrigerator.

2. *Overcurrent device location.* Each occupant shall have access to his branch circuit overcurrent devices without going outdoors or through another occupancy.

3. *Habitable areas.* All habitable areas, other than closets, kitchens, basements, garages, hallways, laundry areas, utility areas, storage areas, and bathrooms, shall have a minimum of two duplex receptacle outlets, or one duplex receptacle outlet and one ceiling or wall-type lighting outlet.

4. *Minimum lighting outlets.* At least one lighting fixture shall be provided in every habitable room, bathroom, hallway, stairway, attached garage, and detached garage with electrical power, in utility rooms and basements where such spaces are used for storage or contain equipment requiring service, and to illuminate outdoor entrances and exits.

5. *Ground fault circuit interrupters.* Ground fault circuit interrupter protection shall be provided for all receptacles in bathrooms, above kitchen counters, attached and detached garages provided with power, at readily accessible receptacles within 6 feet of sinks, unfinished basements, and at outdoor locations.

6. *Laundries.* Each laundry shall be provided with at least one separate 20-ampere circuit.

7. *Heat sources.* Any heat source shall be provided with a separate circuit.

8. *Exposed wiring methods.* All exposed wiring methods shall be installed in accordance with the electrical code of the State of South Dakota.

408.1 Materials. Plumbing materials and supplies shall not be used for repairs that are prohibited in the plumbing code of the State of South Dakota.

702.6 Materials and methods. All new work shall comply with the materials and methods requirements in the International Building Code, International Residential Code, International

Mechanical Code, International Fuel Gas Code, and the electrical and plumbing codes of the State of South Dakota, as applicable, that specify material standards, detail of installation and connection, joints, penetrations, and continuity of any element, component, or system in the building.

702.6.2 International Mechanical Code. The following sections of the International Mechanical Code shall constitute the mechanical materials and methods requirements for Level 1 alterations.

1. All of Chapter 3, entitled "General Regulations," except Sections 303.7 and 306.

2. All of Chapter 8, entitled "Chimneys and Vents."

3. All of Chapter 9, entitled "Specific Appliances."

702.6.3 International Residential Code. The following sections of Part V—Mechanical of the International Residential Code shall constitute the residential mechanical and fuel gas materials and methods requirements for Level 1 alterations.

1. All of Chapter 13, entitled "General Mechanical System Requirements," except Section M1305.

2. All of Chapter 18, entitled "Chimneys and Vents."

3. All of Sections G2431 through G2453 governing the appliances and equipment specifically identified therein.

805.3.1.2.1 Fire escape access and details. Fire escapes shall comply with all of the following requirements:

1. Occupants shall have unobstructed access to the fire escape without having to pass through a room subject to locking.

2. Access to a new fire escape shall be through a door, except that windows shall be permitted to provide access from single dwelling units or sleeping units in Group R-1, R-2 and I-1 occupancies or to provide access from spaces having a maximum occupant load of 10 in other occupancy classifications.

   2.1. The window shall have a minimum net clear opening of 5 square feet where located at grade.

   2.2. The minimum net clear opening height shall be 24 inches and net clear opening width shall be 20 inches.

   2.3. The bottom of the clear opening shall not be greater than 48 inches above the floor.

   2.4. The operation of the window shall comply with the operational constraints of the International Building Code.

3. Newly constructed fire escapes shall be permitted only where exterior stairs cannot be utilized because of lot lines limiting the stair size or because of the sidewalks, alleys, or roads at grade level.

4. Openings within 10 feet of fire escape stairs shall be protected by fire assemblies having minimum 3/4-hour fire-resistance ratings.

   Exception: Opening protection shall not be required in buildings equipped throughout with an approved automatic sprinkler system.

5. In all buildings of Group E occupancy, up to and including the 12th grade, buildings of Group I occupancy, rooming houses and childcare centers, ladders of any type are prohibited on fire escapes used as a required means of egress.

807.1 New Installations. All newly installed electrical equipment and wiring relating to work done in any work area shall comply with the materials and methods requirements of Chapter 7.

Exception: Electrical equipment and wiring in newly installed partitions and ceilings shall comply with all applicable requirements of the electrical code of the State of South Dakota.

809.1 Minimum fixtures. Where the occupant load of the story is increased by more than 20 percent, plumbing fixtures for the story shall be provided in quantities specified in Chapter 29 Plumbing Systems of the International Building Code based on the increased occupant load.

1009.1 Increased demand. Where the occupancy of an existing building or part of an existing building is changed such that the new occupancy is subject to increased or different plumbing fixture requirements or to increased water supply requirements in accordance with the plumbing code of the State of South Dakota, the new occupancy shall comply with the intent of the respective plumbing code provisions.

1009.2 Food-handling occupancies. If the new occupancy is a food-handling establishment, all existing sanitary waste lines above the food or drink preparation or storage areas shall be panned or otherwise protected to prevent leaking pipes or condensation on pipes from contaminating food or drink. New drainage lines shall not be installed above such areas and shall be protected in accordance with the plumbing code of the State of South Dakota.

1009.3 Interceptor required. If the new occupancy will produce grease or oil-laden wastes, interceptors shall be provided as required in the plumbing code of the State of South Dakota.

1009.5 Group I-2. If the occupancy group is changed to Group I-2, the plumbing system shall comply with the applicable requirements of the plumbing code of the State of South Dakota.

Table 1011.4 Means of Egress Hazard Categories	
Relative Hazard	**Occupancy Classification**

1 (Highest Hazard)	H, I
2	R-1, R-2, R-4
3	A, E, M
4	B, F-1, S-1, R-3
5 (Lowest Hazard)	F-2, S-2, U

Table 1011.5 Heights and Areas Hazard Categories

Relative Hazard	**Occupancy Classification**
1 (Highest Hazard)	H, I
2	R-1, R-2, R-4
3	A-1, A-2, A-3, A-4
4	E, F-1, S-1, M
5 (Lowest Hazard)	B, F-2, S-2, A-5, R-3, U

1011.4.1 Means of egress for change to higher hazard category. When a change of occupancy classification is made to a higher hazard category (lower number) as shown in Table 1011.4, the means of egress shall comply with the requirements of Chapter 10 of the International Building Code.

Exceptions:

1. Stairways shall be enclosed in compliance with the applicable provisions of Section 903.1.

2. Existing stairways including handrails and guards complying with the requirements of Chapter 9 shall be permitted for continued use subject to approval of the Building Official.

3. Any stairway replacing an existing stairway within a space where the pitch or slope cannot be reduced because of existing construction shall not be required to comply with the maximum riser height and minimum tread depth requirements.

4. Existing corridor walls constructed on both sides of wood lath and plaster in good condition or 1/2-inch-thick gypsum wallboard shall be permitted. Such walls shall either terminate at the underside of a ceiling of equivalent construction or extend to the underside of the floor or roof next above.

5. Existing corridor doorways, transoms and other corridor openings shall comply with the requirements in Sections 805.5.1, 805.5.2 and 805.5.3.

6. Existing dead-end corridors shall comply with the requirements in Section 805.6.

7. An existing operable window with clear opening area no less than 4 square feet and minimum opening height and width of 22 inches and 20 inches, respectively, provided the operable window has a sill height of not more than 48 inches above the floor, shall be accepted as an emergency escape and rescue opening.

1011.6.2 Exterior wall rating for change of occupancy classification to an equal or lesser hazard category. When a change of occupancy classification is made to an equal or lesser hazard category as shown in Table 1011.6, existing exterior walls, including openings, shall be accepted.

Exception. Where a property line is platted creating a Group R-3, multifamily dwelling (town house), the walls separating the dwelling units shall be constructed to provide a continuous fire separation using construction materials consistent with the existing wall or complying with the requirements for a new structure. The fire-resistive elements are not required to be continuous between concealed floor spaces, although there shall be provided a draft stop, located above and in line with the dwelling unit separation walls.

1301.2 Applicability. Structures existing prior to March 11, 1968, in which there is work involving additions, alterations or changes of occupancy shall be made to conform to the requirements of this chapter or the provisions of Chapters 6 through 10. The provisions of Sections 1301.2.1 through 1301.2.5 shall apply to existing occupancies that will continue to be, or are proposed to be, in Groups A, B, E, F, M, R and S. These provisions shall not apply to buildings with occupancies in Group H or I.

CHAPTER 9.04 RESIDENTIAL CODE

9.0401 Adopted. The City Council hereby adopts Chapters 1 through 24 and 44 plus Appendices E, H, M, Q, and S of the International Residential Code, 2018 Edition as published by the International Code Council, Inc. as the residential building code of the City for regulating the design, construction, quality of materials, erection, installation, alteration, movement, repair, equipment, use and occupancy, location, removal, and demolition of detached one- and two-family dwellings and town houses not more than three stories in height with a separate means of egress and their accessory structures, and provides for the issuance of permits and the collection of fees therefore. The minimum building standards in the 2018 edition of the International Residential Code and amendments thereto shall be applied to any building permit issued after June 30, 2018. A copy of this code shall be kept on file in the office of the Building Official.

9.0402 Local amendments, additions, and deletions to the 2018 International Residential Code. The following sections and subsections of the residential building code adopted in this Ordinance shall be amended, added, or deleted as follows. All other sections or subsections of the 2018 International Residential Code shall remain as originally published.

R101.1 Title. These provisions shall be known as the Residential Code for One- and Two-family Dwellings of the City of Elk Point, and shall be cited as such and will be referred to herein as "this code".

R101.2 Scope. The provisions of the International Residential Code for One- and Two-family Dwellings shall apply to the construction, alteration, movement, enlargement, replacement, repair, equipment, use and occupancy, location, removal and demolition of detached one- and two-family dwellings and townhouses not more than three stories above grade plane in height with a separate means of egress and their accessory structures.

Exceptions:

1. Live/work units complying with the requirements of Section 419 of the International Building Code shall be permitted to be built as one- and two-family dwellings or townhouses. Fire suppression required by Section 419.5 of the International Building Code when constructed under the International Residential Code for One- and Two-family Dwellings shall conform to Section P2904.
2. Owner-occupied lodging houses with five or fewer guestrooms shall be permitted to be constructed in accordance with the International Residential Code for One- and Two-family Dwellings when equipped with a fire sprinkler system in accordance with Section P2904.
3. Existing buildings undergoing repair, alteration, or additions, and change of occupancy may be permitted to comply with the International Existing Building Code.

R102.7 Existing Structures. The legal occupancy of any structure existing on the date of adoption of this code shall be permitted to continue without change, except as is specifically covered in this code, the International Property Maintenance Code, or as is deemed necessary by the Building Official for the general safety and welfare of the occupants and the public.

R103.1 Enforcement agency. Building services is hereby created and the official in charge thereof shall be known as the Building Official.

R103.2 Appointment. Not adopted by the City.

R104.8 Liability. The Building Official, member of the board of appeals, or employee charged with the enforcement of this code, while acting for the City in good faith and without malice in the discharge of the duties required by this code or other pertinent law or ordinance, shall not thereby be rendered civilly or criminally liable personally and is hereby relieved from personal liability for any damage accruing to persons or property as a result of any act or by reason of an act or omission in the discharge of official duties.

R104.8.1 Legal defense. Any suit or criminal complaint instituted against an officer or employee because of an act performed by that officer or employee in the lawful discharge of duties and under the provisions of this code shall be afforded all the protection provided by the City's insurance pool and any immunities and defenses provided by other applicable state and federal law and defended by legal representative of the City until the final termination of the proceedings. The Building Official or any subordinate shall not be liable for cost in any action, suit or proceeding that is instituted in pursuance of the provisions of this code.

This code shall not be construed to relieve from or lessen the responsibility of any person owning, operating, or controlling any building or structure for any damages to persons or property caused by defects, nor shall the code enforcement agency or the City be held as assuming any such liability by reason of the inspection authorized by this code or any permits or certificates issued under this code.

R105.2 Work exempt from permit. Exemption from the permit requirements of this code shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of this code or any other laws or ordinances of this City. Building permits shall not be required for the following:

1. Retaining walls that are not over four feet in height measured from the bottom of the footing to the top of the wall, unless supporting a surcharge.
2. Water tanks supported directly upon grade if the capacity does not exceed five thousand gallons and the ratio of height to diameter or width does not exceed two to one.
3. Walks and driveways not more than thirty inches above grade and not over any basement or story below.
4. Painting, papering, tiling, carpeting, cabinets, counter tops, and similar finish work.
5. Replacement of exterior siding or trim.
6. Replacement of doors or windows when the door or window opening remains unchanged.
7. Prefabricated swimming pools which are less than twenty-four inches deep that are installed entirely above ground.
8. Swings and other playground equipment.
9. Window awnings supported by an exterior wall which do not project more than fifty-four inches from the exterior wall and do not require additional support.
10. Dumpsters.
11. Gutters, downspouts, and storm windows.

Gas:

1. Portable heating, cooking or clothes drying appliances.

2. Replacement of any minor part that does not alter approval of equipment or make such equipment unsafe.

3. Portable-fuel-cell appliances that are not connected to a fixed piping system and are not interconnected to a power grid.

Mechanical:

1. Portable heating appliances.

2. Portable ventilation appliances.

3. Portable cooling units.

4. Steam, hot- or chilled-water piping within any heating or cooling equipment regulated by this code.

5. Replacement of any minor part that does not alter approval of equipment or make such equipment unsafe.

6. Portable evaporative coolers.

7. Self-contained refrigeration systems containing 10 pounds or less of refrigerant or that are actuated by motors of 1 horsepower (746 W) or less.

8. Portable-fuel-cell appliances that are not connected to a fixed piping system and are not interconnected to a power grid.

R106.1.5 Information for construction in areas other than flood hazard areas. For one- and two-family dwellings and town houses located in whole or in part outside of flood hazard areas as established by Table R301.2(1) and located on lots that have been platted after January 1, 2016, a site plan shall include:

1. A scaled and dimensioned plan view of the home's foundation on the lot.

2. A lot plan showing how the lot is to be drained of stormwater.

3. The elevation of the highest inundation level expected on the lot as shown on the subdivision's stormwater management plan.

4. The elevation of the proposed lowest floor other than (and above) the basement floor.

5. The elevation of the bottom of the lowest window, door, or vent opening in the home's foundation.

R106.1.6 Foundation reinforcement. Construction for detached one- and two-family dwellings and town houses shall be provided with the intended reinforcement of foundation walls referenced in Tables R404.1.1(2), R404.1.1(3), and R404.1.1(4) for reinforced masonry foundation walls; Tables R404.1.2(2), R404.1.2(3), R404.1.2(4), and R404.1.1(8) for flat concrete foundation walls; Tables 404.1.2(5) and R404.1.2(6) for waffle-grid basement walls; and Table R404.1.2(7) for screed-grid basement walls where the foundation wall exceeds the provisions for plain masonry and concrete foundation walls.

R106.3.1 Approval of construction documents. When the Building Official issues a permit, the construction documents shall be submitted and reviewed. One set of construction documents so reviewed shall be retained by the Building Official. The other set shall be returned to the Applicant, shall be kept at the site of work, and shall be open to inspection by the Building Official or his designee.

R108.2 Schedule of permit fees. On buildings, structures, gas, mechanical, or alterations requiring a permit, a fee for each permit shall be paid as required, in accordance with the fee schedule adopted by resolution by the City Council.

R108.6 Work commencing before permit issuance. Any person who commences work requiring a permit on a building, structure, gas, or mechanical system before obtaining the

necessary permit(s) shall be subject to a Late Application Fee established by resolution by the City Council that shall be in addition to the required permit fees. Legal and/or civil proceedings may also be commenced by the City.

R108.7 Plan review fees. When submittal documents for plan review are required, a plan review fee shall be paid with the building permit application. Said plan review fee shall be twenty-five percent of the building permit fee. Said plan review fees are separate fees from the permit fees specified in Section R108.1 and are in addition to the permit fees.

R109.0 General. All construction or work for which a permit is required shall be subject to inspection by the Building Official or his designee and all such construction or work shall remain accessible and exposed for inspection purposes until approved by the Building Official. In addition, certain types of construction shall have continuous inspection as specified in Section 1701 of the 2015 Edition of the International Building Code.

R109.0.1 Approval not an approval of a violation. Approval as a result of an inspection shall not be construed to be an approval of a violation of the provisions of the Elk Point Municipal Code. Inspections do not give authority to violate or fail to follow other provisions of the Elk Point Municipal Code.

R109.0.2 Work to remain accessible. It shall be the duty of the permit applicant to cause the work to remain accessible and exposed for inspection purposes. Neither the Building Official nor the jurisdiction shall be liable for expenses entailed in the removal or replacement of any material required to allow inspection.

R109.0.3 Survey may be required. A survey of the lot may be required by the Building Official to verify that the structure is located in accordance with the approved plans.

R109.0.4 Buildings built without inspections. Buildings or structures built without one or more required inspections, as specified by Section R109 of this Code and Chapter 17 of the International Building Code, may be classed as an unsafe building or structure and action taken as specified by Section 115 for unsafe buildings or structures of the currently adopted edition of the International Building Code. Buildings or structures wired or plumbed without required inspections, as specified by the currently adopted Electrical Code, as amended, or the currently adopted Plumbing Code, as amended, may be classed as an unsafe building or structure and action taken as specified by Section 115 for unsafe buildings or structures of the currently adopted edition of the International Building Code.

R109.1.1 Footing inspection. Inspection of the footings shall be made after poles or piers are set or trenches or basement areas are excavated and any required forms erected and any required reinforcing steel is in place and supported prior to the placing of concrete. The footing inspection shall include excavations for thickened slabs intended for the support of bearing walls, partitions, structural supports, or equipment and special requirements for wood foundations.

R109.1.3 Floodplain inspections. For construction in flood hazard areas as established by the Flood Damage Prevention Ordinance, upon placement of the lowest floor, including basement, and prior to further vertical construction, the floodplain administrator shall require submission of documentation, prepared and sealed by a

registered design professional, of the elevation of the lowest floor, including basement, required in the Flood Damage Prevention Ordinance.

R109.1.6.1 Elevation documentation. If located in a flood hazard area, the documentation of elevations required in Section R322.1.10 shall be submitted to the floodplain administrator prior to the final inspection.

R110.1 Use and occupancy. No building or structure shall be used or occupied, and no change in the existing occupancy classification of a building or structure or portion thereof shall be made until the Building Official has issued a certificate of occupancy therefor as provided herein and final inspections have been obtained from the mechanical and building inspectors of the City. Issuance of a certificate of occupancy shall not be construed as an approval of a violation of the provisions of this code or of other ordinances of the City. Certificates presuming to give authority to violate or cancel the provisions of this code or other ordinances of the City shall not be valid.

Exceptions:

1. Certificates of occupancy are not required for work exempt from permits under Section R105.2.

2. Accessory buildings or structures.

R110.6 Placards. Placards or inspection record tags placed on the job by the inspectors to indicate approval of the work inspected shall not be removed, except when authorized by the Building Official.

R112.1 Designation of Board of Appeals. In order to hear and decide appeals of orders, decisions, or determinations made by the Building Official relative to the application and interpretation of this code, the City Council hereby assumes the responsibilities of the Board of Appeals for this code. All decisions and findings of the Board shall be final and shall be rendered in writing to the appellant with a duplicate copy to the Building Official.

R112.2 Limitations on authority. An application for appeal shall be based on a claim that the true intent of this code or the rules legally adopted hereunder have been incorrectly interpreted, the provisions of this code do not fully apply, or an equally good or better form of construction is proposed. If the appeal is based on a claim that an equally good or better form of construction was improperly denied, the appellant must submit the alternate material, design, or method of construction they are proposing. The appellant also has the burden to demonstrate to the Board that the alternative method or material that they are proposing is an equally good or better form of construction. The Board shall have no authority relative to the interpretation of the administrative provisions of this code nor shall the Board be empowered to waive the requirements of this code.

R112.3 Submission of appeals. All appeals must be submitted in writing to the Building Official within ten days of the order, decision, or determination of the Building Official that is being appealed. Once the appeal is received by the Building Official, he shall place the appeal on the City Council's next regular meeting agenda that is more than seven days (inclusive) from the date of receipt of the appeal.

R112.3.1 Appeal hearings. All hearings before the Board shall be open to the public. The appellant, the appellant's representative, the Building Official, any member of the City's staff, or any person whose interests are affected shall be given an opportunity to be heard.

SECTION R202 DEFINITIONS The definitions of accessory structure and townhouse are changed as follows:

ACCESSORY STRUCTURE. A structure not over one story in height, detached from a principal building, located on the same lot as the principal building, and customarily incidental and subordinate to the principal building, such as a detached garage or storage shed. An accessory building does not include any dwelling unit(s) or living quarters.

TOWNHOUSE. A single-family dwelling unit constructed in a group of two or more attached units, with each unit located on a separate lot, in which each unit extends from foundation to roof and with a yard or public way on at least two sides, no unit is located over another unit, and each unit is separated from any other unit by one or more vertical, unpierced, common, fire-resistant walls. Also known as single-family attached dwellings or zero lot line homes.

Table R301.2(1) Climatic and Geographic Design Criteria, is hereby amended by inserting the following information into the table:

Ground Snow Load: 40 psf and as per ASCE 705;
Wind speed: 90 mph;
Topographic Effects: no;
Special Wind Region: no;
Wind-borne Debris Zone: no;
Seismic Design Category: A;
Weathering: Severe;
Frost line depth: 42”;
Termite: Slight to moderate;
Winter Design Temp: -11°F;
Ice Barrier Underlayment Required: Yes;
Flood Hazards: The City of Elk Point entered the NFIP on 4/2/2008; the FIS and FIRM panels 0154C and 0162C became effective on 4/2/2008;
Air Freezing Index: 3000;
Mean Annual Temp: 46˚F.

R302.2 Townhouses. Each townhouse shall be considered a separate building and shall be separated by fire-resistance-rated wall assemblies meeting the requirements of Section R302.1 for exterior walls.

Exception: A common 1-hour fire-resistance-rated wall assembly tested in accordance with ASTM E 119 or UL 263 is permitted for town houses provided with an automatic fire-extinguishing system designed and installed in accordance with NFPA 13-D, or equivalent, if such walls do not contain plumbing or mechanical equipment, ducts or vents in the cavity of the common wall. The wall shall be rated for fire exposure from both sides and shall extend to and be tight against exterior walls and the underside of the roof sheathing. Electrical installations shall be installed in accordance with the electrical code. Penetrations of electrical outlet boxes shall be in accordance with Section R302.4.

R302.2.1 Continuity. The fire-resistance-rated wall or assembly separating townhouses shall be continuous from the foundation to the underside of the roof sheathing, deck or slab. The fire-resistance rating shall extend the full length of the wall or assembly, including wall extensions through and separating attached enclosed accessory structures.

Exterior walls that extend beyond an adjacent structure that has a fire separation distance less than 5 feet to a common property line shall have not less than a one-hour fire rating with exposure from both sides with no openings allowed therein.

Projections such as a deck that have a fire separation distance of less than 3 feet to a common property line shall have a 1-hour fire rating with exposure from both sides with no openings allowed therein that extends at least 30 inches above the projection.

R302.5.1 Opening protection. Openings from a private garage directly into a room used for sleeping purposes shall not be permitted. Other openings between the garage and residence shall be equipped with solid wood doors not less than 1 3/8 inches in thickness, solid or honeycomb core steel doors not less than 1 3/8 inches thick or 20-minute fire-rated doors.

R302.13 Fire Protection of Floors. Not adopted by the City.

R303.4 Mechanical ventilation. The dwelling unit may be provided with whole-house mechanical ventilation in accordance with Section M1507.3.

Exception. Where the air infiltration rate of a dwelling unit is greater than 5 air changes per hour when tested with a blower door at a pressure of 0.2 inch w.c. in accordance with Section N1102.4.1.2, whole-house mechanical ventilation in accordance with Section M1507.3 is not required.

R303.5.1 Intake openings. Mechanical and gravity outdoor air intake openings shall be located a minimum of 10 feet from any hazardous or noxious contaminant, such as vents, chimneys, plumbing vents, streets, alleys, parking lots, and loading docks, except as otherwise specified in this code. Where a source of contaminant is located within 10 feet of an intake opening, such opening shall be located a minimum of 3 feet below the contaminant source. For the purpose of this section, the exhaust from dwelling unit toilet rooms, bathrooms and kitchens shall not be considered as hazardous or noxious.

Exception: For equipment replacements on existing structures, gravity outdoor intake openings for combustion air shall be located a minimum of 3 feet from any hazardous or noxious contaminant.

R309.3 Flood Hazard Areas. For buildings located in flood hazard areas as established by Table R301.2(1), garage floors shall be elevated to or above the design flood elevation as determined in Section R322.

R309.5 Fire sprinklers. Not adopted by the City.

R310.2.1 Minimum opening area. All emergency escape and rescue openings shall have a minimum net clear opening of 5.0 square feet. The net clear opening dimensions required by this section shall be obtained by the normal operation of the emergency

escape and rescue opening from the inside. The net clear height opening shall be not less than 24 inches and the net clear width shall be not less than 20 inches.

R310.2.2 Window sill height. Where a window is provided as the emergency escape and rescue opening, it shall have a sill height of not more than 48 inches above the floor; where the sill height is below grade, it shall be provided with a window well in accordance with Section R310.2.3.

R310.2.3.1 Ladder and steps. Window wells with a vertical depth greater than forty-eight inches shall be equipped with a permanently affixed ladder or steps usable with the window in the fully open position. Ladders or steps required by this section shall not be required to comply with Sections R311.7 and R311.8. Ladders or rungs shall have an inside width of at least twelve inches, shall project at least three inches from the wall, and shall be spaced not more than eighteen inches on center vertically for the full height of the window well.

R311.3.1 Floor elevations at the required egress doors. Landings or floors at the required egress door shall not be more than 1½ inches lower than the top of the threshold.

> **Exception:** The exterior landing or floor shall not be more than 8 inches below the top of the threshold provided the door does not swing over the landing or floor.

When exterior landings or floors serving the required egress door are not at grade, they shall be provided with access to grade by means of a ramp in accordance with Section R311.8 or a stairway in accordance with Section R311.7.

R311.3.2 Floor elevations for other exterior doors. Doors other than the required egress door shall be provided with landings or floors not more than 8 inches below the top of the threshold.

> **Exception:** A landing is not required where a stairway of two or fewer risers is located on the exterior side of the door, provided the door does not swing over the stairway.

R311.7.5.1 Risers. The maximum riser height shall be eight inches. The minimum riser height shall be four inches. The riser shall be measured vertically between leading edges of the adjacent treads. The greatest riser height within any flight of stairs shall not exceed the smallest by more than three-eighths inch. Risers shall be vertical or sloped from the underside of the nosing of the tread above at an angle not more than 30º from the vertical. Open risers are permitted.

R311.7.8.3 Grip-size. All required handrails shall be of one of the following types or provide equivalent graspability.

> Type I. Handrails with a circular cross section shall have an outside diameter of at least 1 1/4 inches and not greater than 2 inches. If the handrail is not circular, it shall have a perimeter dimension of at least 4 inches and not greater than 6 1/4 inches with a maximum cross section of dimension of 2 1/4 inches. Edges shall have a minimum radius of 0.01 inch.

Type II. Handrails with a perimeter greater than 6 1/4 inches shall have a graspable finger recess area on both sides of the profile. The finger recess shall begin within a distance of 3/4 inch measured vertically from the tallest portion of the profile and achieve a depth of at least 5/16 inch within 7/8 inch below the widest portion of the profile. This required depth shall continue for at least 3/8 inch to a level that is not less than 1 3/4 inches below the tallest portion of the profile. The minimum width of the handrail above the recess shall be 1 1/4 inches to a maximum of 2 3/4 inches. Edges shall have a minimum radius of 0.01 inch.

Exception: Exterior stairs are allowed to have a horizontal 2X member to form a 1 1/2-inch graspable dimension in lieu of the above-referenced perimeter dimensions.

R311.7.10.3 Circular stairways. Curved stairways with winder treads shall have treads and risers in accordance with Section 1009.3 of the 2006 International Building Code and the smallest radius shall not be less than twice the required width of the stairway.

Exception: The radius restriction shall not apply to curved stairways for occupancies in Group R-3 and within individual dwelling units in occupancies in Group R-2.

R312.1.1 Where required. Guards shall be located along open-sided walking surfaces of all decks, porches, balconies, including stairs, ramps and landings that are located more than 30 inches measured vertically to the floor or grade below. Insect screening shall not be considered as a guard.

R312.1.3 Opening limitations. Required guards shall not have openings from the walking surface to the required guard height which allow passage of a sphere 5 inches in diameter.

Exception: The triangular openings at the open side of stair, formed by the riser, tread and bottom rail of a guard, shall not allow passage of a sphere 6 inches in diameter.

R312.2.1 Window sills. In dwelling units, where the opening of an operable window is located more than 72 inches above the finished grade or surface below, the lowest part of the clear opening of the window shall be a minimum of 18 inches above the finished floor of the room in which the window is located. Operable sections of windows shall not permit openings that allow passage of a 4-inch-diameter sphere where such openings are located within 18 inches of the finished floor.

Exceptions:

1. Windows whose openings will not allow a 4-inch-diameter sphere to pass through the opening when the opening is in its largest opened position.

2. Openings that are provided with window fall prevention devices that comply with ASTM F 2090.

3. Windows that are provided with window opening control devices that comply with Section R312.2.2.

R313.1 Townhouse automatic fire sprinkler systems. Not adopted by the City.

R313.1.1 Design and installation. Automatic residential fire sprinkler systems for townhouses, when installed, shall be designed and installed in accordance with Section P2904.

R313.2 One- and two-family dwellings automatic fire systems. Not adopted by the City.

R313.2.1 Design and installation. Automatic residential fire sprinkler systems, when installed, shall be designed and installed in accordance with Section P2904 or NFPA 13D.

R314.3 Location. Smoke alarms shall be installed in the following locations:

1. In each sleeping room.

2. Outside each separate sleeping area in the immediate vicinity of the bedrooms.

3. On each additional story of the dwelling, including basements and habitable attics but not including crawl spaces and uninhabitable attics. In dwellings or dwelling units with split levels and without an intervening door between the adjacent levels, a smoke alarm installed on the upper level shall suffice for the adjacent lower level provided that the lower level is less than one full story below the upper level.

4. Where the ceiling height of a room is open to the hallway serving a bedroom exceeds that of the hallway by 24 inches or more, smoke detectors shall be installed in the hallway and in the adjacent room.

   Exception. Hallways less than 4 feet in length are allowed to omit the smoke detector within the hallway adjacent to the bedrooms.

R314.3.0 Alterations, repairs and additions. When alterations, repairs or additions requiring a permit occur with a valuation of more than $1000, or when one or more sleeping rooms are added or created in existing dwellings, the individual dwelling unit shall be equipped with smoke alarms located as required for new dwellings.

Exceptions:

1. Work involving the exterior surfaces of dwellings, such as the replacement of roofing or siding, or the addition or replacement of windows or doors, or the addition of a porch or deck, are exempt from the requirements of this section.

2. Installation, alteration or repairs of plumbing or mechanical systems are exempt from the requirements of this section.

R314.6 Power source. Smoke alarms shall receive their primary power from the building wiring when such wiring is served from a commercial source, and when primary power is interrupted shall receive power from a battery. Wiring shall be permanent and without a disconnecting switch other than those required for overcurrent protection.

Exceptions:

1. Smoke alarms shall be permitted to be battery-operated when installed in buildings without commercial power.

2. Hard wiring of smoke alarms in existing areas shall not be required where the alterations or repairs do not result in the removal of interior wall or ceiling finishes exposing the structure.

R315.2.2 Alterations, repairs and additions. Not adopted by the City.

R319.1 Address identification. New and existing buildings shall be provided with approved address identification. The address identification shall be legible and placed in a position that is visible from the street or road fronting the property. Address identification characters shall contrast with their background. Address identification characters shall be Arabic numbers or alphabetical letters which shall be a minimum of 4 inches high with a minimum stroke width of 1/2 inch. Where access is by means of a private road and the building address cannot be viewed from the public way, a monument, pole or other sign or means shall be used to identify the structure and be located at the edge of said public way. Multi-building campus/complex developments addressed on private or public streets shall be provided with signage at the entrance to the campus/complex indicative of the address ranges within. Address identification shall be maintained.

R403.1.4.1 Frost protection. Except where otherwise protected from frost, foundation walls, piers and other permanent supports of buildings and structures shall be protected from frost by one or more of the following methods:

1. Extended below the frost line specified in Table R301.2.(1);

2. Constructing in accordance with Section R403.3;

3. Constructing in accordance with ASCE 32; or

4. Erected on solid rock.

Exceptions:

1. Protection of freestanding accessory structures with an area of 1500 square feet or less of light-frame construction, with an eave height of 10 feet or less shall not be required.

2. Protection of freestanding accessory structures with an area of 400 square feet or less, of other than light-frame construction, with an eave height of 10 feet or less shall not be required.

3. Decks not supported by a dwelling need not be provided with footings that extend below the frost line. Footings shall not bear on frozen soil unless the frozen condition is permanent.

R404.4 Retaining walls. Retaining walls that are not laterally supported at the top and that retain in excess of 48 inches of unbalanced fill shall be designed to ensure stability against overturning, sliding, excessive foundation pressure, and water uplift. Retaining walls shall be designed for a safety factor of 1.5 against lateral sliding and overturning.

R502.3.1 Sleeping areas and attic joists. Table R502.3.1(1) shall be used to determine the maximum allowable span of floor joists that support sleeping areas and attics that are accessed by means of a fixed stairway in accordance with Section R311.7, provided that the design live load does not exceed 40 pounds per square foot and the design dead load does not exceed 20 pounds per square foot. The allowable span of ceiling joists that support attics used for limited storage or no storage shall be determined in accordance with Section R802.4.

R602.10.1.2 Offsets along a braced wall line. All exterior walls parallel to a braced wall line shall be offset not more than 4 feet from the designated braced wall line location as is shown on Figure R602.10.1.1. Interior walls used as bracing shall be offset not more than 4 feet from a braced wall line through the interior of the building as shown in Figure R602.10.1.1.

Exception: The offset out-of-plane may exceed 4 feet and the out-to-out offset dimension may exceed 8 feet if the area of the offset is less than 200 square feet.

R602.12 Simplified wall bracing. Buildings meeting all of the conditions listed in Items 1-8 shall be permitted to be braced in accordance with this section as an alternative to the requirements of Section R602.10. The entire building shall be braced in accordance with this section; the use of other bracing provisions of R602.10, except as specified herein, shall not be permitted.

1. There shall be no more than two stories above the top of a concrete or masonry foundation or basement wall. Permanent wood foundations shall not be permitted.

2. Floors shall not cantilever more than 24 inches beyond the foundation or bearing wall below.

3. Wall height shall not be greater than 12 feet.

4. The building shall have a roof eave-to-ridge height of 20 feet or less.

5. All exterior walls shall have gypsum board with a minimum thickness of 1/2 inch installed on the interior side fastened in accordance with Table R702.3.5.

6. The structure shall be located where the basic wind speed is less than or equal to 90 mph, and the Exposure Category is A, B, or C.

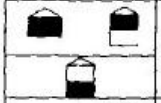
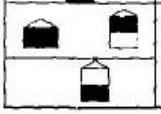
7. The structure shall be located in Seismic Design Category A, B or C for detached one- and two-family dwellings or Seismic Design Category A or B for town houses.

8. Cripple walls shall be permitted below two-story buildings.

R602.12.1 Circumscribed rectangle. The bracing required for each building shall be determined by circumscribing a rectangle around the entire building on each floor as shown in Figure R602.12.1. The rectangle shall surround all enclosed offsets and projections such as sunrooms and attached garages. Open structures, such as carports and decks, shall be permitted to be excluded. The rectangle shall have no side greater than 80 feet, and the ratio between the long side and short side shall be a maximum of 3:1.

TABLE R602.12.4
MINIMUM NUMBER OF BRACING UNITS ON EACH SIDE OF THE CIRCUMSCRIBED RECTANGLE

TABLE R602.12.4
MINIMUM NUMBER OF BRACING UNITS ON EACH SIDE OF THE CIRCUMSCRIBED RECTANGLE

STORY LEVEL	EAVE-TO-RIDGE HEIGHT (feet)	MINIMUM NUMBER OF BRACING UNITS ON EACH LONG SIDE								MINIMUM NUMBER OF BRACING UNITS ON EACH SHORT SIDE							
		Length of short side (feet)								Length of long side (feet)							
		10	20	30	40	50	60	70	80	10	20	30	40	50	60	70	80
	10	1	2	2	2	3	3	4	4	1	2	2	2	3	3	4	5
		2	3	3	4	5	6	6	7	2	3	3	4	5	6	6	7
	20	1	2	3	3	4	4	5	5	1	2	3	3	4	4	5	5
		2	3	4	5	6	7	7	8	2	3	4	5	6	7	7	8

a. Interpolation shall not be permitted.
b. Cripple walls or wood-framed basement walls in a walk-out condition of a one-story structure shall be designed as the first floor of a two-story house.
c. Actual lengths of the sides of the circumscribed rectangle shall be rounded to the next highest unit of 10 when using this table.

R602.12.3 Bracing unit. A bracing unit shall be a full height sheathed segment of the exterior wall with no openings or vertical or horizontal offsets and a minimum length as specified herein for intermittent sheathing. Bracing units shall be considered per story for continuously sheathed structural wood panels. Interior walls shall not contribute toward the amount of required bracing. Mixing of Items 1 and 2 is prohibited on the same story.

1. Where all framed portions of all exterior walls are sheathed in accordance with Section R602.12.2, including wall areas between bracing units, above and below openings, and on gable end walls, the minimum length of a bracing unit shall be 3 feet.

2. Where the exterior walls are braced with sheathing panels in accordance with Section R602.12.2 and areas between bracing units are covered with other materials, the minimum length of a bracing unit shall be 4 feet.

R802.11.1 Uplift resistance. Roof assemblies shall be connected to the wall plate by the use of approved connectors, consisting of truss/rafter to wall connector, having a

resistance to uplift of not less than 175 pounds, installed in accordance with the manufacturer's specifications or have uplift resistance in accordance with Sections R802.11.1.2 and R802.11.1.3.

Where the uplift force does not exceed 200 pounds, rafters and trusses spaced not more than 24 inches on center shall be permitted to be attached to their supporting wall assemblies in accordance with Table R602.3(1).

Where the basic wind speed does not exceed 90 mph, the wind exposure category is B, the roof pitch is 5:12 or greater, and the roof span is 32 feet or less, rafters and trusses spaced not more than 24 inches on center shall be permitted to be attached to their supporting wall assemblies in accordance with Table R602.3(1).

R903.4.1 Secondary (emergency overflow) drains or scuppers. Where roof drains are required, overflow drains having the same size as the roof drains shall be installed with the inlet flow line located 2 inches above the low point of the roof, or overflow scuppers having three times the size of the roof drains and having a minimum opening height of 4 inches shall be installed in the adjacent parapet walls with the inlet flow located 2 inches above the low point of the roof served. The installation and sizing of overflow drains, leaders and conductors shall comply with the State Plumbing Code.

R905.1.2 Ice barriers. In areas where there has been a history of ice forming along the eaves causing a backup of water as designated in Table R301.2(1), an ice barrier shall be installed for asphalt shingles, metal roof shingles, mineral-surfaced roll roofing, slate and slate-type shingles, wood shingles, and wood shakes. The ice barrier shall consist of not fewer than two layers of underlayment cemented together, or a self-adhering, polymer-modified, bitumen sheet shall be used in place of normal underlayment and extend from the lowest edges of all roof surfaces to a point not less than twenty-four inches inside the exterior wall line of the building. On roofs with slope equal to or greater than 8 units vertical in 12 units horizontal, the ice barrier shall also be applied not less than thirty-six inches measured along the roof slope from the eave edge of the building.

Exception: Detached accessory structures not containing conditioned floor area.

If the ice dam is not inspected, the contractor shall provide an affidavit that the ice dam was installed properly.

N1102.2.9 (R402.2.9) Basement walls. Walls associated with conditioned basements may be insulated from the top of the basement wall down to 10 feet below grade or to the basement floor, whichever is less. Walls associated with unconditioned basements shall meet this requirement unless the floor overhead is insulated in accordance with Sections N1102.1.1 and N1102.2.7.

Exception: Exterior basement walls of enclosed mechanical rooms.

N1102.4.1.2 (R402.4.1.2) Testing. Not adopted by the City.

N1103.3.2 (R403.3.2) Sealing (Mandatory). Ducts, air handlers, and filter boxes shall be sealed. Joints and seams shall comply with Section M1601.4.1 of this code.

Exceptions:

1. Air-impermeable spray foam products shall be permitted to be applied without additional joint seals.

2. Where a duct connection is made that is partially inaccessible, three screws or rivets shall be equally spaced on the exposed portion of the joint so as to prevent a hinge effect.

3. Continuously welded and locking-type longitudinal joints and seams in ducts operating at static pressures less than 2 inches of water column pressure classification shall not require additional closure systems.

N1103.3.2.1 (R403.3.2.1) Sealed air handler. Not adopted by the City.

N1103.3.5 (R403.3.5) Building cavities (Mandatory). Building framing cavities shall not be used as ducts or plenums.

Exception: Stud spaces and floor joist cavities may be used for return air plenums.

N1103.5 (R403.5) Service hot water systems. Energy conservation measures for service hot water systems shall be in accordance with the State Plumbing Code.

N1104.1 (R404.1) Lighting equipment (Mandatory). Not adopted by the City.

M1301.4 Plastic pipe, fittings and components. Not adopted by the City.

M1305.1.3.1 Ground clearance. Equipment and appliances supported from the ground shall be level and firmly supported on a concrete slab or other approved material extending not less than 1 1/2 inches above the adjoining ground. Such support shall be in accordance with the manufacturer's installation instructions. Appliances suspended from the floor shall have a clearance of not less than 6 inches from the ground.

Equipment and appliances including the service areas shall be provided with a minimum 80-inch headroom clearance.

M1411.6 Insulation of refrigerant piping. Piping and fittings for refrigerant vapor (suction) lines shall be insulated with insulation having a thermal resistivity of at least R-2 and having external surface permeance not exceeding 0.05 perm when tested in accordance with ASTM E 96.

M1502.4.2 Duct installation. Exhaust ducts shall be supported at 4-foot intervals and shall be secured in place. The insert end of the duct shall extend into the adjoining duct or fitting in the direction of airflow. Exhaust duct joints shall be sealed in accordance with Section M1601.4.1. Ducts shall not be joined with screws or similar fasteners that protrude into the inside of the duct.

Section M1506. Subslab Soil Exhaust Systems.

M1506.1 General. When a subslab soil exhaust system is provided, the duct shall conform to the requirements of this section.

M1506.2 Materials. Subslab soil exhaust system duct material shall be air duct material listed and labeled to the requirements of UL 181 for Class 0 air ducts, or any of the following piping materials that comply with the plumbing code as building sanitary drainage and vent pipe: cast iron; galvanized steel; brass or copper pipe; copper tube of a weight not less than that of copper drainage tube, Type DWV; and plastic piping.

M1506.3 Grade. Exhaust system ducts shall not be trapped and shall have a minimum slope of 1/8 unit vertical in 12 units horizontal (1 percent slope).

M1506.4 Termination. Subslab soil exhaust system ducts shall extend through the roof and terminate at least 6 inches above the roof and at least 10 feet from any operable openings or air intake.

Table M1601.1.1(2) Gages of Metal Ducts and Plenums Used for Heating or Cooling

Duct Size	Galvanized Minimum Thickness Inches	Equivalent Galvanized Gage No.	Aluminum Minimum Thickness (In.)
Round ducts and enclosed rectangular ducts			
14 inches or less	0.0157	30	0.0175
> 14 to 18 inches	0.0187	26	0.018
> 18 inches and over	0.0236	24	0.023
Exposed rectangular ducts			
14 inches or	0.0157	28	0.0175
Over 14[a] inches	0.0187	26	0.018

a. For duct gages and reinforcement requirements at static pressures of 1/2 inch, 1 inch, and 2 inches w.c., SMACNA Duct Construction Standard Tables 2-1 ; 2-2 and 2-3 shall apply.

M1601.1.1 Above-ground duct systems. Above-ground duct systems shall conform to the following:

1. Equipment connected to duct systems shall be designed to limit discharge air temperature to a maximum of 250°F.

2. Factory-made air ducts shall be constructed of Class 0 or Class 1 materials as designated in Table M1601.1.1(1).

3. Fibrous duct construction shall conform to the SMACNA Fibrous Glass Duct Construction Standards or NAIMA Fibrous Glass Duct Construction Standards.

4. Minimum thickness of metal duct material shall be as listed in Table M1601.1.1(2). Galvanized steel shall conform to ASTM A 653. Metallic ducts shall be fabricated in accordance with SMACNA Duct Construction Standards Metal and Flexible, except that sheet steel and strip used for duct, connectors, and round duct shall be G40 galvanized steel of lock-forming quality.

5. Use of gypsum products to construct return air ducts or plenums is permitted, provided that the air temperature does not exceed 125°F and exposed surfaces are not subject to condensation.

6. Duct systems shall be constructed of materials having a flame spread index not greater than 200.

7. Stud wall cavities and the spaces between solid floor joists to be used as air plenums shall comply with the following conditions:

   7.1. These cavities or spaces shall not be used as a plenum for supply air.

   7.2. These cavities or spaces shall not be part of a required fire-resistance-rated assembly.

   7.3 .Stud wall cavities shall not convey air from more than one floor level.

   7.4 .Stud wall cavities and joist space plenums shall be isolated from adjacent concealed spaces by tight-fitting fire-blocking in accordance with Section R602.8.

   7.5 .Stud wall cavities in the outside walls of building envelope assemblies shall not be utilized as air plenums.

M1601.4.1 Joints, seams and connections. All longitudinal and transverse joints, seams, and connections in metallic and nonmetallic ducts shall be constructed as specified in SMACNA HVAC Duct Construction Standards—Metal and Flexible and NAIMA Fibrous Glass Duct Construction Standards. All joints, longitudinal and transverse seams, and connections in ductwork outside the building thermal envelope; all return ducts located within 10 feet of any appliance or all return ducts within a mechanical room; and all supply main trunk ducts and branch duct connections to the main trunk ducts shall be securely fastened and sealed with welds, gaskets, mastics (adhesives), mastic-plus-embedded-fabric systems or tapes.

Closure systems used to seal flexible air ducts and flexible air connectors shall comply with UL 181B and shall be marked "181 B-FX" for pressure-sensitive tape or "181 BM" for mastic. Duct connections to flanges of air distribution system equipment shall be

sealed and mechanically fastened. Mechanical fasteners for use with flexible nonmetallic air ducts shall comply with UL 181B and shall be marked 181B-C. Crimp joints for round metallic ducts shall have a contact lap of not less than 1 inch and shall be mechanically fastened by means of not less than three sheet-metal screws or rivets equally spaced around the joint.

Closure systems used to seal metal ductwork shall be installed in accordance with the manufacturer's instructions. Round metallic ducts shall be mechanically fastened by means of at least three sheet metal screws or rivets spaced equally around the joint. Unlisted duct tape shall not be permitted as a sealant on any duct.

Exceptions:

1. Spray polyurethane foam shall be permitted to be applied without additional joint seals.

2. Where a duct connection is made that is partially inaccessible, three screws or rivets shall be equally spaced on the exposed portion of the joint so as to prevent a hinge effect.

3. Continuously welded and locking-type longitudinal joints and seams in ducts operating at static pressures less than 2 inches of water column pressure classification shall not require additional closure systems.

M1601.4.4 Support. Metal ducts shall be supported by 1/2-inch-wide 18-gage, 1-inch-wide 24-gage, or 1 1/2-inch-wide 26-gage metal straps or 12-gage galvanized wire at intervals not exceeding 10 feet or other approved means. Nonmetallic ducts shall be supported in accordance with the manufacturer's installation instructions.

M2101.1 General. Hydronic piping shall conform to Table M2101.1. Approved piping, valves, fittings and connections shall be installed in accordance with the manufacturer's installation instructions. Pipe and fittings shall be rated for use at the operating temperature and pressure of the hydronic system. Used pipe, fittings, valves, or other materials shall be free of foreign materials.

Exception: Polyvinyl Chloride (PVC) plastic pipe conforming to ASTM D1785 or ASTM D2241 is an allowable material for hydronic piping.

G2407.6 (304.6) Outdoor combustion air. Outdoor combustion air shall be provided through opening(s) to the outdoors in accordance with Section G2407.6.1, G2407.6.2, or G2407.6.3. The minimum dimension of air openings shall be not less than 3 inches (76 mm).

G2407.6.3 Alternate combustion air sizing. As an alternate the net free area of openings, ducts, or plenums supplying air to an area containing gas- and oil-burning appliances shall be in accordance with B149.1-10, Natural Gas and Propane Installation Code, published by the Canadian Standards Association (CSA).

When all air is taken from the outdoors for appliances one outside air duct may be used and shall terminate below the draft hood. An exterior opening may be used in place of a

duct provided that it terminates within 1 foot above, and within 2 feet horizontally from, the burner level of the appliance having the largest input.

The combustion air duct is required to be upsized one diameter size when a dryer is installed in the same room as the combustion air.

G2408.1 (305.1) General. Equipment and appliances shall be installed as required by the terms of their approval, in accordance with the conditions of listing, the manufacturer's instructions, and this code. Manufacturer's installation instructions shall be available on the job site at the time of inspection. Where a code provision is less restrictive than the conditions of the listing of the equipment or appliance or the manufacturer's installation instructions, the conditions of the listing and the manufacturer's installation instructions shall apply.

After completion of the installation, all safety and operating controls and venting shall be tested before placing the burner in service in accordance with the manufacturer's installation instructions. The following requirements need to be recorded and affixed to the inside of the gas train access panel:

1. The rate of flow of the gas or fuel shall be adjusted to within plus or minus 5 percent of the required Btu/hr rating at the manifold pressure specified by the manufacturer. When the prevailing pressure is less than the manifold pressure specified, the rates shall be adjusted at the prevailing pressure.

2. The gas inlet pressure per the manufacturer's installation settings.

3. The temperature rise across the heat exchanger per the manufacturer's installation settings.

4. The static pressure of the supply and return ducts per the manufacturer's installation settings.

Unlisted appliances approved in accordance with Section G2404.3 shall be limited to uses recommended by the manufacturer and shall be installed in accordance with the manufacturer's instructions, the provisions of this code and the requirements determined by the Building Official.

G2411.1.1 (310.1.1) CSST. Corrugated stainless steel tubing (CSST) gas piping systems shall be bonded to the electrical service grounding electrode system at the point where the gas service enters the building. The bonding jumper shall be not smaller than 6 AWG copper wire or equivalent. Gas piping systems that contain one or more segments of CSST shall be bonded in accordance with this section.

G2415.2 (404.2) CSST. CSST piping systems shall be installed in accordance with the terms of their approval, the conditions of listing, the manufacturer's instructions, and this code.

The piping located on the exterior extending from the gas meter to the inside of the structure shall be a metallic pipe in compliance with Section G2414.4. The entrance into the structure shall be provided with the appropriate transition flange where an alternate gas piping material is utilized on the inside of the structure.

G2415.3 (404.3) Prohibited locations. Piping shall not be installed in or through a ducted supply, return or exhaust, or a clothes chute, chimney or gas vent, dumbwaiter or elevator shaft.

G2427.4.1.1 (503.4.1.1) (IFGS) Plastic vent joints. Plastic pipe and fittings used to vent appliances shall be installed in accordance with the appliance manufacturer's installation instructions. The primer shall be of a contrasting color.

Exception: Where compliance with this section would conflict with the appliance manufacturer's installation instructions.

Part VII—Plumbing. The following chapters are not adopted by the City: Chapter 25—Plumbing Administration; Chapter 26—General Plumbing Requirements; Chapter 27—Plumbing Fixtures; Chapter 28—Water Heaters; Chapter 29—Water Supply and Distribution; Chapter 30—Sanitary Drainage; Chapter 31—Vents; Chapter 32—Traps; and Chapter 33—Storm Drainage.

The provisions of the State Plumbing Code shall apply to the installation, alterations, repairs, and replacement of plumbing systems, including equipment, appliances, fixtures, and appurtenances, and where connected to a water or sewage system for detached one- and two-family dwellings and multiple single-family dwellings (town houses) not more than three stories high with separate means of egress and their accessory structures.

Part VIII—Electrical. The following chapters are not adopted by the City: Chapter 34—General Requirements; Chapter 35—Electrical Definitions; Chapter 36—Services; Chapter 37—Branch Circuit and Feeder Requirements; Chapter 38—Wiring Methods; Chapter 39—Power and Lighting Distribution; Chapter 40—Devices and Luminaires; Chapter 41—Appliance Installation; Chapter 42—Swimming Pools; Chapter 43—Class 2 Remote-Control, Signaling and Power-Limited Circuits.

The provisions of the State Electrical Code shall apply to the installation, alteration, repair, relocation, replacement, addition to, use, or maintenance of any electrical system, apparatus, wiring, or equipment for electrical, light, heat, power, fire alarms, and associate controls for detached one- and two-family dwellings and multiple single-family dwellings (town houses) not more than three stories high with separate means of egress and their accessory structures.

AH105.2 Footings. A patio cover shall be permitted to be supported on a slab on grade without footings, provided the slab conforms to the provisions of Section R506 of this code, is not less than three and one-half inches thick and the columns do not support live and dead loads in excess of seven hundred and fifty pounds per column.

AH106 Special Provisions for aluminum screen enclosures in hurricane-prone regions. Not adopted by the City.

AM Home Day Care (Title). Amend the title to change “R-3 Occupancy” to “Residential Occupancy”.

CHAPTER 9.05 - MECHANICAL AND FUEL GAS CODES

9.0501 Adopted. The City Council hereby adopts the International Mechanical Code, 2018 Edition, including Appendix A, and the International Fuel Gas Code, 2018 Edition, including Appendices B and C, as published by the International Code Council, Inc. for regulating the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use, or maintenance of heating, ventilation, cooling, refrigeration, incinerators, or other miscellaneous heat producing appliances in the City, and for providing for performance of inspections and collection of fees therefore. The minimum mechanical standards referenced in the International Mechanical Code and the International Fuel Gas Code shall be applied to any permit issued after June 30, 2018. A copy of this Code shall be kept on file in the office of the Building Official.

9.0502 Local amendments, additions, and deletions to the 2018 International Mechanical and Fuel Gas Codes. The following sections and subsections of the mechanical code adopted in this Ordinance shall be amended, added, or deleted as follows. All other sections or subsections of the 2018 International Mechanical Code shall remain as originally published.

101.1 Title. These regulations shall be known as the Mechanical Code of the City of Elk Point, and shall be referred to herein as "this code".

101.2 Scope. This code shall regulate the design, installation, maintenance, alteration and inspection of mechanical systems that are permanently installed and utilized to provide control of environmental conditions and related processes within buildings. This code shall also regulate those mechanical systems, system components, equipment and appliances specifically addressed herein. The installation of fuel gas distribution piping and equipment, fuel gas-fired appliances and fuel gas-fired appliance venting systems shall be regulated by the International Fuel Gas Code.

Exceptions:

1. Detached one- and two-family dwellings and multiple single-family dwellings (town houses) not more than three stories high with separate means of egress and their accessory structures shall comply with the International Residential Code.

2. Mechanical systems in existing buildings undergoing repair, alterations or additions, and change in occupancy shall be permitted to comply with the International Existing Building Code.

103.2 Appointment. Not adopted by the city.

103.4 Liability. The Building Official, member of the board of appeals, or employee charged with the enforcement of this code, while acting for the City in good faith and without malice in the discharge of the duties required by this code or other pertinent law or ordinance, shall not thereby be rendered liable personally, and is hereby relieved from personal liability for any damage accruing to persons or property as a result of an act or by reason of an act or omission in the discharge of official duties.

103.4.1 Legal defense. Any suit instituted against any officer or employee, because of an act performed by that officer or employee in the lawful discharge of duties and under the provisions of this code, shall be afforded all the protection provided by the City's insurance pool and immunities and defenses provided by other applicable state and

federal laws and be defended by the legal representative of the City until the final termination of the proceedings. The Building Official or any subordinate shall not be liable for costs in an action, suit, or proceeding that is instituted in pursuance of the provisions of this code.

106.5.1 Work commencing before permit issuance. Any person who commences work on a mechanical system before obtaining the necessary permits shall be subject to a Late Application Fee established by resolution by the City Council that shall be in addition to the required permit fees.

106.5.2 Fee schedule. The fees for mechanical work shall be adopted by resolution by the City Council.

106.5.3 Fee refunds. The Building Official shall authorize the refunding of fees as follows:

1. The full amount of any fee paid hereunder which was erroneously paid or collected.

2. Not more than 80 percent of the permit fee paid when no work has been done under a permit issued in accordance with this code.

3. Not more than 80 percent of the plan review fee paid when an application for a permit for which a plan review fee has been paid is withdrawn or canceled before any plan review effort has been expended.

The Building Official shall not authorize the refunding of any fee paid, except upon written application filed by the original permittee not later than 180 days after the date of fee payment.

107.2 Required inspections and testing. It shall be the duty of the mechanical contractor, or his designated mechanic doing the work authorized by a permit, to notify the mechanical inspector that such work is ready for inspection. The Building Official may require that every request for inspection be filed at least one working day before such inspection is desired.

The mechanical inspector, upon notification from the permit holder or the permit holder's agent, shall make the following inspections and other such inspections as necessary, and shall either release that portion of the construction or shall notify the permit holder or the permit holder's agent of violations that must be corrected. The holder of the permit shall be responsible for the scheduling of such inspections.

1. Underground inspection shall be made after trenches or ditches are excavated and bedded, piping installed, and before backfill is put in place. When excavated soil contains rocks, broken concrete, frozen chunks, and other rubble that would damage or break the piping or cause corrosive action, clean backfill shall be on the job site.

2. Rough-in inspection shall be made after the roof, framing, fireblocking, and bracing are in place and all ducting and other components to be concealed are complete, and prior to the installation of wall or ceiling membranes.

3. Final inspection shall be made upon completion of the mechanical system.

Exception: Ground-source heat pump loop systems tested in accordance with Section 1208.1.1 shall be permitted to be backfilled prior to inspection.

The requirements of this section shall not be considered to prohibit the operation of any heating appliances installed to replace existing heating appliances serving an occupied portion of a structure provided that a request for inspection of such heating appliances has been filed with the department not more than 48 hours after such replacement work is placed into operation or substantially completed, and before any portion of such equipment or appliances is concealed by any permanent portion of the structure.

108.4 Violation penalties. Persons who shall violate a provision of this code or shall fail to comply with any of the requirements thereof or who shall erect, install, alter, or repair mechanical work in violation of the approved construction documents or directive of the Building Official, or of a permit or certificate issued under the provisions of this code, shall be guilty of an ordinance violation, which is a Class 2 Misdemeanor. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

108.5 Stop work orders. Upon notice from the Building Official that mechanical work is being done contrary to the provisions of this code or in a dangerous or unsafe manner, such work shall immediately cease. Such notice shall be in writing and shall be given to the owner of the property, or to the owner's agent, or to the person doing the work. The notice shall state the conditions under which work is authorized to resume. Where an emergency exists, the Building Official shall not be required to give a written notice prior to stopping the work. Any person who shall continue any work on the system after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be guilty of an ordinance violation.

109.1 Designation of Board of Appeals. In order to hear and decide appeals of orders, decisions, or determinations made by the Building Official relative to the application and interpretation of this code, the City Council hereby assumes the duties of the Board of Appeals for this code. All decisions and findings of the Board shall be final and shall be rendered in writing to the appellant with a duplicate copy to the Building Official.

109.1.1 Limitation of authority. An application for appeal shall be based on a claim that the true intent of this code or the rules legally adopted hereunder have been incorrectly interpreted, the provisions of this code do not fully apply, or an equally good or better form of construction is proposed. If the appeal is based on a claim that an equally good or better form of construction was improperly denied, the appellant must submit the alternate material, design, or method of construction they are proposing. The appellant also has the burden to demonstrate to the Board that the alternative method or material that they are proposing is an equally good or better form of construction. The Board shall have no authority to waive the requirements of the International Mechanical Code as adopted by the City.

109.2 Membership of board. Not adopted by the City.

109.2.1 Qualifications. Not adopted by the City.

109.2.2 Alternate members. Not adopted by the City.

109.2.3 Chairman. Not adopted by the City.

109.2.4 Disqualification of member. Not adopted by the City.

109.2.5 Secretary. Not adopted by the City.

109.2.6 Compensation of members. Not adopted by the City.

109.3 Notice of meeting. Not adopted by the City.

109.4 Open hearing. All hearings before the Board shall be open to the public. The appellant, the appellant's representative, the Building Official, any member of the City's staff, or any person whose interests are affected shall be given an opportunity to be heard.

109.4.1 Procedure. Not adopted by the City.

109.5 Postponed hearing. Not adopted by the City.

109.6 Submission of appeals. All appeals must be submitted in writing to the Building Official within ten days of the order, decision, or determination of the Building Official that is being appealed. Once the appeal is received by the Building Official, he shall place the appeal on the Council's next regular meeting agenda that is more than seven days (inclusive) from the date of receipt of the appeal.

109.6.1 Resolution. Not adopted by the City.

109.6.2 Administration. Not adopted by the City.

201.3 Terms defined in other codes. Where terms are not defined in this code and are defined in the International Building Code, International Residential Code, International Existing Building Code, or International Fuel Gas Code, such terms shall have meanings ascribed to them as in those codes.

301.11 Plumbing connections. Potable water supply and building drainage system connections to equipment and appliances regulated by this code shall be in accordance with the Plumbing Code adopted by the State of South Dakota.

301.13 Vibration isolation. Where vibration isolation of equipment and appliances is employed, an approved means of supplemental restraint shall be used to accomplish the support and restraint.

Piping, electrical conduit, ductwork, vents and the like shall not be used to provide support or restraint of equipment.

Where other portions of this code or provisions of the building code require noncombustible construction or supports, noncombustible materials shall also be used to meet the requirements of this section.

304.10 Clearances from grade. Equipment and appliances installed at grade level shall be supported on a level concrete slab or other approved material extending not less than 1 1/2 inches above adjoining grade or shall be suspended not less than 6 inches above adjoining grade. Such support shall be in accordance with the manufacturer's installation instructions.

Equipment and appliances including the service areas shall be provided with a minimum 80-inch headroom clearance.

306.5 Equipment and appliances on roofs or elevated structures. Where equipment requiring access or appliances are located on an elevated structure or the roof of a building such that personnel will have to climb higher than 16 feet above grade or floor level to access such equipment or appliances, an interior or exterior means of access shall be provided. Such access shall not require climbing over obstructions greater than 30 inches in height or walking on roofs having a slope greater than 4 units vertical in 12 units horizontal (33 percent slope). Such access shall not require the use of portable ladders. Where access involves climbing over parapet walls, the height shall be measured to the top of the parapet wall.

Permanent ladders installed to provide the required access shall comply with the following minimum design criteria:

1. The side railing shall extend above the parapet or roof edge not less than 30 inches when the ladder is located on the exterior of the building. The side railing shall extend within 6 inches of the roof access hatch, and the side railing shall terminate within 1 inch from the side of the roof curb or wall the ladder is attached when the ladder is located in the building.

2. Ladders shall have rung spacing not to exceed 14 inches on center. The uppermost rung shall be a maximum of 24 inches below the upper edge of the roof hatch, roof or parapet, as applicable.

3. Ladders shall have a toe spacing not less than 6 inches deep.

4. There shall be a minimum of 18 inches between rails.

5. Rungs shall have a minimum 0.75-inch diameter and be capable of withstanding a 300-pound load.

6. Ladders over 30 feet in height shall be provided with offset sections and landings capable of withstanding 100 pounds per square foot. Landing dimensions shall be not less than 18 inches and not less than the width of the ladder served. A guard rail shall be provided on all open sides of the landing.

7. Climbing clearance. The distance from the centerline of the rungs to the nearest permanent object on the climbing side of the ladder shall be a minimum of 30 inches measured perpendicular to the rungs. This distance shall be maintained from the point of ladder access to the bottom of the roof hatch. A minimum clear width of 15 inches shall be provided on both sides of the ladder measured from the midpoint of and parallel with the rungs except where cages or wells are installed.

8. Landing required. The ladder shall be provided with a clear and unobstructed bottom landing area having a minimum dimension of 30 inches by 30 inches centered in front of the ladder.

9. Ladders shall be protected against corrosion by approved means.

10. Access to ladders shall be provided at all times.

11. Exterior access may be by means of a ladder which need not extend closer than 8 feet to finished grade.

12. When a new hatch is being used to access equipment or appliances on a roof or elevated structure, the handle or release must be on the same side of the roof hatch as the ladder or within 18 inches of the ladder.

Catwalks installed to provide the required access shall be not less than 24 inches wide and shall have railings as required for service platforms.

Exception: This section shall not apply to Group R-3 occupancies.

306.6 Appliances above suspended ceilings. Rooms containing appliances above suspended ceilings shall be installed in accordance with Section 306.2. In such locations there shall be a space of not less than 30 inches wide by 30 inches deep from the top of the service area of the appliance to the level floor below. Any obstructions are limited to lights and the suspended ceiling system. A wall or partition shall be allowed in the first 6 inches of the 30-inch-deep service area in front of the appliance, provided the wall or partition terminates below the bottom of the appliance and the depth of the service space is increased to 36 inches deep from the top of the appliance to the level floor below.

312.1 Load calculations. When deemed necessary by the mechanical inspector, heating and cooling system design loads for the purpose of sizing systems, appliances, and equipment shall be determined in accordance with the procedures described in the ASHRAE/ACCA Standard 183. Alternatively, design loads shall be determined by an approved equivalent computation procedure, using the design parameters specified in Chapter 3 of the International Energy Conservation Code, 2015 Edition.

401.4 Intake opening location. Air intake openings shall comply with all of the following:

1. Intake openings shall be located a minimum of 10 feet from lot lines or buildings on the same lot.

2. Mechanical and gravity outdoor air intake openings shall be located not less than 10 feet from any hazardous or noxious contaminant source, such as vents, streets, alleys, parking lots and loading docks, except as specified in Item 3 or Section 501.2.1. Outdoor air intake openings shall be permitted to be located less than 10 feet horizontally from streets, alleys, parking lots and loading docks provided that the openings are located not less than 25 feet vertically above such locations. Where openings front on a street or public way, the distance shall be measured from the centerline of the street or public way.

3. Intake openings shall be located not less than 3 feet below contaminant sources where such sources are located within 10 feet of the opening.

4. Intake openings on structures in flood hazard areas shall be at or above the elevation required by Section 1612 of the International Building Code for utilities and attendant equipment.

501.3.1 Location of exhaust outlets. The termination point of exhaust outlets and ducts discharging to the outdoors shall be located with the following minimum distances:

1. For ducts conveying explosive or flammable vapors, fumes or dusts: 30 feet from property lines; 10 feet from operable openings into buildings; 6 feet from exterior walls and roofs; 30 feet from combustible walls and operable openings into buildings which are in the direction of the exhaust discharge; and 10 feet above adjoining grade.

2. For other product-conveying outlets: 10 feet from the property lines; 3 feet from exterior walls and roofs; 10 feet from operable openings into buildings; 10 feet above adjoining grade.

3. For all environmental air exhaust: 3 feet from property lines; 3 feet from operable openings into buildings for all occupancies other than Group U, and 10 feet from mechanical air intakes. Such exhaust shall not be considered hazardous or noxious.

   Exception. Bathroom exhaust fans serving individual dwelling units or sleeping units in Group Rs may be 3 feet from property lines, operable openings, and mechanical air intakes.

4. Exhaust outlets serving structures in flood hazard areas shall be installed at or above the elevation required by Section 1612 of the International Building Code for utilities and attendant equipment.

5. For specific systems see the following sections:

   5.1. Clothes dryer exhaust, Section 504.4.

   5.2. Kitchen hoods and other kitchen exhaust equipment, Sections 506.3.13, 506.4 and 506.5.

   5.3. Dust stock and refuse conveying systems, Section 511.2.

   5.4. Subslab soil exhaust systems, Section 512.4.

   5.5. Smoke control systems, Section 513.10.3.

   5.6. Refrigerant discharge, Section 1105.7.

   5.7. Machinery room discharge, Section 1105.6.1.

506.3.6 Grease duct clearances. Where enclosures are not required, grease duct systems and exhaust equipment serving a Type I hood shall have a clearance to combustible construction of not less than 18 inches, and shall have a clearance to noncombustible construction and gypsum wallboard attached to noncombustible structures of not less than 3 inches.

Exceptions:

1. Factory-built commercial kitchen grease ducts listed and labeled in accordance with UL 1978.

2. Listed and labeled exhaust equipment installed in accordance with Section 304.1.

3. Where commercial kitchen grease ducts are continuously covered on all sides with a listed and labeled field-applied grease duct enclosure material, system, product, or method of construction specifically evaluated for such purpose in accordance with ASTM E 2336, the required clearance shall be in accordance with the listing of such material, system, product or method.

4. The 18-inch clearance to combustible construction is allowed to be reduced to 3 inches where the combustible construction is protected with materials as required for a one-hour fire-resistive construction for hood replacements only where the existing adjacent construction is combustible.

506.3.8 Grease duct cleanouts and openings. Grease duct cleanouts and openings shall comply with all of the following:

1. Grease ducts shall not have openings except where required for the operation and maintenance of the system.

2. Sections of grease ducts that are inaccessible from the hood or discharge openings shall be provided with cleanout openings.

3. Cleanout doors shall be classified in accordance with NFPA 96 or UL 1978. 4.

4. Cleanout doors shall be installed liquid-tight.

5. Door assemblies including any frames and gaskets shall be approved for the application and shall not have fasteners that penetrate the duct.

6. Gasket and sealing materials shall be rated for not less than 1500ºF.

7. Listed door assemblies shall be installed in accordance with the manufacturer's instructions.

506.3.11.4 Combustible clearance reduction. The 18-inch clearance to combustible construction is allowed to be reduced to 3 inches where the combustible construction is protected with materials as required for a one-hour fire-resistive construction for hood replacements only where the existing adjacent construction is combustible.

507.2.6 Clearances for Type I hood. A Type I hood shall be installed with a clearance to combustibles of not less than 18 inches.

Exceptions:

1. Clearance shall not be required from gypsum wallboard or 1/2-inch or thicker cementitious wallboard attached to noncombustible structures provided that a smooth, cleanable, nonabsorbent, and noncombustible material is installed between the hood and the gypsum or cementitious wallboard over an area extending not less than 18 inches in all directions from the hood.

2. The 18-inch clearance to combustible construction is allowed to be reduced to 3 inches where the combustible construction is protected with materials as required for a one-hour fire-resistive construction for hood replacements only where the existing adjacent construction is combustible.

507.3 Type II hoods. Type II hoods shall be installed above dishwashers and appliances that produce heat or moisture and do not produce grease or smoke as a result of the cooking process, except where the heat and moisture loads from such appliances are incorporated into the HVAC system design or into the design of a separate removal system. Type II hoods shall be installed above all appliances that produce products of combustion and do not produce grease or smoke as a result of the cooking process. Spaces containing cooking appliances that do not require Type II hoods shall be provided with exhaust at a rate of 0.70 cfm per square foot. For the purpose of determining the floor area required to be exhausted, each individual appliance that is not required to be installed under a Type II hood shall be considered as occupying not less than 100 square feet. Such additional square footage shall be provided with exhaust at a rate of 0.70 cfm per square foot.

Exception: An above counter high temperature dishwasher shall be installed under a Type II hood.

508.1.1 Makeup air temperature. The temperature of makeup air shall not be more than 10ºF below the temperature of the air in the conditioned space.

Exceptions:

1. Makeup air that is part of the air-conditioning system.

2. Makeup air that does not decrease the comfort conditions of the occupied space.

512.2 Materials. Subslab soil exhaust system duct material shall be air duct material listed and labeled to the requirements of UL 181 for Class 0 air ducts, or any of the following piping materials that comply with the Plumbing Code as building sanitary drainage and vent pipe: cast iron; galvanized steel; brass or copper pipe; copper tube of a weight not less than that of copper drainage tube, Type DWV; and plastic piping.

512.5 Identification. Not adopted by the City.

602.2.1.1 Wiring. Combustible electrical wires and cables and optical fiber cables exposed within a plenum shall be listed as having a maximum peak optical density of 0.50 or less, an average optical density of 0.15 or less, and a maximum flame spread distance of 5 feet or less when tested in accordance with NFPA 262 or shall be installed in metal raceways or metal sheathed cable. Combustible optical fiber and communication raceways exposed within a plenum shall be listed as having a maximum peak optical density of 0.5 or less, an average optical density of 0.15 or less, and a maximum flame spread distance of 5 feet or less when tested in accordance with ANSI/UL 2024. Only plenum-rated wires and cables shall be installed in plenum-rated raceways. Electrical wires and cables, optical fiber cables and raceways addressed in this section shall be listed and labeled and shall be installed in accordance with NFPA 70.

Exception: Alternate wiring systems located within a plenum serving an information technology equipment room are allowed per NFPA 70.

603.2 Duct sizing. Ducts installed within a single dwelling unit shall be sized in accordance with ACCA Manual D or other approved methods. Ducts installed within all other buildings may be sized in accordance with the ASHRAE Handbook of Fundamentals or other equivalent computation procedure.

603.4 Metallic ducts. All metallic ducts shall be constructed as specified in the SMACNA HVAC Duct Construction Standards—Metal and Flexible.

Exceptions:

1. Ducts installed within single dwelling units shall have a minimum thickness as specified in Table 603.4.

2. "Ductmate Standards" shall be allowed when using "Ductmate" connections.

Table 603.4 Duct Construction Minimum Sheet Metal Thicknesses for Single Dwelling Units

Duct Size	Minimum Thickness Inches and (mm)	Equivalent Galvanized Sheet No.	Minimum Thickness (In.)
Round ducts and enclosed rectangular ducts			
<14 inches	0.0127 (0.3188 mm)	30	0.0175
14 to 18 inches	0.0187 (0.4712 mm)	26	0.018
>18 inches	0.0236 (0.6010 mm)	24	0.023
Exposed rectangular ducts			

14 inches or less	0.0157 (0.3950 mm)	28	0.0175
Over 14 inches [a]	0.0187 (0.4712 mm)	26	0.018
For SI: 1 inch = 25.4 mm.			
a. For duct gages and reinforcement requirements at static pressures of 1/2 inch, 1 inch and 2 inches; w.c., SMACNA Duct Construction Standard Tables 2-1, 2-2 and 2-3 shall apply.			

603.6.1.1 Duct length. Flexible air ducts shall be limited to 14 feet in length.

603.6.2 Flexible air connectors. Not adopted by the City.

603.6.2.1 Connector length. Not adopted by the City.

603.6.2.2 Connector penetration limitations. Not adopted by the City.

603.6.3 Air temperature. The design temperature of air to be conveyed in flexible air ducts shall be less than 250ºF.

603.9 Joints, seams and connections. All longitudinal and transverse joints, seams and connections in metallic and nonmetallic ducts shall be constructed as specified in SMACNA HVAC Duct Construction Standards—Metal and Flexible and NAIMA Fibrous Glass Duct Construction Standards. All joints, longitudinal and transverse seams and connections in ductwork outside the building thermal envelope, all return ducts located within 10 feet of any appliance or all return ducts within a mechanical room, and all supply main trunk ducts and branch duct connections to the main trunk ducts shall be securely fastened and sealed with welds, gaskets, mastics (adhesives), mastic-plus-embedded-fabric systems, liquid sealants or tapes. Closure systems used to seal ductwork listed and labeled in accordance with UL 181A shall be marked "181A-P" for pressure-sensitive tape, "181 A-M" for mastic or "181 A-H" for heat-sensitive tape. Closure systems used to seal flexible air ducts and flexible air connectors shall comply with UL 181B and shall be marked "181B-FX" for pressure-sensitive tape or "181B-M" for mastic. Duct connections to flanges of air distribution system equipment shall be sealed and mechanically fastened. Mechanical fasteners for use with flexible nonmetallic air ducts shall comply with UL 181B and shall be marked "181B-C." Closure systems used to seal metal ductwork shall be installed in accordance with the manufacturer's installation instructions. Unlisted duct tape is not permitted as a sealant on any duct.

Exception: Continuously welded and locking-type longitudinal joints and seams in ducts operating at static pressures less than 2 inches of water column pressure classification shall not require additional closure systems.

606.4.1 Supervision. The duct smoke detectors shall be connected to a fire alarm system where a fire alarm system is required by Section 907.2 of the International Fire Code. The actuation of a duct smoke detector shall activate a visible and audible supervisory signal at a constantly attended location. Duct smoke detectors installed more than 10 feet

above a finished floor, above a ceiling or on a rooftop shall be installed with remote test/indicators in an approved location below and in proximity to the unit served.

Exceptions:

1. The supervisory signal at a constantly attended location is not required where the duct smoke detector activates the building's alarm-indicating appliances.

2. In occupancies not required to be equipped with a fire alarm system, actuation of a smoke detector shall activate a visible and audible signal in an approved location. Duct smoke detector trouble conditions shall activate a visible or audible signal in an approved location and shall be identified as air duct detector trouble.

802.3 Installation. Vent systems shall be sized, installed, and terminated in accordance with the vent and appliance manufacturer's installation instructions. Type L vents shall not be installed with offsets in concealed spaces.

9.07.03. Local amendments, additions, and deletions to the 2018 International Fuel Gas Code. The following sections and subsections of the fuel gas code adopted in this Ordinance shall be amended, added, or deleted as follows. All other sections or subsections of the 2018 International Fuel Gas Code shall remain as originally published.

101.1 Title. These regulations shall be known as the Fuel Gas Code of the City of Elk Point, South Dakota, hereinafter referred to as "this code."

101.2 Scope. This code shall apply to the installation of fuel gas piping systems, fuel gas appliances, gaseous hydrogen systems, and related accessories in accordance with Sections 101.2.1 through 101.2.5.

Exceptions:

1. Detached one- and two-family dwellings and multiple single-family dwellings (town houses) not more than three stories high with separate means of egress and their accessory structures shall comply with the International Residential Code.

2. Mechanical systems in existing buildings undergoing repair, alterations or additions, and change of occupancy shall be permitted to comply with the International Existing Building Code.

103.2 Appointment. Not adopted by the City.

103.4 Liability. The Building Official, member of the board of adjustment, or employee charged with the enforcement of this code, while acting for the City in good faith and without malice in the discharge of the duties required by this code or other pertinent law or ordinance, shall not thereby be rendered liable personally, and is hereby relieved from all personal liability for any damage accruing to persons or property as a result of an act or by reason of an act or omission in the discharge of official duties.

Any suit instituted against any officer or employee, because of an act or omission performed by that officer or employee in the lawful discharge of duties and under the provisions of this code shall be afforded all the protection provided by the City's insurance pool and immunities and defenses provided by other applicable state and federal laws and defended by the legal representative of the City until the final termination of the proceedings. The Building Official or any subordinate shall not be liable for costs in an action, suit, or proceeding that is instituted in pursuance of the provisions of this code.

106.1 Where required. An owner, authorized agent, or contractor who desires to erect, install, enlarge, alter, repair, remove, convert, or replace an installation regulated by this code, or to cause such work to be done, shall first make application to the Building Official and obtain the required permit for the work.

Exception: Where appliance and equipment replacements and repairs are required to be performed in an emergency situation, the inspection request shall be submitted within 48 hours after the replacement work is completed and before any portion of the appliance is concealed by any permanent portion of the structure.

106.6.1 Work commencing before permit issuance. Any person who commences work on an installation before obtaining the necessary permits may be subject to a Late Application Fee established by resolution by the City Council that shall be in addition to the required permit fees.

106.6.2 Fee schedule. The fees for work shall be as adopted by resolution by the City Council.

106.6.3 Fee refunds. The Building Official shall authorize the refunding of fees as follows.

1. The full amount of any fee paid hereunder which was erroneously paid or collected.

2. Not more than 80 percent of the permit fee paid when no work has been done under a permit issued in accordance with this code.

3. Not more than 80 percent of the plan review fee paid when an application for a permit for which a plan review fee has been paid is withdrawn or canceled before any plan review effort has been expended.

The Building Official shall not authorize the refunding of any fee paid, except upon written application filed by the original permittee not later than 180 days after the date of fee payment.

107.2 Required inspections and testing. The mechanical inspector, upon notification from the permit holder or the permit holder's agent, shall make the following inspections and other such inspections as necessary, and shall either release that portion of the construction or notify the permit holder or the permit holder's agent of violations that are required to be corrected. The holder of the permit shall be responsible for scheduling such inspections.

It shall be the duty of the mechanical contractor, or his designated mechanic, doing the work authorized by a permit to notify the mechanical inspector that such work is ready for inspection. The building official may require that every request for inspection be filed at least one working day before such inspection is desired.

1. Underground inspection shall be made after trenches or ditches are excavated and bedded, piping is installed, and before backfill is put in place. When excavated soil contains rocks, broken concrete, frozen chunks, and other rubble that would damage or break the piping or cause corrosive action, clean backfill shall be on the job site.

2. Rough-in inspection shall be made after the roof, framing, fireblocking, and bracing are in place and components to be concealed are complete, and prior to the installation of wall or ceiling membranes.

3. Final inspection shall be made upon completion of the installation.

The requirements of this section shall not be considered to prohibit the operation of any heating appliance installed to replace existing heating appliance serving an occupied portion of a structure in the event a request for inspection of such heating appliance has been filed with the department not more than 48 hours after replacement work is placed into operation or substantially completed, and before any portion of such appliance is concealed by any permanent portion of the structure.

108.4 Violation penalties. Persons who shall violate a provision of this code, fail to comply with any of the requirements thereof, or erect, install, alter, or repair work in violation of the approved construction documents or directive of the Building Official, or of a permit or certificate issued under the provisions of this code, shall be guilty of an ordinance violation. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

108.5 Stop work orders. Upon notice from the Building Official that work is being done contrary to the provisions of this code or in a dangerous or unsafe manner, such work shall immediately cease. Such notice shall be in writing and shall be given to the owner of the property, the owner's agent, or the person doing the work. The notice shall state the conditions under which work is authorized to resume. Where an emergency exists, the Building Official shall not be required to give a written notice prior to stopping the work. Any person who shall continue any work on the system after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be guilty of an ordinance violation and punishable by the general provisions of this code.

109.1 Board of appeals. In order to hear and decide appeals of orders, decisions, or determinations made by the Building Official relative to the application and interpretation of this code, the City Council hereby assumes the responsibilities of the Board of Appeals for this code. All decisions and findings of the Board shall be final and shall be rendered in writing to the appellant with a duplicate copy to the Building Official.

109.1.1 Limitation of authority. An application for appeal shall be based on a claim that the true intent of this code or the rules legally adopted hereunder have been incorrectly interpreted, the provisions of this code do not fully apply, or an equally good or better

form of construction is proposed. If the appeal is based on a claim that an equally good or better form of construction was improperly denied, the appellant must submit the alternate material, design, or method of construction they are proposing. The appellant also has the burden to demonstrate to the Board that the alternative method or material that they are proposing is an equally good or better form of construction. The Board shall have no authority to waive the requirements of the International Fuel Gas Code as adopted by the City.

109.2 Membership of board. Not adopted by the City.

109.2.1 Qualifications. Not adopted by the City.

109.2.2 Alternate members. Not adopted by the City.

109.2.3 Chairman. Not adopted by the City

109.2.4 Disqualification of member. Not adopted by the City.

109.2.5 Secretary. Not adopted by the City.

109.2.6 Compensation of members. Not adopted by the City.

109.3 Notice of meeting. Not adopted by the City.

109.4 Open hearing. All hearings before the Board shall be open to the public. The appellant, the appellant's representative, the Building Official, any member of the City's staff, or any person whose interests are affected shall be given an opportunity to be heard.

109.4.1 Procedure. Not adopted by the City.

109.5 Postponed hearing. Not adopted by the City.

201.3 Terms defined in other codes. Where terms are not defined in this code and are defined in the International Building Code, International Residential Code, International Fire Code, International Existing Building Code, International Mechanical Code, or State Plumbing Code, such terms shall have meanings ascribed to them as in those codes.

301.6 Plumbing connections. Potable water supply and building drainage system connections to appliances regulated by this code shall be in accordance with the Plumbing Code adopted by the State of South Dakota.

304.6 Outdoor combustion air. Outdoor combustion air shall be provided through opening(s) to the outdoors in accordance with Section 304.6.1, 304.6.2, or 304.6.3. The minimum dimension of air openings shall be not less than 3 inches.

304.6.3 Alternate combustion air sizing (IFGC). As an alternate, the net free area of openings, ducts, or plenums supplying air to an area containing gas- and oil-burning appliances shall be in accordance with B149.1-10, Natural Gas and Propane Installation Code, published by the Canadian Standards Association (CSA).

When all air is taken from the outdoors for appliances, one outside air duct may be used and shall terminate below the draft hood. An exterior opening may be used in place of a duct provided that it terminates within 1 foot above, and within 2 feet horizontally from, the burner level of the appliance having the largest input.

The combustion air duct is required to be upsized one diameter size when a dryer is installed in the same room as the combustion air.

304.11 Combustion air ducts. Combustion air ducts shall comply with all of the following:

1. Ducts shall be constructed of galvanized steel complying with Chapter 6 of the International Mechanical Code or of a material having equivalent corrosion resistance, strength and rigidity.

   Exception: Within dwellings units, unobstructed stud and joist spaces shall not be prohibited from conveying combustion air, provided that not more than one required fire block is removed.

2. Ducts shall terminate in an unobstructed space allowing free movement of combustion air to the appliances.

3. Ducts shall serve a single enclosure.

4. Ducts shall not serve both upper and lower combustion air openings where both such openings are used. The separation between ducts serving upper and lower combustion air openings shall be maintained to the source of combustion air.

5. Ducts shall not be screened where terminating in an attic space.

6. Horizontal upper combustion air ducts shall not slope downward toward the source of combustion air.

7. The remaining space surrounding a chimney liner, gas vent, special gas vent, or plastic piping installed within a masonry, metal, or factory-built chimney shall not be used to supply combustion air.

   Exception: Direct-vent gas-fired appliances designed for installation in a solid fuel-burning fireplace where installed in accordance with the manufacturer's instructions.

8. Combustion air intake openings located on the exterior of a building shall have the lowest side of such openings located not less than 12 inches vertically from the adjoining finished ground level.

9. Mechanical and gravity outdoor air intake openings shall be located not less than 10 feet from any hazardous or noxious contaminant source, such as vents, streets, alleys, parking lots, and loading docks, except as specified in Item 3 or Section 501.3.1 of the International Mechanical Code.

305.1 General. Equipment and appliances shall be installed as required by the terms of their approval in accordance with the conditions of listing, the manufacturer's instructions, and this code. Manufacturer's installation instructions shall be available on the job site at the time of inspection. Where a code provision is less restrictive than the conditions of the listing of the equipment or appliance or the manufacturer's installation instructions, the conditions of the listing and the manufacturer's installation instructions shall apply.

After completion of the installation, all safety and operating controls and venting shall be tested before placing the burner in service in accordance with the manufacturer's installation instructions. The following requirements need to be recorded and affixed to the inside of the gas train access panel:

1. The rate of flow of the gas or fuel shall be adjusted to within plus or minus 5 percent of the required Btu/hr rating at the manifold pressure specified by the manufacturer. When the prevailing pressure is less than the manifold pressure specified, the rates shall be adjusted at the prevailing pressure.

2. The gas inlet pressure per the manufacturer's installation settings.

3. The temperature rise across the heat exchanger per the manufacturer's installation settings.

4. The static pressure of the supply and return ducts per the manufacturer's installation settings.

Unlisted appliances approved in accordance with Section 301.3 shall be limited to uses recommended by the manufacturer and shall be installed in accordance with the manufacturer's instructions, the provisions of this code, and the requirements determined by the building official.

306.5 Equipment and appliances on roofs or elevated structures. Where equipment requiring access or appliances are located on an elevated structure or the roof of a building such that personnel will have to climb higher than 16 feet above grade or floor level to access such equipment or appliances, an interior or exterior means of access shall be provided. Such access shall not require climbing over obstructions greater than 30 inches in height or walking on roofs having a slope greater than 4 units vertical in 12 units horizontal (33 percent slope). Such access shall not require the use of portable ladders.

Permanent ladders installed to provide the required access shall comply with the following minimum design criteria:

1. The side railing shall extend above the parapet or roof edge not less than 30 inches when the ladder is located on the exterior of the building. The side railing shall extend within 6 inches of the roof access hatch, and the side railing shall terminate within 1 inch from the side of the roof curb or wall the ladder is attached when the ladder is located in the building.

2. Ladders shall have rung spacing not to exceed 14 inches on center. The upper-most rung shall be a maximum of 24 inches below the upper edge of the roof hatch, roof or parapet, as applicable.

3. Ladders shall have a toe spacing not less than 6 inches deep.

4. There shall be a minimum of 18 inches between rails.

5. Rungs shall have a minimum 0.75-inch diameter and be capable of withstanding a 300-pound load.

6. Ladders over 30 feet in height shall be provided with offset sections and landings capable of withstanding 100 pounds per square foot. Landing dimensions shall be not less than 18 inches and not less than the width of the ladder served. A guard rail shall be provided on all open sides of the landing.

7. Climbing clearance. The distance from the centerline of the rungs to the nearest permanent object on the climbing side of the ladder shall be a minimum of 30 inches measured perpendicular to the rungs. This distance shall be maintained from the point of ladder access to the bottom of the roof hatch. A minimum clear width of 15 inches shall be provided on both sides of the ladder measured from the midpoint of and parallel with the rungs except where cages or wells are installed.

8. Landing required. The ladder shall be provided with a clear and unobstructed bottom landing area having a minimum dimension of 30 inches by 30 inches centered in front of the ladder.

9. Ladders shall be protected against corrosion by approved means.

10. Access to ladders shall be provided at all times.

11. Exterior access may be by means of a ladder which need not extend closer than 8 feet to finished grade.

12. When a new hatch is being used to access equipment or appliances on a roof or elevated structure, the handle or release must be on the same side of the roof hatch as the ladder or within 18 inches of the ladder.

Catwalks installed to provide the required access shall be not less than 24 inches wide and shall have railings as required for service platforms.

Exception: This section shall not apply to Group R-3 occupancies.

306.7 Appliances above suspended ceilings. Rooms containing appliances above suspended ceilings shall be installed in accordance with Section 306.2. In such locations, there shall be a space of not less than 30 inches wide by 30 inches deep from the top of the service area of the appliance to the level floor below. Any obstructions are limited to lights and the suspended ceiling system. A wall or partition shall be allowed in the first 6 inches of the 30-inch-deep service area in front of the appliance, provided the wall or partition terminates below the bottom of the appliance and the depth of the service space is increased to 36 inches deep from the top of the appliance to the level floor below.

310.1.1 CSST. Corrugated stainless steel tubing (CSST) gas piping systems shall be bonded to the electrical service grounding electrode system at the point where the gas service enters the building. The bonding jumper shall be not smaller than 6 AWG copper wire or equivalent. Gas piping systems that contain one or more segments of CSST shall be bonded in accordance with this section.

404.3 Prohibited locations. Piping shall not be installed in or through a ducted supply, return or exhaust, or a clothes chute, chimney or gas vent, dumbwaiter or elevator shaft.

502.5 Installation. Vent systems shall be sized, installed and terminated in accordance with the vent and appliance manufacturer's installation instructions and Section 503. Type B vents shall not be installed with offsets in concealed spaces.

503.4.1.1 Plastic vent joints. Plastic pipe and fittings used to vent appliances shall be installed in accordance with the appliance manufacturer's installation instructions. The primer shall be of a contrasting color.

Plastic pipe and fittings used to vent appliances shall be installed in accordance with the pipe manufacturer's installation instructions and the appliance manufacturer's installation instructions. Solvent cement joints between ABS pipe and fittings shall be cleaned. Solvent cement joints between CPVC and PVC pipe and fittings shall be primed.

Exception: Where compliance with this section would conflict with the appliance manufacturer's installation instructions.

CHAPTER 9.06 - PROPERTY MAINTENANCE CODE

9.0601 Adopted. The City Council hereby adopts Chapters 1 through 8 the International Property Maintenance Code, 2018 Edition, including Appendix A, as published by the International Code Council, Inc. as the Property Maintenance Code of the City to provide standards to safeguard life or limb, health, property, and public welfare by regulating, governing, and controlling the use, occupancy, conditions, and maintenance of all property, buildings, and structures within this City and to provide for a just, equitable, and practicable method whereby buildings or structures, which from any cause endanger the life, limb, morals, property, safety, or welfare of the general public or their occupants, may be repaired, vacated, or demolished. The minimum requirements and standards of the 2018 International Property Maintenance Code will become effective on July 1, 2018. A copy of this Code shall be kept on file in the office of the Building Official.

9.0602 Local amendments, additions, and deletions to the 2018 International Property Maintenance Code. The following sections and subsections of the property maintenance code adopted in this Ordinance shall be amended, added, or deleted as follows. All other sections or subsections of the 2018 International Property Maintenance Code shall remain as originally published.

101.1 Title. These regulations shall be known as the Property Maintenance Code of the City of Elk Point, South Dakota, hereinafter referred to as “this code.”

101.3 Intent. This code shall be construed to secure its expressed intent, which is to ensure public health, safety, and welfare insofar as they are affected by the continued occupancy and

maintenance of structures and premises. Existing structures and premises that do not comply with these provisions shall be altered or repaired to provide a minimum level of health and safety as required herein. Repairs, alterations, additions to, and change of occupancy in existing buildings shall comply with this Ordinance and with any other applicable City ordinances or regulations.

102.3 Application of other codes. Repairs, additions, or alterations to a structure, or changes of occupancy, shall be done in accordance with the procedures and provisions of the International Building Code, International Existing Building Code, International Fuel Gas Code, International Mechanical Code, International Residential Code, and the Plumbing and Electrical Codes adopted by the State of South Dakota. Nothing in this code shall be construed to cancel, modify or set aside any provision of the Zoning Ordinance of the City of Elk Point, South Dakota.

103.1 Creation of enforcement agency. Building services is hereby created and the official in charge thereof shall be known as the Building Official.

103.2 Appointment. Not adopted by the City.

103.3 Deputies. Not adopted by the City.

103.4 Liability. The Building Official, members of the board of appeals, or employees charged with the enforcement of this code, while acting for the jurisdiction, in good faith and without malice in the discharge of the duties required by this code or other pertinent law or ordinance, shall not thereby be rendered liable personally, and are hereby relieved from all personal liability for any damage accruing to persons or property as a result of an act or by reason of an act or omission in the discharge of official duties. Any suit instituted against any officer or employee because of an act performed by that officer or employee in the lawful discharge of duties and under the provisions of this code shall be afforded all the protection by the city's insurance pool and any immunities and defenses provided by other applicable state and federal laws and be defended by the legal representative of the City until the final termination of the proceedings. The Building Official or any subordinate shall not be liable for costs in an action, suit, or proceeding that is instituted in pursuance of the provisions of this code.

103.5 Fees. The fees for activities and services performed by the department in carrying out its responsibilities under this code shall be adopted by resolution by the Council.

107.7 Extension of time agreement. If the Building Official determines that an extension of time will not create or perpetuate a situation imminently dangerous to life or property, the Building Official may grant an extension of time, not to exceed 180 days, in which to complete the work listed in the Notice and Order. Any extension shall not extend the time to appeal the Notice and Order. Any extension shall be agreed to in writing in a document containing the following:

1. A reasonable and acceptable schedule, setting forth specific dates to complete corrective action for each violation listed in the Notice and Order.

2. A signature of the responsible party.

111.1 Application for appeal. Any person directly affected by a decision of the Building Official or a notice or order issued under this code shall have the right to appeal to the Board of Appeals, provided that a written application for appeal is filed within 10 days after the day the decision, notice, or order was served. An application for appeal shall be based on a claim that the true intent of this code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this code do not fully apply, or the requirements of this code are adequately satisfied by other means. The Board shall have no authority relative to the interpretation of the administrative provisions of this code nor shall the Board be empowered to waive requirements of this code.

111.2 Designation of Board of Appeals. In order to hear and decide appeals of orders, decisions, or determinations made by the Building Official relative to the application and interpretation of this code, the Council hereby assumes the responsibilities of the Board of Appeals for this code. All decisions and findings of the Board shall be final and shall be rendered in writing to the appellant with a duplicate copy to the Building Official.

111.2.1 Alternate members. Not adopted by the City.

111.2.2 Chairman. Not adopted by the City.

111.2.3 Disqualification of member. Not adopted by the City.

111.2.4 Secretary. Not adopted by the City.

111.2.5 Compensation of members. Not adopted by the City.

111.3 Notice of meeting. Not adopted by the City.

111.4 Submission of appeals. All appeals must be submitted in writing to the Building Official within ten days of the order, decision, or determination of the Building Official that is being appealed. Once the appeal is received by the Building Official, he shall place the appeal on the Council's next regular meeting agenda that is more than seven days (inclusive) from the date of receipt of the appeal.

111.4.1 Appeal hearings. All hearings before the Board shall be open to the public. The appellant, the appellant's representative, the Building Official, any member of the City's staff, or any person whose interests are affected shall be given an opportunity to be heard.

111.4.1 Procedure. Not adopted by the City.

111.5 Postponed hearing. Not adopted by the City.

112.4 Failure to comply. Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be deemed in violation of this Ordinance and subject to the penalties prescribed by this Ordinance.

201.3 Terms defined in other codes. Where terms are not defined in this code and are defined in the International Building Code, International Existing Building Code,

International Fuel Gas Code, International Mechanical Code, International Residential Code, or the electrical and plumbing codes of the State of South Dakota, such terms shall have the meanings ascribed to them as stated in those codes.

302.4 Weeds. All premises and exterior property shall be maintained free from weeds, or tall grasses in excess of 8" in height. All noxious weeds shall be prohibited. Weeds shall be defined as all grasses, annual plants, and vegetation, other than trees or shrubs provided; however, this term shall not include cultivated flowers and gardens.

Upon failure of the owner or agent having charge of a property to cut and destroy weeds or tall grasses after service of a notice of violation, they shall be subject to prosecution in accordance with Section 106.3 and as prescribed by the authority having jurisdiction. Upon failure to comply with the notice of violation, any duly authorized employee of the City or contractor hired by the City shall be authorized to enter upon the property in violation and cut and destroy the weeds or tall grasses growing thereon, and the costs of such removal shall be paid by the owner or agent responsible for the property.

303.2 Enclosures. Private swimming pools, hot tubs, and spas containing water more than 18 inches in depth shall be completely surrounded by a fence or barrier at least 42 inches in height above the finished ground level measured on the side of the barrier away from the pool. Gates and doors in such barriers shall be self-closing and self-latching. The latch release mechanism shall be located on the pool side of the gate. Self-closing and self-latching gates shall be maintained such that the gate will positively close and latch when released from an open position. No existing pool enclosure shall be removed, replaced, or changed in a manner that reduces its effectiveness as a safety barrier.

> **Exception:** Spas or hot tubs with a safety cover that complies with ASTM F 1346 shall be exempt from the provisions of this section.

304.14 Insect screens. During the period from April 1 to September 30, every door, window, and other outside opening required for ventilation of habitable rooms, food preparation areas, food service areas, or any areas where products to be included or utilized in food for human consumption are processed, manufactured, packaged, or stored shall be supplied with approved tightly fitting screens of not less than 16 mesh per inch, and every screen door used for insect control shall have a self-closing device in good working condition.

> **Exception:** Screens shall not be required where other approved means, such as air curtains or insect repellent fans, are employed.

304.18 Building security. Doors, windows, or hatchways for dwelling units, room units, or housekeeping units shall be provided with devices designed to provide security for the occupants and property within and shall comply with Section 702.3.

305.1 General. The interior of a structure and equipment therein shall be maintained in good repair, structurally sound, and in a sanitary condition. Occupants shall keep that part of the structure which they occupy or control in a clean and sanitary condition. Every owner of a structure shall maintain, in a clean and sanitary condition, the shared or public areas of the structure and exterior property.

404.4.1 Room area. Every living room shall contain at least 120 square feet and every bedroom shall contain a minimum of 70 square feet. Bedrooms 100 square feet or less are allowed two occupants and every bedroom occupied by more than two persons shall contain a minimum of 50 additional square feet of floor area for each occupant thereof.

502.5 Public toilet facilities. Public toilet facilities shall be maintained in a safe, sanitary, and working condition in accordance with the current codes adopted by the State of South Dakota for plumbing. Except for periodic maintenance or cleaning, public access and use shall be provided to the toilet facilities at all times during occupancy of the premises.

505.1 General. Every sink, lavatory, bathtub or shower, drinking fountain, water closet, or other plumbing fixture shall be properly connected to either a public water system or to an approved private water system. All kitchen sinks, lavatories, laundry facilities, bathtubs, and showers shall be supplied with hot or tempered and cold running water in accordance with the current codes adopted by the State of South Dakota for plumbing.

602.2 Residential occupancies. Dwellings shall be provided with heating facilities capable of maintaining a room temperature of 68°F in all habitable rooms, bathrooms and toilet rooms. Cooking appliances shall not be used, nor shall portable unvented fuel-burning space heaters be used, as a means to provide required heating.

Exception: In areas where the average monthly temperature is above 30°F, a minimum temperature of 65°F shall be maintained.

602.3 Heat supply. Every owner and operator of any building who rents, leases or lets one or more dwelling units or sleeping units on terms, either expressed or implied, to furnish heat to the occupants thereof shall supply heat during the period from September 1 to April 30 to maintain a minimum temperature of 68°F in all habitable rooms, bathrooms and toilet rooms.

Exceptions:

1. When the outdoor temperature is below the winter outdoor design temperature for the locality, maintenance of the minimum room temperature shall not be required provided that the heating system is operating at its full design capacity.

2. In areas where the average monthly temperature is above 30°F a minimum temperature of 65°F shall be maintained.

602.4 Occupiable work spaces. Indoor occupiable work spaces shall be supplied with heat during the period from September 1 to April 30 to maintain a temperature of not less than 65°F during the period the spaces are occupied.

Exceptions:

1. Processing, storage, and operation areas that require cooling or special temperature conditions.

2. Areas in which persons are primarily engaged in vigorous physical activities.

CHAPTER 9.07 - ZONING REGULATIONS

(See Appendix A)

CHAPTER 9.08 - SUBDIVISION REGULATIONS

(See Appendix B)

Dated this 4th day of February 2019.

TITLE 10 - TAXATION

Chapter 10.01 - Municipal Sales and Service Tax and Use Tax
Chapter 10.02 - Gross Receipts Tax
Chapter 10.03 - Municipal Sales and Service Tax and Use Tax Refund
Chapter 10.04 - Urban and Rural Service Districts

CHAPTER 10.01 - MUNICIPAL SALES AND SERVICE TAX AND USE TAX

10.0101 Purpose. The purpose of this Chapter is to provide additional needed revenue for the Municipality of Elk Point, Union County, South Dakota, by imposing a municipal retail sales and use tax pursuant to the powers granted by the State of South Dakota, by SDCL 10-52 entitled Uniform Municipal Non-Ad Valorem Tax Law, and acts amendatory thereto.

10.0102 Effective Date. From and after the first day of January, 2006, there is hereby imposed as a municipal retail occupational sales and service tax upon the privilege of engaging in business a tax measured by Two Percent (2%) on the gross receipts of all persons engaged in business within the jurisdiction of the Municipality of Elk Point, Union County, South Dakota, who are subject to the South Dakota Retail Occupational Sales and Service Tax, SDCL 10-45 and acts amendatory thereto.

10.0103 Use Tax. In addition there is hereby imposed an excise tax on the privilege of use, storage and consumption within the jurisdiction of the municipality of tangible personal property or services purchased from and after the first day of January, 2006, at the same rate as the municipal sales and service tax upon all transactions or use, storage and consumption which are subject to the South Dakota Use Tax Act, SDCL 10-46, and acts amendatory thereto.

10.0104 Collection. Such tax is levied pursuant to authorization granted by SDCL 10-52 and acts amendatory thereto, and shall be collected by the South Dakota Department of Revenue and Regulation in accordance with the same rules and regulations applicable

to the State Sales Tax and under such additional rules and regulations as the Secretary of Revenue and Regulation of the State of South Dakota shall lawfully prescribe.

10.0105 Interpretation. It is declared to be the intention of this Chapter and the taxes levied hereunder that the same shall be interpreted and construed in the same manner as all sections of the South Dakota Retail Occupational Sales and Service Act, SDCL 10-45 and acts amendatory thereto and the South Dakota Use Tax, SDCL 10-46 and acts amendatory thereto, and that this shall be considered a similar tax except for the rate thereof to that tax.

CHAPTER 10.02 - GROSS RECEIPTS TAX

10.0201 Purpose. The purpose of this Chapter is to provide additional needed revenue for the Municipality of Elk Point, Union County, South Dakota, by imposing a municipal gross receipts tax pursuant to the powers granted to the municipality by the State of South Dakota, by SDCL 10-52A, and acts amendatory thereto.

10.0202 Effective Date. From and after the first day of July, 2009, there is hereby imposed a municipal gross receipts tax of One Percent (1%) upon the gross receipts from the sale of leases or rentals of hotel, motel, campsites or other lodging accommodations within the municipality for periods of less than twenty-eight (28) consecutive days, the sale of alcoholic beverages as defined in SDCL 35-1-1, establishments where the public is invited to eat, dine or purchase and carry out prepared food for immediate consumption, and ticket sales or admissions to places of amusement, athletic and cultural events. The tax applies to the gross receipts of all persons engaged in business within the jurisdiction of the Municipality of Elk Point, Union County, South Dakota, who are subject to the South Dakota Retail Occupational Sales and Service Tax, SDCL 10-45 and acts amendatory thereto.

10.0203 Collection. Such tax is levied pursuant to authorization granted by SDCL 10-52A and acts amendatory thereto, and shall be collected by the South Dakota Department of Revenue and Regulation in accordance with the same rules and regulations applicable to the State Sales Tax and under such additional rules and regulations as the Secretary of Revenue of the State of South Dakota shall lawfully prescribe.

10.0204 Interpretation. It is declared to be the intention of this Chapter and the taxes levied hereunder that the same shall be interpreted and construed in the same manner as all sections of the South Dakota Retail Occupational Sales and Service Tax, SDCL 10-45 and acts amendatory thereto and the South Dakota Use Tax, SDCL 10-46 and acts amendatory hereto, and that this shall be considered a similar tax except for the rate thereof to that tax.

10.0205 Use of Revenue. Any revenues received under this Chapter may be used only for the purpose of land acquisition, architectural fees, construction costs, payment for civic center, auditoriums or athletic facility buildings, including the maintenance, staffing

and operations of such facilities, and the promotion and advertising of the municipality, its facilities, attractions and activities.

10.0206 Sunset Provision. This Chapter is enacted for the purpose of repaying debt for the construction of the City of Elk Point's Community Center. This Chapter shall sunset and become null and void when the funds borrowed are paid in full, unless the City takes affirmative action to extend the Chapter.

CHAPTER 10.03 – MUNICIPAL SALES AND SERVICE TAX AND USE TAX REFUND

10.0301 Purpose. The purpose of this Chapter is to establish criteria for Municipal Sales and Service Tax and Use Tax refunds within the City of Elk Point in order to stimulate business and commercial activity within the City of Elk Point.

10.0302 Minimum Expenditures Required. A minimum of $750,000 for improvements or new construction within the boundaries of the City of Elk Point shall be required in order to apply for Municipal Sales and Service Tax and Use Tax refunds.

10.0303 Eligible Taxes. The City may agree to a refund, in whole or part, of its Municipal Sales and Service Tax and Use Tax paid by business or person:

A. On the purchase of material for use in remodeling, rehabilitation, or constructing a structure;
B. On the purchase of equipment and furnishings for a structure.

10.0304 Separate Agreements Required. Any person desiring to claim a refund shall make application to the City Finance Officer at least thirty days prior to the earlier of the construction commencement or the ordering of equipment to be used in the business facility. The City Council will, by separate Agreement, consider rebating the eligible Municipal Sales and Service Tax and Use Tax paid for a period to be determined by the Agreement but not to exceed two (2) years.

10.0305 Documentation Required. Business or persons entitled to a refund of Municipal Sales and Service Tax and Use Tax under this Chapter shall pay the entire amount of State and Municipal Sales and Service Tax and Use Tax at the time of purchase. A business or person entitled to a refund of Municipal Sales and Service Tax and Use Tax must provide documentation necessary to support a refund claim in a form prescribed by the City's Finance Officer.

Dated this 17th day of December, 2012.

CHAPTER 10.04– URBAN AND RURAL SERVICE DISTRICTS

10.0401 Service District Established. Pursuant to the authority granted in SDCL Ch. 9-21A, the City is hereby divided in area into an urban service district and a rural service district constituting separate taxing districts for the purpose of levying all City ad valorem property taxes, except those levied for the payment of bonds.

10.0402 Rural Service District – Criteria for Lands Included. The rural service district shall include only such platted or unplatted lands as in the judgment of the City Council are rural in character, are used or usable for agriculture, and are not developed for commercial, industrial or urban residential purposes. The rural service district may include lands which are not contiguous to one another.

10.0403 Land Described – Rural Service District. The rural service district shall consist of those platted or unplatted lands described in Exhibit A, on file with the Elk Point Finance Officer's office, entitled "Lands Included in the Rural Service District" and attached to the end of this Chapter and made part of this Section, all of which lands are rural in character, are used or usable for agriculture, and are not developed for commercial, industrial or urban residential purposes.

The rural service district shall also include lands outside the municipality, if annexed into the corporate limits, which are rural in character, are used or usable for agriculture, and are not developed for commercial, industrial or residential purposes.

10.0404 Lands included in Urban Service District. The urban service district shall include all lands within the boundaries of the City which are not included in the rural service district.

10.0405 Agricultural Land Annexed; Limitation on Mill Levy and Assessed Value. The tax levy and assessed value on the agricultural land annexed shall not exceed the average tax levy and average assessed value on unannexed agricultural land in adjoining townships in the county so long as the annexed land remains rural property and is included in the rural service district.

10.0406 Platting or Construction in Rural Service District. Whenever any parcel of land included within the rural service district:

A. Is platted in whole or in part;
B. Is the subject of an application for a permit for the construction of a commercial, industrial or urban residential development or improvement to be situated on such parcel or any part thereof; or
C. Otherwise fails to meet the criteria as set forth in Section 10.0402 of this title.

The board or officer of the City approving such plat or building permit or having knowledge of the change in circumstances shall report the change to the City Council which shall make and enter an order transferring such parcel from the rural service district to the urban service district.

10.0407 Filing Ordinance Amendment or Order with County Auditor. The City Finance Officer is hereby directed to file with the Union County Auditor a certified copy of the Ordinance codified in this Chapter, every amendment thereof and every order adopted or entered pursuant to such ordinance.

Exhibit A. Lands Included in the Rural Service District.

There are no properties currently with the city limits classified as Rural Service District.

Dated this 1st day of July, 2013.

TITLE 11 - GENERAL PROVISIONS
Chapter 11.01 - Penalties and Repealing Clause
Chapter 11.04 – Off-Street Parking

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 to exceed the fine established by SDCL 22-6-2(2), by imprisonment not exceeding thirty days, or by both the fine and imprisonment. Each day in which a violation of this Code or other ordinance continues shall constitute a separate offense. (SDCL 9-19-3)

11.0102 Conflicting Ordinances Repealed. All former ordinances or parts of former ordinances in conflict with the provisions of this ordinance or relating to the subject matter of this ordinance, except as stated in this chapter, are hereby repealed; provided however, that nothing herein shall be construed as repealing any special ordinances, appropriation ordinances, franchise ordinances establishing fees and charges, levy ordinances for the issuance of bonds, or special ordinances of like character, nor shall this ordinance repeal or modify the provisions of any zoning ordinances or any other ordinances requiring a special method of adoption, nor shall this ordinance repeal or modify the provisions of any resolution heretofore adopted by the City of Elk Point unless the provisions of this ordinance either modify, repeal, or amend such resolution; and all such ordinances and resolutions shall remain in full force and effect.

11.0103 Unconstitutionality. Should any section, paragraph, sentence, clause or phrase of this ordinance be declared unconstitutional or invalid for any reason, the remainder of this ordinance shall not be affected thereby.

11.0104 Publication and Effect. This ordinance shall take effect immediately upon its adoption and publication of the notice of such adoption as provided by SDCL 9-19-17.

11.04 Off-Street Parking A.

General Conditions

1. No parking spaces are permitted in the required front yard in an R-1, R-2 or R-3 District except for portions of the front yard necessary for hard-surfaced driveways or as otherwise provided in this title. Parking is permitted in a side yard or rear yard in an R-1, R-2 or R-3 District, provided it is not nearer than two (2) feet to the property line.

2. Driveways shall conform to the prescribed standards within the City's Engineering Design Standards. Entrances and exits shall in no case be less than ten (10) feet nor more than forty (40) feet in width or fourteen (14) feet in vertical clearance. No driveway slope shall exceed 20%.

3. Except in conjunction with a legal nonconfolining business, it is unlawful for any person to park, store, leave, or permit the parking, storing or leaving of any commercial vehicle for more than a seventy-two (72) hour period in a NRC, R-1, R-2, or R-3 District, unless the vehicle is parked in connection with the performance of a service.

4. All parking spaces and access drives thereto shall be hard--surfaced with asphalt, concrete, gravel, pavers or other like aggregate material.

5. Accessible parking spaces and passenger loading zones shall be provided in accordance with current building code.

6. On any lot in an R-1, R-2, or R-3 - District, all travel trailers, trailers, and recreational vehicles shall be parked or stored behind the City Right-Of-Way when they are to remain stationary. Travel trailers, trailers, and recreational vehicles which are to remain stationary shall be owned by the owner/occupant of the property and shall not serve as temporary or permanent sleeping quarters for any person for more than seven (7) days within a thirty (30) consecutive day period. Any vehicles stored on any designated zone R-1, R-2, or R-3 shall not serve or be used as temporary or permanent sleeping quarters for any person for more than seven (7) days within a thirty (30) consecutive day period.

7. The parking requirements in this section shall not be applicable to property in the CB Central Business District, except for residential uses which are authorized by a conditional use permit.

Adopted this 2nd day of June, 2014.