

## CHAPTER 1

### CONSTRUCTION AND EFFECT OF ORDINANCES AND THEIR PUBLICATION

Section 1-101. Construction of Ordinances. In the construction of the ordinances of the Town of Tabor the following rules shall be observed unless such construction would be inconsistent with the manifest intent of the ordinance:

- (1) General Rule. All words and phrases shall be construed and understood according to the common and approved usage of the language; but technical words and phrases and such others as may have acquired a peculiar and appropriate meaning in the law shall be construed and understood according to such peculiar and appropriate meaning.
- (2) Gender—Singular and Plural. Every word in any ordinance importing the masculine gender shall extend to and be applied to females as well as males; and every word importing the singular number only shall extend and be applied to several persons or things as well as to one person or thing; and every word importing the plural number only shall extend and be applied to one person or thing as well as to several persons or things.
- (3) Person. The word "person" shall extend and be applied to firms, corporations, or voluntary associations, as well as to individuals, unless plainly inapplicable.
- (4) Tenses. The use of any verb in the present tense shall include the future when applicable.
- (5) Shall Have Been. The words "shall have been" include past and future cases.
- (6) Heretofore and Hereafter. Whenever the word "heretofore" occurs in any ordinance it shall be construed to mean any time previous to the day when such ordinance shall take effect; and whenever the word "hereafter" occurs it shall be construed to mean the time after the ordinance containing such word shall take effect.
- (7) Joint Authority. All words purporting to give a joint authority to three or more town officers or other persons shall be construed as giving such authority to a majority of such officers or other persons unless it shall be otherwise expressly declared in the law giving the authority.
- (8) Acts by Agents. When an ordinance requires an act to be done which may by law as well be done by an agent as by the principal such requisition shall be construed to include all such acts when done by an authorized agent.
- (9) Reasonable Time. In all cases where any ordinance shall require any act to be done in a reasonable time or reasonable notice to be given, such reasonable time or notice shall be deemed to mean such time only as may be necessary for the prompt performance of such duty, or compliance with such notice.

(10) Time--How Computed. The time within which an act is to be done as provided in any ordinance or in any order issued pursuant to any ordinance, when expressed in days, shall be computed by excluding the first day and including the last, except that if the last day be Sunday it shall be excluded; and when any such time is expressed in hours the whole of Sunday, from midnight to midnight, shall be excluded.

(11) Board of Trustees. Board of Trustees shall mean the Board of Trustees of the Town of Tabor, constituting the governing body.

(12) Week. The word "week" shall be construed to mean seven days; but publication in a newspaper of any notice or other matter indicated to be for a stated number of weeks shall be construed to mean one insertion in each week, unless specifically stated to be for each day of the week or for more than one day in each week; and all publications heretofore made in accordance with the terms of this subsection are hereby validated.

Section 1-102. When These Rules of Construction Shall Not Apply. The rules of construction set forth in this ordinance shall not be applied to any ordinance which shall contain any express provision excluding such construction, or when the subject matter or context of such ordinance may be repugnant thereto.

Section 1-103. Reference to Titles, Chapters , or Sections — Conflicting Ordinances. In addition to the rules of construction specified in Section 1-101, the following rules shall be observed in the construction of these ordinances:

(1) All references to titles, chapters or sections are to the titles, chapters and sections of these ordinances unless otherwise specified.

(2) If the provisions of different chapters of these ordinances conflict with or contravene each other, the provisions of each chapter shall prevail as to all matters and questions growing out of the subject matter of such chapter.

(3) If conflicting provisions be found in different sections of the same chapter the provisions of the section which is last in numerical order shall prevail unless such construction be inconsistent with the meaning of such chapter.

Section 1-104. Ordinance to Take Effect When. All ordinances passed by the Town Board, except when otherwise specifically provided, shall take effect and be in force from and after their publication in accordance with South Dakota Compiled Laws 9-19.

Section 1-105. Effect of Repeal. When any ordinance repealing a former ordinance, clause or provision, shall be itself repealed, such repeal shall not be construed to revive such former ordinance, clause or provision, unless it shall be expressly so provided.

Section 1-106. Penalty Where No Penalty Provided.

(1) In any case where there shall be a violation of any town ordinance for which no penalty is provided, the person violating the same shall be subject to a fine of not less than one dollar nor more than one hundred dollars for each offense, except as provided in the following subsection.

(2) In any case where any ordinance or section of an ordinance of the Town of Tabor shall not provide the greater penalty for a second or subsequent conviction for a violation thereof any person violating the same who shall previously have been convicted of a violation thereof shall be subject to a fine of not less than ten dollars nor more than two hundred dollars for each offense, except that where the penalty provided by any such ordinance or section for a first violation thereof shall be larger than the penalty herein provided such larger penalty shall be applicable.

(3) No violation of any ordinance of the Town of Tabor shall be or be construed to be a misdemeanor nor shall imprisonment be imposed as a punishment for violation of any ordinance of the Town of Tabor except in the event of a failure of the defendant to pay the fine imposed by the court, any other provision of the general ordinances of the Town of Tabor to the contrary notwithstanding.

Section 1-107. Imprisonment Upon Failure to Pay Penalty Imposed for Violation of Ordinance. When a fine shall be imposed for the violation of any ordinance of the Town of Tabor or " any section thereof the court may also sentence the defendant to pay the cost of the action and to be imprisoned until such fine and costs are paid, in no case, however, to exceed six months, and the court may also issue an execution against the property of the defendant for said fine and costs.

Section 1-108. Effect of Code on Existing Obligations. Nothing in this code shall be so construed as to impair any vested rights or valid obligations existing when it takes effect.

Section 1-109. Former Ordinances Repealed. All ordinances and parts of ordinances in conflict with the provisions of this code or relating to the subject matter of this code and not re-enacted as a part of this code are hereby repealed, except as otherwise specifically provided.

Section 1-110. Effect of Repeal. The repeal of an ordinance shall not affect any punishment or penalty incurred before the repeal took effect, nor any suit, prosecution or proceeding pending at the time of repeal, or any offense committed under the ordinance repealed.

Section 1-111. Code Inapplicable to Certain Ordinances. Nothing in this code shall affect the validity of any of the following:

- (a) Ordinances providing for appropriations;
- (b) Ordinances providing for the issuance of bonds;

- (c) Ordinances granting any franchise, right-of-way, easement, or contract right;
- (d) Ordinances establishing street grades, widths, or names;
- (e) Any ordinance adopted after, 1976.

## BOARD OF TRUSTEES ORGANIZATION AND PROCEDURE

### Section 1-201. Regular Meetings.

- (1) Time. The Board of Trustees shall hold regular meetings on the first Monday of each month at 7:30 P.M.
- (2) Place. All regular meetings of the Town Board shall be held in the Community Center in the Town of Tabor.

### Section 1-202. Elective and Appointive Officers.

- (1) Elective Officers. The elective officers of the Town shall be five trustees.
- (2) Terms of Officers. Members of the Board of Trustees shall hold office for a term of three years, provided that at least one trustee shall be elected each year at the annual election, and all the other elective officers shall hold office for a term of three years. Such officers shall be elected at the annual election, and shall hold office until their successors are elected or appointed and have qualified. Each elective officer when elected to fill a vacancy shall enter upon the discharge of his duties as soon as he shall have qualified and shall serve until the next annual election at which the vacancy could be filled, and every such officer when elected for a full term shall enter upon the discharge of his duties on the first Monday of May next succeeding his election or as soon thereafter as he shall have duly qualified.
- (3) Appointive Officers. Marshal, Street Commissioner (or overseer of highways), assessor, Town Attorney, Town License Officer, and water and sewer supervisor.
- (4) Mode of Appointment. All appointive officers of the Town shall be appointed by a majority vote of the Board of Trustees. The Assessor and Town Attorney shall be appointed at the first regular meeting in January and shall hold office for one year or until his successor is appointed and qualified.
- (5) Term of Appointive Officer. Each appointive town officer shall enter upon the discharge of his duties as soon as each have duly qualified and shall hold office until the appointment and qualification of his successor.
- (6) Qualifications of Officers. The member of the Board of Trustees shall qualify for office within ten days after notice of his election by filing an oath of affirmation of office in the

usual form provided by law, and the clerk, treasurer, marshal, and the police magistrate shall within ten days after notice of their election or appointment take and subscribe an oath or affirmation of office in the form required by the Constitution and furnish an undertaking to be approved by the Board of Trustees in such sum as it shall direct. The amount of the Treasurer's Bond shall, in no case, be less than one-half of the amount of the estimated taxes and special assessments for the current year, and in case bonds are sold, he shall execute an additional bond to the amount thereof.

(7) Certificate of Appointment. The marshal shall be commissioned by warrant, under the corporate seal, signed by the President of the Board of Trustees and the clerk.

(8) Vacancies. The failure of any officer for ten (10) days after notice of his election or appointment to qualify and enter upon the duties of his office, or the conviction of any such officer of any public offense other than a misdemeanor, or his resignation, shall cause a vacancy in the office. The vacancy in the Board of Trustees shall be filled by the remaining members at a special meeting of the board called for that purpose, and the vacancy in the office of police magistrate, town clerk, town assessor, town treasurer, or town attorney, shall be filled by appointment by the Board of Trustees until the next ensuing election.

(9) Removal of Appointive Officer. Any appointive officer may be removed by a majority vote of the Board of Trustees.

(10) Certain Officers Not to Hold Other Office. No trustee shall hold any other office under the municipality while an incumbent of any such office. No clerk shall hold the office of treasurer under the municipality while an incumbent of such officer.

(11) Public Records. Every municipal officer shall keep a record of the official acts and proceedings of his office, and such record shall be open to public inspection during the business hours under reasonable restriction.

(12) Publication of Proceedings. The town clerk shall cause to be published in the official newspaper within thirty (30) days after each meeting of Board of Trustees a full account of the proceedings at such meeting giving a detailed statement of all expenditures of money, the names of the persons to whom payment is made and showing the services rendered therefore.

(13) President of the Board of Trustees. At the first regular meeting after their election, the members of the Board of Trustees shall elect one of their number as President to serve for one year and until his successor is elected and qualified.

#### Section 1-203. Duties of Officers.

(1) President. To preside at all meetings of the Board of Trustees and perform all duties usual and incidental to the duties of a president, and who shall vote on all matters with the other trustees.

(2) Town Clerk. The duties of the town clerk shall be as follows:

(a) He/She shall keep his office at such place as the governing body may direct.

(b) He/She shall keep the corporate seal, all papers and records of the municipality and a record of the proceedings of the governing body whose meetings it shall be his duty to attend.

(c) He/She shall draw and countersign all warrants on the Treasury in pursuance of orders or resolutions of the governing body and keep a full and accurate account thereof in books provided for that purpose.

(d) He/She shall cause to be made estimates of the expenses of any work done by the municipality and countersign all contracts made on its behalf.

(e) He/She shall keep regular books of account in which he shall enter all indebtedness of the municipality and shall at all times show the financial condition of the town, the amount of bonds, warrants, certificates or other evidence of indebtedness issued by the town and the amounts of all bonds, warrants, certificates, or other evidences of indebtedness which have been redeemed and the amount of each outstanding.

(f) He/She shall countersign all bonds, warrants or other evidences of indebtedness of the municipality and keep accurate account thereof, stating to whom and for what purpose issued and the amount thereof.

(g) He/She shall keep an account with all receiving and disbursing officers of the town showing the amount they have received from the different sources of revenue and the amount which they have disbursed under the direction of the governing body.

(h) He/She shall examine all reports, books, papers, vouchers and accounts of the Treasurer; audit and adjust all claims and demands against the town before they are allowed by the governing body; keep a record of his accounts and doings; keep a record in which books shall be open to the inspection of all parties interested; and perform such other duties as may be required by ordinances, resolution or direction of the governing body.

(i) He/She shall report to the governing body on the first day of July and January of each year the receipts, expenses and financial conditions of the municipality, which report shall be published within thirty (30) days thereafter in the official paper.

(j) He/She shall make and keep a list of outstanding municipal bonds, to whom issued, for what purpose, when and where payable, and the rate of interest they respectively bear, and recommend such action to the governing body as will secure the prompt payment of the principal and interest of such bonds.

(k) He/She shall report annually on or before the first day of September to the governing body an estimate of expenses of the municipality and the revenue necessary to be raised for the ensuing year.

(3) Treasurer. The duties of the town treasurer shall be as follows:

(a) He/She shall receive all money belonging to the municipality including taxes, licenses, fines, and income from all other sources and keep an accurate and detailed account thereof in such a manner as the governing body may, from time to time, direct.

(b) He/She shall have a settlement with the town clerk at the end of every month and turn over all warrants, interest coupons, bonds or other evidence of indebtedness which may have been paid by him during the month taking the receipt of the clerk therefore, and all such evidences of indebtedness shall be canceled by him and have written or stamped thereon the date of payment.

(c) He/She shall keep a separate account of each fund or appropriation and of the debits and credits belonging thereto.

(d) He/She shall give every person paying money into the Treasury a duplicate receipt therefore specifying the amount, date of payment and upon what account paid; he shall file copies of such receipts with the clerk at the time of his monthly report.

(e) He/She shall keep all moneys in his hands belonging to the municipality separate and distinct from his own moneys.

(f) He/She shall report to the governing body upon request a full and detailed account of all receipts and expenditures since his last report and the balance in the Treasury.

(g) He/She shall keep a record of all warrants paid during the year with their date, amount, number, the fund from which paid, the person to whom paid, and the time of payment.

(h) He/She shall pay no money out of the Treasury except upon the warrant of the President of the Board of Trustees, countersigned by the clerk, except bonds and interest coupons, which, when due, may be paid upon presentation and in case the same are payable at some place other than within the city, the money for their redemption shall be sent to the place where they are payable in time to meet such payment when due.

(i) He/She shall pay all warrants in the order in which they are presented out of the funds upon which they may be drawn and he shall note on the back of each warrant presented the date of such presentation and the date of such payment. Every such warrant shall be paid upon presentation if there is sufficient money in the fund upon which it is drawn to pay the same; if not, it shall be registered as provided by law.

(4) Assessor. The Town of Tabor shall constitute an assessor's district, and the town assessor shall, in addition to the duties provided for township and county assessors, perform the following duties:

(a) He/She shall assess all real and personal property within the municipality, which assessment shall be for the purpose of levying municipal, county, school and state taxes.

(b) He/She shall complete and return his assessment roll before the second Monday in June of each year to the town clerk who shall present the same to the Town Board of Equalization at its regular meeting.

(c) He/She shall prepare and keep in his office for the use of himself and his successors all such information in regard to the real and personal property within the town which shall be useful and necessary in determining the value of the same for the purpose of assessment.

(d) He/She shall assist in the making of special assessments for municipal improvements and perform such other duties as may be prescribed by the governing body.

(5) Police. The town marshal shall perform such duties as shall be prescribed by the governing body for the preservation of peace, and

(a) All policemen shall possess the powers of constables.

(b) They shall execute and serve all warrants, process, commitments and writs as issued by the police magistrates of the municipality.

(c) They may pursue and arrest any person fleeing from justice in any part of the state and when performing the duties aforesaid, may arrest and detain any person guilty of any breach of the peace or any violating of the laws of the state or ordinance of the town.

(d) The town marshal or his deputies receiving a salary for their services, shall account for and pay over on or before the end of each month to the treasurer, all fees received by him for the service of any civil process, taking a receipt therefore and filing an itemized account thereof with the town clerk.

(e) No marshal receiving a salary for other purposes shall charge or receive any fee or compensation for the service of any process issued out of any Court of this state in any criminal case.

Section 1-204. Compensation of Officers. The compensation of the several officers of the town shall be as follows: President of the Board of Trustees shall receive a salary of \$100 per month, and the other members of the Board of Trustees shall receive a salary of \$75 per month, payable quarterly.



Section 1-205. Special Meetings. The President shall call special meetings of the board whenever in his opinion the public business may require it, or at the express written request of any members of the Trustees. Whenever a special meeting shall be called, a summons or a notice in writing signed by the President of the board shall be served upon each member of the board either in person or by notice left at his place of residence, stating the date and hour of the meeting and the purpose for which such meeting is called, and no business shall be transacted thereat except such as is stated in the notice.

Section 1-206. Agenda. All reports, communications, ordinances, resolutions, contract documents, or other matters to be submitted to the board shall be delivered to the town clerk, whereupon the town clerk shall immediately arrange a list of such matters according to the Order of Business and furnish each member of the board and the town attorney with a copy of the same prior to the board meeting and as far in advance of the meeting as time for preparation will permit. None of the foregoing matters shall be presented to the board by administrative officials except those of an urgent nature, and the same, when so presented, shall have the written approval of the President before presentation.

Section 1-207. The Presiding Officer—Election and Duties. The presiding officer of the board shall be the President, who shall be elected annually by the members from their membership. The President shall assume the chair of the Presiding Officer immediately after his election. The Presiding Officer shall preserve strict order and decorum at all regular and special meetings of the board. He shall state every question coming before the board, announce the decision of the board on all subjects and decide all questions of order, subject, however, to an appeal to the board, in which event a majority vote of the board shall govern and conclusively determine such question of order. He shall vote on all questions, his name being called last. He shall sign all ordinances and resolutions adopted by the board during his presence. In the event of the absence of the President, the Presiding Officer shall sign ordinances or resolutions as then adopted.

Section 1-208. Call to Order—Presiding Officer. The President shall take the chair precisely at the hour appointed for the meeting and shall immediately call the board to order. In the absence of the President, the town clerk shall call the board to order, whereupon a temporary chairman shall be elected by the members of the board present. Upon the arrival of the President, the temporary chairman shall immediately relinquish the chair upon the conclusion of the business immediately before the board.

Section 1-209. Roll Call. Before proceeding with the business of the board, the town clerk shall call the roll of the members, and the names of those present shall be entered in the minutes.

Section 1-210. Quorum. A majority of all the members elected to the board shall constitute a quorum at any regular or special meeting of the board.

Section 1-211. Order of Business. All meetings of the board shall be open to the public. Promptly at the hour set by law on the day of each regular meeting, the members of the board shall take their regular stations and the business of the board shall be taken up for consideration and disposition in the following order:

1. Roll Call.
2. Agenda.
3. Approval of minutes of previous meeting.
4. Financial.
5. Vouchers.
6. Petitions, remonstrances and communications.
7. Introduction and adoption of resolutions and ordinances.
8. Report of Officers—Boards—Committees.
9. Unfinished Business.
10. New Business.
11. Miscellaneous.
12. Appropriations.
13. Adjournment.

Section 1-212. Reading of Minutes. Unless a reading of the minutes of a board meeting is requested by a member of the board, such minutes may be approved without reading if the clerk has previously furnished each member with a synopsis thereof.

Section 1-213. Rules of Debate.

(1) Presiding Officer May Debate and Vote, etc. The President or such other member of the board as may be presiding may move, second and debate from the chair, subject only to such limitations of debate as are by these rules imposed on all members and shall not be deprived of any of the rights and privileges of a trustee by reason of his acting as the President Officer.

(2) Getting the Floor--Improper References to Be Avoided. Every member desiring to speak shall address the Chair, and, upon recognition by the Presiding Officer, shall confine himself to the question under debate.

(3) Interruptions. A member, once recognized, shall not be interrupted when speaking unless it be to call him to order, or as herein otherwise provided. If a member, while speaking, be called to order, he shall cease speaking until the question of order be determined, and, if in order, he shall be permitted to proceed.

(4) Privilege of Closing Debate. The trustee moving the adoption of an ordinance or resolution shall have the privilege of closing the debate.

(5) Motion to Reconsider. A motion to reconsider any action taken by the board may be made only on the day such action was taken. It may be made either immediately during the same session, or at a recessed or adjourned session thereof. Such motion must be made by one of the prevailing side, but may be seconded by any member, and may be made at any time and have precedence over all other motions or while a member has the floor; it shall be debatable. Nothing herein shall be construed to prevent any member of the board from making or remaking the same or any other motion at a subsequent meeting of the board.

(6) Remarks of Trustee—When Entered in Minutes. A trustee may request, through the Presiding Officer, the privilege of having an abstract of his statement on any subject under consideration by the board entered in the minutes. If the board consents thereto, such statement shall be entered in the minutes.

(7) Synopsis of Debate—When Entered in Minutes. The cleric may be directed by the Presiding Officer, with consent of the board, to enter in the minutes a synopsis of the discussion on any question coming regularly before the board.

Section 1-214. Addressing the Board. Any person desiring to address the board shall first secure the permission of the Presiding Officer so to do; Provided, however, that under the following headings of business, unless the Presiding Officer rules otherwise, any qualified person may address the board without securing such prior permission:

(a) Written Communications. Interested parties or their authorized representatives may address the board by written communications in regard to matters then under discussion.

(b) Oral Communications. Taxpayers or residents of the town, or their authorized, legal representatives, may address the board by oral communications on any matter concerning the town's business, or any matter over which the board has control; Provided, however, that preference shall be given to those persons who may have notified the town clerk in advance of their desire to speak in order that the same may appear on the agenda of the board.

(c) Reading of Protests, etc. Interested persons or their authorized representatives may address the board by reading of protests, petitions, or communications relating to zoning, sewer and street proceedings, hearings on protests, appeals and petitions, or similar matters, in regard to matters then under consideration.

Section 1-215. Addressing the Board After Motion Made. After a motion is made by the board, no person shall address the board without first securing the permission of the board so to do.

Section 1-216. Manner of Addressing Council—Time Limit. Each person addressing the board shall give his name and address in an audible tone of voice for the records. All remarks shall be addressed to the board as a body and not to any member thereof. No person, other than the board and the person having the floor, shall be permitted to enter into any discussion, either directly or through a member of the board, without the permission of the Presiding Officer. No question shall be asked a trustee except through the Presiding Officer.

Section 1-217. Silence Constitutes Affirmative Vote. Unless a member of the board states that he is not voting, his silence shall be recorded as an affirmative vote.

Section 1-218. Decorum.

(1) By Board Members. While the board is in session, the members must preserve order and decorum, and a member shall neither, by conversation or otherwise, delay or interrupt the proceedings or the peace of the board nor disturb any member while speaking or refuse to obey the orders of the Presiding Officer, except as otherwise herein provided.

(2) By Persons. Any person making personal, impertinent, or slanderous remarks or who shall become boisterous while addressing the board shall be forthwith, by the Presiding Officer, barred from further audience before the board, unless permission to continue be granted by a majority vote of the board.

Section 1-219. Special Committees. All special committees shall be appointed by the presiding officer, unless otherwise directed by the board.

Section 1-220. Ordinances, Resolutions, Motions and Contracts.

(1) Preparation of Ordinances. All ordinances shall be prepared by the town attorney. No ordinance shall be prepared for presentation to the board unless ordered by a majority vote of the board, or requested in writing by the President, or prepared by the town attorney on his own initiative.

(2) Prior Approval by Administrative Staff. All ordinances, resolutions and contract documents shall, before presentation to the board, have been approved as to form and legality by the town attorney or his authorized representative, and shall have been examined and approved for administration by the President or his authorized representative, where there are substantive T matters of administration involved.

(3) Introducing for Passage or Approval.

(a) Ordinances, resolutions and other matters or subjects requiring action by the board must be introduced and sponsored by a member of the board, except that the President or town attorney may present ordinances, resolutions and other matters or subjects to the board, and any board member may assume sponsorship thereof by moving that such ordinances, resolutions, matters or subjects be adopted; otherwise, they shall not be considered.

(b) No ordinance shall be put on its final passage on the same day on which it was introduced.

(c) All ordinances shall have two separate readings, but the first and second readings shall never be had on the same day.

(d) No ordinance shall relate to more than one subject which shall be clearly expressed in its title, and no ordinance, or section thereof, shall be amended or repealed unless the new ordinance contains the title of the ordinance or section amended or repealed, and when practicable all ordinances shall be introduced as amendments to existing ordinances or sections thereof.

(e) Any resolution providing for the appropriation of money shall designate the particular fund from which the appropriation is to be made and shall not be granted immediate consideration unless the votes of the number of members required for the affirmation of such resolution shall be cast in favor of immediate consideration. An objection voiced by one member shall require a roll call upon the motion for immediate consideration. If no objection is voiced the clerk shall record an unanimous consent to the motion for immediate consideration and the presiding officer shall proceed to state the principal question.

(f) The yeas and nays shall be taken upon the passage of all ordinances and resolutions and upon any proposal to create a liability against the town for the expenditure or appropriation of its funds and in all other cases at the request of any member and a record of the vote of each trustee, when required, shall be entered in the journal of its proceedings. The concurrence of the majority of all the trustees shall be necessary to the passage of any such ordinance, resolution or proposal to create a liability against the town for the expenditure or appropriation of its money.

(g) No vote of the Board of Trustees shall be reconsidered or rescinded at a special meeting unless at such special meeting there be present as large a number of trustees as were present when such vote was taken.

Section 1-221. Reports and Resolutions to Be Filed With Clerk. All reports and resolutions shall be filed clerk and entered. A motion to adjourn shall debate.

Section 1-222. Adjournment. A motion to adjourn shall always be in order and decided without debate.

## CHAPTER 2

### HOUSING (RESERVED)

## CHAPTER 3

### TERRITORIAL LIMITS

#### Section 3-101. Territorial Limits, Voting Precinct and Streets.

(1) Territorial Limits. The Town of Tabor shall include all territory embraced in the original townsite of Tabor, Wagner's Addition, Wagner's 2d Addition, Charvat's Addition and Hale's Addition and any other Addition.

(2) Voting Precinct. All of the territory embraced within the town of Tabor, shall constitute one voting precinct.

#### Section 3-201. Establishing Grades on Certain Streets.

(1) The top of the marble corner stone at the southwest corner of the Catholic Church in Block Four in the Town of Tabor shall be taken as the bench mark or initial point from which all grades within this Town shall be computed, the assumed datum being one hundred (100) feet below such bench mark.

(2) The elevations above the assumed datum at the corners of the different blocks, lots, and alleys shall be as follows, indicated in feet and decimals of a foot:

At intersection of Yankton and Lidice Street,  
northeast corner, 92.0 ft.  
southeast corner, 91.5 ft.  
northwest corner, 91.0 ft.  
southwest corner, 91.5 ft.

At intersection of Chicago and Lidice Street,  
northeast corner, 84.9 ft.  
southeast corner, 84.8 ft.  
northwest corner, 84.7 ft.  
southwest corner, 84.5 ft.

At intersection of Dakota and Lidice Street,  
northeast corner, 92.5 ft.  
southeast corner, 92.5 ft.  
northwest corner, 93.0 ft.  
southwest corner, 92.5 ft.

That the grade of Springfield Street at the following described points on said street, shall be as follows, to-wit:

At the Southwest corner- of the intersection of Ziskov Street	96.22
At the Southeast corner of the intersection of Ziskov Street	96.22
At each side of Springfield Street midway between Ziskov Street and Yankton Street	95.22
At the Northwest corner of the intersection with Yankton Street	95.17
At the Northeast corner of the intersection with Yankton Street	95.10
At the Southwest corner of the intersection with Yankton Street	95.27
At the Southeast corner of the intersection with Yankton Street	95.02
On each side of Springfield Street midway between Yankton Street and Chicago Street	95.47
At the Northwest corner of the intersection with Chicago Street	94.22
At the Northeast corner of the intersection with Chicago Street	94.02
At the Southwest corner of the intersection with Chicago Street	94.22
At the Southeast corner of the intersection with Chicago Street	94.02
On the West side of Springfield Street midway between Chicago Street and Dakota Street	95.22
On the East side of Springfield Street midway between Chicago Street and Dakota Street	95.02
At the intersection of the North line of the railroad right of way with the west line of Springfield Street	94.22
At the intersection of the North line of the railroad right of way with the east line of Springfield Street	94.02

That the grade of Yankton Street at the following described points shall be as follows:

At the Northwest corner at the intersection with Bon Homme Street	99.22
At the Southwest corner of the intersection with Bon Homme Street	98.22

At the Northeast corner of the intersection with Stella Avenue	102.22
At the Northwest corner of the intersection with Stella Avenue	103.22
At the Southwest corner of the intersection with Stella Avenue	101.72
At the Southeast corner of the intersection with Stella Avenue	100.22
On the North line of Yankton Street 150 feet west of the west line of Stella Avenue	104.22
On the South line of Yankton Street 150 feet west of the west line of Stella Avenue	103.22
That the grade on Chicago Street at the following described points shall be as follows, to-wit:	
On the North line of Chicago Street midway between Janda Street and Springfield Street	93.22
On the North line of Chicago Street midway between Springfield and Bon Homme Streets	97.22
On the South line of Chicago Street midway between Springfield and Janda Streets	97.22
At the Northeast corner of the intersection with Bon Homme Street	95.22
At the Southeast corner of the intersection with Bon Homme Street	95.22
That the grade on Janda Street at the following described points shall be as follows, to-wit:	
That the point on each side of Janda Street under the main line of the Chicago Milwaukee & St. Paul R.R. shall be	105.50
At a point on each side of Janda Street 500 feet north of the north line of South Street	106.60
On each side of Janda Street at a point 300 feet north of the north line of South Street	104.50
On each side of Janda Street at a point 200 feet north of the north line of South Street	107.70
On each side of Janda Street on the north line of South Street	106.30



On each side of Janda Street on the south line of South Street

104.90

The grade line from one corner of a block at which grade is established in this ordinance shall be a uniform slope ascending or descending to the next corner of the same block.

The grade along the center line of the streets shall be three inches below a straight line drawn from the curb line on one side of the street to the curb line on the opposite side, the curb line to be eight feet from the lot line.

## CONSTRUCTION AND REPAIR OF SIDEWALK

### Section 3-301. Sidewalk Repair and Construction.

(1) The Board of Trustees, in its discretion, may require resident lot owners to construct, rebuild or repair the sidewalk adjacent to their property, at their own expense.

(2) In addition to the above, a petition by two-thirds of the resident lot owners may request the Board of Trustees to require a sidewalk constructed, rebuilt or repaired.

(3) In either of the circumstances mentioned in subsections (1) and (2). above by which the Board of Trustees requires a sidewalk to be constructed, rebuilt or repaired, such board shall notify the resident lot owners, either by name or lot description, adjoining such sidewalk area, as to the time designated for the completion of said construction. Such notice shall be served personally or by publication once each week for two consecutive weeks.

(4) The construction, rebuilding, or repair of all sidewalks within the Town of Tabor shall be done under the supervision of the Street Commissioner or any person appointed by the Board of Trustees for such supervision, who shall act in accordance with the instructions from the Board of Trustees.

(5) The Board of Trustees shall prescribe the width of sidewalks, type of material used, and the manner in which the sidewalks are constructed, rebuilt or repaired in accordance with this section authorizing the same.

(6) Any person violating any provisions of this ordinance shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than Twenty-five Dollars (\$25).

## CHAPTER 4

### GENERAL LICENSING

Section 4-101. Short Title. This Ordinance shall be known and may be cited as the "General Licensing Ordinance of the Town of Tabor".

Section 4-102. Scope. It is not intended by this Ordinance to repeal, abrogate, annul or in any way impair or interfere with existing provisions of other laws or ordinances, except those specifically repealed by this Ordinance. Where this Ordinance imposes a greater restriction upon persons, premises or personal property than is imposed or required by such existing provisions of law, ordinance, contract or deed, the provisions of this Ordinance shall control.

Section 4-103. Definitions. For the purposes of this Ordinance, the following terms, phrases, words, and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

(1) "Business" is meant to include all kinds of vocations, occupations, professions, enterprises, establishments, and all other kinds of activities and matters, together with all devices, machines, vehicles and appurtenances used therein, any of which are conducted for private profit, or benefit, either directly or indirectly, on any premises in this Town, or anywhere else within its jurisdiction.

(2) "Town" is the Town of Tabor.

(3) "Board of Trustees" is the Board of the Town of Tabor.

(4) "Town License Officer" or "License Officer" is the License Officer of the Town of Tabor.

(5) "Insignia," or its singular number "insigne" is any tag, plate, badge, emblem, sticker, or any other kind of device which may be required for any use in connection with any license.

(6) "License" or "licensee," as used generally herein, shall include respectively the words "permit," or "permittee," or the holder for any use or period of time of any similar privilege, wherever relevant to any provision of this Ordinance or other law or ordinance.

(7) "Person" is meant to include individual natural persons, partnerships, joint adventures, societies, associations, clubs, trustees, trusts, or corporations; or any officers, agents, employees, factors, or any kind of personal representatives of any thereof, in any capacity, acting either for himself, or for any other person, under either personal appointment or pursuant to law.

(8) "Premises" is meant to include all lands, structures, places, and also the equipment and appurtenances connected or used therewith in any business, and also any personal property which is either affixed to, or is otherwise used in connection with any such business conducted on such premises.

Section 4-104. Application of Regulations;

(A) Compliance Required. It shall be unlawful for any person, either directly or indirectly, to conduct any business or non-profit enterprise, or to use in connection therewith any vehicle, premises, machine or device, in whole or in part, for which a license, or permit, is required by any law or ordinance of this Town, without license, or permit therefore being first procured and kept in effect at all such times as required by this Ordinance or other law or ordinance of this town.

(B) Special Sales. This Ordinance shall apply to all business in the nature of special sales for which a license is required by any law or ordinance of this Town, and it shall be unlawful for any person, either directly or indirectly, to conduct any such sale except in conformity with the provisions of this Ordinance.

(1) One Act Constitutes Doing Business. For the purpose of this Ordinance, any person shall be deemed to be in business or engaging in non-profit enterprise, and thus subject to the requirements of Sub-sections A and B of this Section, when he does one act of:

- (a) selling any goods or service
- (b) soliciting business or offering goods or services for sale or hire
- (c) acquiring or using any vehicle or any premises in the Town for business purposes.

(2) Agents Responsible for Obtaining License. The agents or other representatives of non-residents who are doing business in this Town shall be personally responsible for the compliance of their principals and of the businesses they represent with this Ordinance.

(3) Separate License for Branch Establishments. A license shall be obtained in the manner prescribed herein for each branch establishment or location of the business engaged in, as if each such branch establishment or location were a separate business; provided that warehouses and distributing plants used in connection with and incidental to a business licensed under the provisions of this Ordinance shall not be deemed to be separate places of business or branch establishments.

- (a) Rental real property. Each rental real property shall be deemed a branch establishment or separate place of business for the purposes of this Ordinance when there is a representative of the owner or the owner's agent on the premises who is authorized to transact business for such owner or owner's agent or there is a regular employee of the owner or of the owner's agent working on the premises.

(4) Joint License. A person engaged in two or more businesses at the same location shall not be required to obtain separate licenses for conducting each of such businesses but, when eligible, shall be issued one license which shall specify on its face all such businesses.

(5) No License Required for Mere Delivery. No license shall be required of any person for any mere delivery in the Town of any property purchased or acquired in good faith from such person at his regular place of business outside the Town where no intent by such person is shown to exist to evade the provisions of this Ordinance.

(6) Special Permits to Non-Profit Enterprise. The Town License Officer shall issue special permits, without the payment of any license fees or other charges therefore, to any person or organization for the conduct or operation of a non-profit enterprise, either regularly or temporarily, when he finds that the applicant operates without private profit, for a public, charitable, educational, literary, fraternal, or religious purpose.

(a) Application for special permit. An applicant for a special permit shall submit an application therefore to the Town License Officer, upon forms prescribed by the License Officer, and shall furnish such additional information and make such affidavits as the License Officer shall require.

(b) Special permittees must conform.. A person or organization operating under a special permit shall operate his non-profit enterprise in compliance with this Ordinance and all other applicable rules and regulations except as provided herein.

#### Section 4-105. Town License Officer.

(A) Issue Licenses. The Town License Officer shall collect all license fees and shall issue licenses in the name of the Town to all persons qualified under the provisions of this Ordinance and shall:

(1) Make Rules. Promulgate and enforce all reasonable rules and regulations necessary to the operation and enforcement of this Ordinance.

(2) Adopt Forms. Adopt all forms and prescribe the information to be given therein as to character and other relevant matter for all necessary papers.

(3) Require Affidavits. Require applicants to submit all affidavits and oaths necessary to the administration of this Ordinance.

(4) Obtain Endorsement. Submit all applications, in a proper case, to interested Town officials for their endorsements thereon as to compliance by the applicant with all Town regulations which they have the duty of enforcing.

(5) Investigate. Investigate and determine the eligibility of any applicant for a license as prescribed herein.

(6) Examine Records. Examine the books and records of any applicant or licensee when reasonably necessary to the administration and enforcement of this Ordinance.

(7) Give Notice. Notify any applicant of the acceptance or rejection of his application and shall, upon his refusal of any license or permit, at the applicant's request, state in writing the reasons therefore and deliver them to the applicant

(B) Information Confidential. The License Officer shall keep all information furnished or secure under the authority of this Ordinance in strict confidence. Such information shall not be subject to public inspection and shall be kept so that the contents thereof shall not become known except to the persons charged with the administration of this Ordinance.

Section 4-106. Procedure for Issuance of License. Every person required to procure a license under the provisions of any ordinance or law of the Town shall submit an application for such license to the Town License Officer. The application shall:

(1) Form of Application. Be a written statement upon forms provided by the Town License Officer; such form shall include an affidavit, to be sworn to by the applicant before a Notary Public of this State.

(2) Contents of Application. Require the disclosure of:

- (a) Name and address of applicant;
- (b) The trade name, if any, under which the license is to be issued;
- (c) If the applicant is a partnership, the name and address of each partner;
- (d) If the applicant is a corporation, the names and addresses of the officers;
- (e) Place of business where license is to be exercised;
- (f) A description of the activity to be carried on under the license and of any other information which the Town License Officer shall find to be reasonably necessary to the fair administration of this Ordinance.

(3) Payment of Fees. Be accompanied by the full amount of the fees chargeable for such license.

(4) Issuance Fee. Be accompanied by the payment of an Issuance Fee.

Section 4-107. Determination of License Fee. License fee shall be in the amounts established in the governing Ordinance,

Section 4-108. Contents of License;

(A) Information Required. Each license issued hereunder shall state upon its face the following:

- (1) the name of the licensee and any other name under which such business is to be conducted.
- (2) the kind and address of each business so licensed.
- (3) the amount of license fee therefore.
- (4) the dates of issuance and expiration thereof.
- (5) such other information as the License Officer shall determine.

Section 4-109. Duties of Licensee:

(A) General Standards of Conduct. Every licensee under this Ordinance shall:

- (1) Permit Inspection. Permit all reasonable inspections of his business and examinations of his books by public authorities so authorized by law.
- (2) Comply with Governing Law. Ascertain and at all times comply with all laws and regulations applicable to such licensed business.
- (3) Operate Properly. Avoid all forbidden, improper or unnecessary practices or conditions which do or may affect the public health, morals or welfare.
- (4) Cease Business. Refrain from operating the licensed businesses on premises after expiration of his license and during the period his license is revoked or suspended.

Section 4-110. Transfer of License;

(A) No license shall be transferred unless hereinafter provided.

(B) (Reserved)

(C) Liability of Violator:

- (1) Unpaid Fee Constitutes Debt. The amount of any unpaid fee, the payment of which is required hereunder, shall constitute a debt due the Town.
- (2) Action by Town Attorney. The Town Attorney shall, at the direction of the License Officer, institute civil suit in the name of the Town to recover any such unpaid fee.
- (3) Civil Judgment No Bar. No civil judgment, or any act by the Town Attorney, the License Officer or the violator shall bar or prevent a criminal prosecution for each and every violation of this Ordinance.

Section 4-111. Revocation. The Board of Trustees shall have the power to cancel or suspend any license issued by the Town for the failure of the licensee to comply with any of the provisions of this code or other ordinance of the Town of Tabor or law of South Dakota respecting the license, or for other good cause, after hearing and upon notice to the licensee.

Section 4-112. Effective Date of License. Unless otherwise provided, all licenses prescribed by this code shall take effect when issued and shall terminate on the 30th day of June in the year for which issued, provided that the license fee shall be computed on a prorata basis when a portion of the license year has elapsed at the time of the issuance of such license.

## **CHAPTER 5**

### **REGULATING TRANSIENT MERCHANTS, ITINERANT MERCHANTS, AND ITINERANT VENDORS**

Section 5-101. License Required. It shall be unlawful for a transient merchant, itinerant merchant or itinerant vendor as defined in Section 5-102 of this ordinance to engage in such business within the Town of Tabor without first obtaining a license therefore in compliance with the provisions of this ordinance.

Section 5-102. Definitions. For the purpose of this ordinance a transient merchant, itinerant merchant or itinerant vendor is defined as any person, firm or corporation, whether as owner, agent, consignee or employee, whether a resident of the town or not, who engages in a temporary business of selling and delivering goods, wares and merchandise within said town, and who, in furtherance of such purpose, hires, leases, uses or occupies any building, structure, motor vehicle, tent, railroad box car, or boat, public room in hotels, lodging houses, apartments,, shops, or any street, alley, or other place within the town for the exhibition and sale of such goods, wares and merchandise, either privately or at public auction provided that such definition shall not be construed to include any person, firm, or corporation who, while occupying such temporary location, does not sell from stock, but exhibits samples only for the purpose of securing orders for future delivery only. The person, firm, or corporation so engaged shall not be relieved from complying with the provisions of this ordinance merely by reason of associating temporarily with any local dealer, trader, merchant or auctioneer, or by conducting such transient business in connection with, as a part of, or in the name of any local dealer, trader, merchant or auctioneer.

Section 5-103. Application. Applicants for license under this ordinance, whether a person, firm or corporation, shall file a written sworn application\* signed by the applicant, if an individual, by all partners if a partnership, and by the president if a corporation with the town clerk, showing:

(1) The name or names of the person or persons having the management or supervision of applicant's business during the time that it is proposed that it will be carried on in

the Town of Tabor; the local address or addresses of such person or persons while engaged in such business; the permanent address or addresses of such person or persons; the capacity in which such person or persons will act (that is, whether as proprietor, agent or otherwise); the name and address of the person, firm or corporation for whose account the business will be carried on, if any; and if a corporation, under the laws of what state the same is incorporated.

(2) The place or places in the Town of Tabor where it is proposed to carry on applicant's business, and the length of time during which it is proposed that said business shall be conducted.

(3) The place or places, other than the permanent place of business of the applicant where applicant within the six months next preceding the date of said application conducted a transient business, stating the nature thereof and giving the post office and street address of any building or office in which such business was conducted.

(4) A statement of the nature, character and quality of the goods, wares or merchandise to be sold or offered for sale by applicant in the Town of Tabor, the invoice value and quality of such goods, wares and merchandise, whether the same are proposed to be sold from stock in possession or from stock in possession and by sample; at auction, by direct sale or by direct sale and by taking orders for future delivery; where the goods or property proposed to be sold are manufactured or produced and where such goods or products are located at the time said application is filed.

(5) A brief statement of the nature and character of the advertising done or proposed to be done in order to attract customers, and, if required by the town clerk, copies of all said advertising whether by handbills, circular, newspaper advertising, or otherwise, shall be attached to said application as exhibits thereto.

Section 5-104. Exhibition of License. The license issued under this ordinance shall be posted conspicuously in the place of business named therein. In the event that such person or persons applying for said license shall desire to do business in more than one place within the town, separate licenses may be issued for each place of business, and shall be posted conspicuously in each place of business.

Section 5-106. Transfer. No license shall be transferred without written consent from the board of trustees as evidenced by an endorsement on the face of the license by the town clerk showing to whom the license is transferred and the date of the transfer.

Section 5-107. Loud Noises and Speaking Devices. No license under this ordinance, nor anyone in his behalf shall shout, make any outcry, blow a horn, ring a bell or use any other sound device including any loud speaking radio or amplifying system upon any of the streets, alleys, parks or other public places of the said town or upon any private premises in the said town where sound of sufficient volume is emitted or produced there from capable of being plainly heard



upon the streets, avenues, alleys or parks or other public places for the purpose of attracting attention to any goods, wares or merchandise which such licensee proposes to sell.

Section 5-108. Revocation of License.

(1)The permits and licenses issued pursuant to this ordinance may be revoked by the town clerk of the Town of Tabor, after notice and hearing, for any of the following causes:

- (a) Any fraud, misrepresentation or false statement contained in the application for license;
- (b) Any fraud, misrepresentation or false statement made in connection with the selling of goods, wares or merchandise;
- (c) Any violation of this ordinance;
- (d) Conviction of the licensee of any felony or of a misdemeanor involving moral turpitude; or
- (e) Conducting the business licensed under this ordinance in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety or general welfare of the public.

(2) Notice of hearing for revocation of a license shall be given in writing, setting forth specifically the grounds of the complaint and the time and place of the hearing. Such notice shall be mailed, postage prepaid, to the licensee, at his last known address, at least five (5) days prior to the date set for the hearing.

Section 5-109. Appeal. Any person aggrieved by the decision of the town clerk in regard to the denial of application for license as provided for in Section 5-104 of this ordinance or in connection with the revocation of a license as provided for in Section 5-108 of this ordinance shall have the right to appeal to the Board of Trustees of the Town of Tabor. Such appeal shall be taken by filing with the board within fourteen (14) days after notice of the decision by the clerk has been mailed to such person's last known address, a written statement setting forth the grounds for the appeal. The board shall set the time and place for a hearing on such appeal and notice of such hearing shall be given to such person in the same manner as provided in Section 5-108 of this ordinance for notice of hearing on revocation. The order of this board on such appeal shall be final.

Section 5-110. Expiration of License. All licenses issued under the provisions of this ordinance shall expire ninety (90) days after the date of issuance thereof unless a prior date is fixed therein.

Section 5-111. Penalty. Any person, firm or corporation violating any of the provisions of this ordinance shall, upon conviction thereof, be punished by a fine not to exceed One

Hundred Dollars (\$100) or by imprisonment not to exceed 60 days or both such fine and imprisonment.

## PEDDLERS

Section 5-201. Permit and License Required. It shall be unlawful for any person to engage in the business of peddler as defined in Section 5-202 of this ordinance within the corporate limits of the Town of Tabor without first obtaining a permit and license therefore as provided herein.

Section 5-202. Definitions.

(1) The word "person" as used herein shall include the singular and the plural and shall also mean and include any person, firm, or corporation, association, club, copartnership or society, or any other organization.

(2) The word "peddler" as used herein shall include any person, whether a resident of the Town of Tabor or not, traveling by foot, wagon, automotive vehicle, or any other type of conveyance, from place to place, from house to house, or from street to street, carrying, conveying or transporting goods, wares, merchandise, meats, fish, vegetables, fruits, garden truck, farm products or provisions, offering and exposing the same for sale, or making sales and delivering articles to purchasers, or who, without traveling from place to place, shall sell or offer the same for sale from a wagon, automotive vehicle, railroad car, or other vehicle or conveyance, and further provided that one who solicits orders and as a separate transaction makes deliveries to purchasers as a part of a scheme or design to evade the provisions of this ordinance shall be deemed a peddler subject to the provisions of this ordinance. The word "peddler" shall include the words "hawker", and "huckster" .

Section 5-203. Application. Applicants for permit and" license under this ordinance must file with the town clerk a sworn application in writing (in duplicate) on a form to be furnished by the town clerk, which shall give the following information:

- (1) Name and description of the applicant;
- (2) Address (legal and local);
- (3) A brief description of the nature of the business and the goods to be sold and in the case of products of farm or orchard, whether produced or grown by the applicant;
- (4) If employed, the name and address of the employer, together with credentials establishing the exact relationship;
- (5) The length of time for which the right to do business is desired;

- (6) If a vehicle is to be used, a description of the same, together with license number or other means of identification.

Section 5-204. Fees. The fee for a license required under this chapter shall be as follows:

- (1) Each foot peddler, per day, \$25.
- (2) Each peddler operating with a motor vehicle, per day, \$75

Section 5-205. Basis of Fees. The annual fees herein provided for shall be assessed on a calendar year basis and on and after July first the amount of the fee for such annual license shall be one-half the amount stipulated for the remainder of the year.

Section 5-206. Loud Noises and Speaking Devices. No peddler, nor any person on his behalf, shall shout, make any cry out, blow a horn, ring a bell or use any sound device, including any loud speaking radio or sound amplifying system upon any of the streets, alleys, parks or other public places of said town or upon any private premises in the said town where sound of sufficient volume is emitted or produced there from to be capable of being plainly heard upon the streets, avenues, alleys, parks, or other public places, for the purpose of attracting attention to any goods, wares or merchandise which such licensee proposes to sell.

Section 5-207. Use of Streets. No peddler shall have any exclusive right to any location in the public streets, nor shall any be permitted a stationary location, nor shall he be permitted to operate in any congested area where his operations might impede or inconvenience the public. For the purpose of this ordinance, the judgment of a police officer, exercised in good faith, shall be deemed conclusive as to whether the area is congested or the public impeded or inconvenienced.

Section 5-208. Exhibition of License. Peddlers are required to exhibit their licenses at the request of any citizen.

Section 5-209. Duty of Police to Enforce. It shall be the duty of the town marshal of the Town of Tabor to require any person seen peddling, and who is not known by such officer to be duly licensed, to produce his peddler's license and to enforce the provisions of this ordinance against any person found to be violating the same.

Section 5-210. Records. The town marshal shall report to the town clerk all convictions for violation of this ordinance and the town clerk shall maintain a record for each license issued and record the reports of violation therein.

Section 5-211. Revocation of License.

- (1) Permits and licenses issued under the provisions of this ordinance may be revoked by the clerk of the Town of Tabor after notice and hearing for any of the following causes:

- (a) Fraud, misrepresentation, or false statement contained in the application for license;
- (b) Fraud, misrepresentation or false statement made in the course of carrying on his business as peddler;
- (c) Any violation of this ordinance;
- (d) Conviction of any crime or misdemeanor involving moral turpitude;
- (e) Conducting the business of peddling in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety, or general welfare of the public.

(2) Notice of the hearing for revocation of a license shall be given in writing, setting forth specifically the grounds of complaint and the time and place of hearing. Such notice shall be mailed, postage prepaid, to the licensee at his last known address at least five (5) days prior to the date set for hearing.

Section 5-212. Appeal. Any person aggrieved by the action of the town clerk in the denial of an application for permit or license as provided in Section 5-203 of this ordinance, or in the decision with reference to the revocation of a license as provided in Section 5-211 of this ordinance, shall have the right of appeal to the Board of Trustees of the Town of Tabor. Such appeal shall be taken by filing with the Board of Trustees, within fourteen (14) days after notice of the action complained of has been mailed to such person's last known address, a written statement setting forth fully the grounds for the appeal. The Board of Trustees shall set a time and place for a hearing on such appeal and notice of such hearing shall be given to the appellant in the same manner as provided in Section 5-211 of this ordinance for notice of hearing on revocation. The decision and order of the Board of Trustees on such appeal shall be final and conclusive.

Section 5-213. Expiration of License. All annual licenses issued under the provisions of this ordinance shall expire on the 31st day of December in the year when issued. Other than annual licenses shall expire on the date specified in the license.

Section 5-214. Penalty. Any person violating any of the provisions of this ordinance shall, upon conviction thereof, be punished by a fine not to exceed One Hundred Dollars (\$100) or by imprisonment not to exceed 60 days or both such fine and imprisonment. .

## SOLICITORS AND CANVASSERS

Section 5-301. Permit and License Required. It shall be unlawful for any solicitor or canvasser as defined in Section 5-302 of this ordinance to engage in such business within the

corporate limits of the Town of Tabor without first obtaining a permit and license therefore in compliance with the provisions of this ordinance.

Section 5-302. Definition. A canvasser or solicitor is defined as any individual, whether resident of the Town of Tabor or not, traveling either by foot, wagon, automobile, motor truck, or any type of conveyance, from place to place, from house to house, or from street to street, taking or attempting to take orders for sale of goods, wares and merchandise, personal property of any nature whatsoever for future delivery, or for services to be furnished or performed in the future, whether or not such individual has, carries or exposes for sale a sample of the subject of such sale or whether he is collecting advance payments on such sales or not, provided that such definition shall include any person who, for himself, or for another person, firm, or corporation, hires, leases, uses or occupies any building, structure, tent, railroad box car, boat, hotel room, lodging house, apartment, shop, or any other place within the town for the sole purpose of exhibiting samples and taking orders for future delivery.

Section 5-303. Application. Applicants for permit and license under this ordinance must file with the town clerk a sworn application in writing (in duplicate) on a form to be furnished by the town clerk; which shall give the following information:

- (1) Name and description of the applicant;
- (2) Permanent, home address and full local address of the applicant;
- (3) A brief description of the nature of the business and the goods to be sold;
- (4) If employed, the name and address of the employer, together with credentials establishing the exact relationship;
- (5) The length of time for which the right to do business is desired;
- (6) The place where the goods or property proposed to be sold, or orders taken for the sale thereof, are manufactured or produced, where such goods or products are located at the time said application is filed, and the proposed method of delivery.

Section 5-304. Fees.

- (1) The license fee which shall be charged by the town clerk for such license shall be \$1.00 per day, \$5.00 per week, \$10.00 per month, \$50.00 per year.
- (2) The annual fees herein provided shall be assessed on a calendar year basis and on or after July first the amount of such fee for annual license shall be one-half the amount stipulated above for the remainder of the year.

Section 5-305. Exhibition of License. Solicitors and Canvassers are required to exhibit their licenses at the request of any citizen.

Section 5-306. Revocation of License.

(1) Permits and licenses issued under the provisions of this ordinance may be revoked by the Board of Trustees of the Town of Tabor after notice and hearing, for any of the following causes:

- (a) Fraud, misrepresentation, or false statement contained in the application for license;
- (b) Fraud, misrepresentation or false statement made in the course of carrying on his business as solicitor or as canvasser;
- (c) Any violation of this ordinance;
- (d) Conviction of any crime or misdemeanor involving moral turpitude; or
- (e) Conducting the business of soliciting, or of canvassing, in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety, or general welfare of the public.

(2) Notice of the hearing for revocation of a license shall be given in writing, setting forth specifically the grounds of complaint and the time and place of hearing. Such notice shall be mailed, postage prepaid, to the licensee at his last known address at least five (5) days prior to the date set for hearing.

Section 5.307. Appeal. Any person aggrieved by the action of the town clerk in the denial of a permit or license as provided in Section 5-303 of this ordinance, shall have the right of appeal to the Board of Trustees. Such appeal shall be taken by filing with the Board within fourteen (14) days after notice of the action complained of has been mailed to such person's last known address, a written statement setting forth fully the grounds for the appeal. The Board shall set a time and place for a hearing on such appeal and notice of such hearing shall be given to the appellant in the same manner as provided in Section 5-306 of this ordinance for notice of hearing on revocation. The decision and order of the Board on such appeal shall be final and conclusive.

Section 5-308. Expiration of License. All annual licenses issued under the provisions of this ordinance shall expire on the 31st day of December in the year when issued. Other than annual licenses shall expire on the date specified on the license.

Section 5-309. Penalty. Any person violating any of the provisions of this ordinance shall, upon conviction thereof, be punished by a fine not to exceed one hundred dollars (\$100.00) or by imprisonment not to exceed 60 days or both such fine and imprisonment.

## ALCOHOLIC BEVERAGES

### Section 5-401. Definitions of Terms.

- (1) "Alcoholic Beverage", any distilled spirits, wine and malt beverages as defined in this chapter;
- (2) "Wine", any liquid either used or reasonably adapted to use for beverage purposes and obtained by the fermentation of the natural sugar contents of fruits or other agricultural products containing sugar and less than twenty-four percent of alcohol by weight;
- (3) "Malt Beverage", a beverage made by the alcoholic fermentation of an infusion or decoction, or combination of both, in potable brewing water, of malted barley with hops;
- (4) "Distilled Spirits", ethyl alcohol, hydrated oxide of ethyl, spirits of wine, whiskey, rum, brandy, gin and other distilled spirits, including all dilutions and mixtures thereof, for non-industrial use;
- (5) "Off-sale", the sale of any alcoholic beverage for consumption off the premises where sold;
- (6) "On Sale", the sale of any alcoholic beverage for consumption only upon the premises where sold;
- (7) "Sale", the transfer of title to any alcoholic beverage, for a consideration, or by exchange or gift.

Section 5-402. License Requirement. No person shall sell, exchange, barter, distribute, or keep for sale any alcoholic beverage without a license obtained from the Board of Trustees of the Town of Tabor pursuant to Chapter 35 of the South Dakota Compiled Laws, Chapter 4 of the Revised Ordinances of the Town of Tabor, and this chapter.

Section 5-403. Classification and Fees. The following classification and fees are established for on-sale dealers in alcoholic beverages other than low-point beer:

- (1) On-Sale Dealer: Any person who sells, or keeps for sale, any alcoholic beverages other than low-point beer for consumption on the premises where sold \$450.
- (2) Off-Sale Dealer; Any person who sells, keeps for sale, any alcoholic beverages other than low-point beer for consumption off the premises where sold \$250.
- (3) On and off-sale in high-point beer only \$300.
- (4) Special Sunday license issued under Section 5-5-7 (in addition to the fee in subparts (1), (2) and (3) of this section) \$200.

Section 5-404. Number of Licenses. Licenses issued pursuant to this chapter shall not exceed the number of three (3) on-sale, two (2) off-sale, and one high-point only license.

Section 5-405. Licenses Subject to South Dakota Law. All holders of licenses permitting the sale of alcoholic beverages issued pursuant to this chapter shall in all respects be regulated and must comply with SDCL Title 35.

Section 5-406. Hours of business for the sale of on and off sale malt beverages, on premises retail sale liquor and off sale package liquor license. No on-sale licensee and no package or off-sale licensee within the City shall sell, serve, or allow to be consumed on the premises covered by the license any alcoholic beverages between the hours of two o'clock (2:00) A.M. and seven o'clock (7:00) A.M. daily or at any time on Christmas Day. Pursuant to SDCL 34-4-81, the City hereby permits the sale of alcoholic beverages by holders of any On-premise Retail Sale Liquor License and any Off Sale Package Liquor License on Sundays and Memorial Day except between the hours of two o'clock (2:00) A.M. and seven o'clock (7:00) A.M. It shall be unlawful for any licensee, employee, agent, or servant of an on-sale liquor establishment whose principle business is the sale of alcoholic beverages to allow any patron or customer to remain on the premises after the above designated closing time.

Section 5-407. South Dakota Law Incorporated. All provisions of SDCL Title 35 which relate to license application, the operation of the business, and the restrictions on the general conduct of such business are hereby incorporated by reference and made a part of this chapter.

Section 5-408. Penalty. Any person who violates any of the provisions of this chapter shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than \$100.00 nor more than \$300.00, or imprisonment not to exceed thirty (30) days, or both.

Section 5-409. Allowing licensed off-sale liquor stores to operate on Sunday. Any licensed off-sale liquor store may sell liquor, wine and malt beverages between the hours of 7:00 A.M. and 12:00 midnight on Sunday.

## **CHAPTER 6**

### **POOL AND BILLARD HALLS, BOWLING ALLEYS, SHOOTING GALLERIES AND SIMILAR AMUSEMENTS**

Section 6-101. License required. It shall be unlawful for any person to engage in the business of operating a pool hall, billiard hall, bowling alley, shooting gallery and other similar places of amusement without first obtaining a license therefore pursuant to the general licensing ordinance 4-101; provided, however, that to constitute a pool hall or billiard hall within the meaning of this ordinance, such business must contain more than three (3) pool or billiard tables.



Section 6-102. License fee. The fee for a license required by this article shall be as follows:

(1) Pool or billiard hall or bowling alley. The license fee for each pool hall or billiard hall or bowling alley shall be \$10.00 per year for the first table or alley, and \$5.00 per year for each additional table or alley.

(2) Shooting gallery. The license fee for each shooting gallery shall be \$50.00 per year.

(3) Other similar places of amusement. The license fee for each similar place of amusement licensed under this article shall be \$50.00 per year.

Section 6-103. Hours of operation. The hours of operation of businesses licensed pursuant to this article shall be as follows:

(1) Pool hall or billiard hall. No pool hall or billiard hall shall be open or operated on Sundays or between the hours of 12:00 midnight and 7:00 A.M. on weekdays.

(2) Bowling alleys. No bowling alley shall be open or operated between the hours of 1:00 A.M. and 7:00 A.M.

(3) Shooting galleries. No shooting galleries shall be open or operated between the hours of 1:00 A.M. and 7:00 A.M.

Section 6-104. Minors not to be allowed on premises in violation of curfew. The owner or person in charge of any business licensed under the provisions of this article shall not allow or permit any minor to enter or remain in this place of business in violation of section 7-201.

#### LICENSE TAX ON THE BUSINESS OF FURNISHING NIGHT CLUB ENTERTAINMENT

Section 6-201 Definitions. When used in this ordinance and unless otherwise distinctly expressed, the following words and phrases shall have the meaning set out herein:

(1) Public Dance Hall. The term "public dance hall" shall mean, as used in this ordinance, any place open to the public for dancing for which admission is charged.

(2) Admission Charge. The term "admission charge" shall mean any charge for the right or privilege to any entertainment or amusement and shall include, among others, the following: all charges for seats, chairs, tables, benches, reserved or otherwise, and other similar accommodations; all charges made for food and refreshment where any free entertainment is provided other than by mechanical means; all charges made for the use or rental of equipment or facilities for purposes of entertainment and amusement unless persons not using the equipment or facilities are admitted free; and all automobile parking charges where the charge is determined by the number of passengers in an automobile.

(3) Person. The term "person" shall include an individual, firm, corporation, company, partnership, association, an unincorporated association and any person acting in a fiduciary capacity.

Section 6-202. License Required. It shall be unlawful for any person to conduct, operate or maintain a public dance, dance hall or night club entertainment within the town without first obtaining a license therefore pursuant to the general licensing ordinance 4-101.

Section 6-203. License Fee. The fee for a license required by this article shall be \$10.00 for each dance; however, an annual license may be granted upon the payment of a license fee of \$50.00 in advance.

Section 6-204. Hours of Operation. The person owning, controlling or operating a public dance or public dance hall shall not permit it to be open for dancing or dancing allowed therein between the hour of 2:00 A.M. and 7:00 A.M. on any day of the week, and it shall be closed for dancing at the hour of 2:00 A.M. Saturday and remain closed for dancing until 7:00 A.M. on the following Monday.

Section 6-205. Minors Not to be Allowed on Premises in Violation of Curfew. No person engaged in conducting or operating a public dance shall suffer, permit or allow any minor to enter or remain at said dance in violation of section 7-201.

#### REGULATION OF CIRCUSES AND CARNIVALS

Section 6-301. Regulation of circuses and carnivals. It shall be unlawful for any person, firm, or corporations to erect or cause to be erected, any temporary structure composed wholly or partly of canvas or similar material to be used as a place of amusement or for any religious, educational or recreational purposes or for any other public assemblages whatsoever within the limit of the Town of Tabor without first having made application to and received a license to do so in accordance with Chapter 4 of the Revised Ordinances of Tabor and made compliance with the following regulations.

Section 6-302. Application requirements. The applicant for such permission shall file an application in writing with the Board of Trustees which application shall indicate clearly:

- (1) (a) The type of construction.
- (b) The location of all electrical wiring.
- (c) The location of all fire equipment within the structure and the specifications of such equipment.
- (d) The location, insofar as feasible, of adjacent structures and obstructions which might hinder the free egress of persons.

- (2) Such application shall further specify:
- (a) Whether any open flame is intended to be used within the structure, and if so, what precautions are to be taken to render it safe.
  - (b) The name of the person, firm or corporation which will use the structure.
  - (c) The location of the principal place of business of such person, firm or corporation.
  - (d) The names and addresses of the officers of such firm or corporation.
  - (e) The length of time the structure is intended to be used for the purposes applied for.
  - (f) The hours of the day or night during which such structure is intended to be used as a place of assembly.
  - (g) The formula of the solution which is to be used to flame-proof the structure.
  - (h) What provisions have been made for sanitary facilities for persons using the premises on which such structure is to be erected or is maintained.
  - (i) Such other relevant information as the Board of Trustees may require.

(3) The applicant shall furnish evidence that a public liability insurance policy in amounts of not less than Fifty Thousand Dollars (\$50,000) for one person and One Hundred Thousand (\$100,000) for any one accident, shall be in force and effect at the time such structure is to be occupied as a place of assembly by the public.

(4) The applicant shall deposit with the town treasurer a cash bond in the sum of One Thousand Dollars (\$1,000), conditioned upon saving harmless of the Town of Tabor from any and all liabilities or causes of action, which might arise by virtue of the granting of a permit to the applicant and conditioned further that no damage will be done to the streets, sewers, trees or adjoining property and that no dirt, paper, litter or other debris will be permitted to remain upon the streets or upon any private property by such applicant. Such cash bond shall be returned to the applicant upon certification by the town marshal that all conditions of this ordinance have been complied with.

Section 6-303. License Fee. The amount of the license fee shall in every case be decided by the Board of Trustees in their sound discretion. However, whenever the board is evenly divided, the license fee shall be \$50 per day.

Section 6-304. Penalty. Any person who violates any of the provisions of this ordinance shall be guilty of a misdemeanor, and upon conviction thereof, shall be punishable by a fine of not less than \$100 or more than \$500, or by imprisonment for a term not exceeding six months, or by both such fine and imprisonment.

## CHAPTER 7

### CURFEW FOR MINORS

#### Section 7-101. Curfew Imposed on Persons Under Eighteen (18) Years of Age

(a) PROHIBITED ACTS BY MINORS. It shall be unlawful for any minor to loiter, idle, wander, stroll or play in or upon the public streets, sidewalks, highways, public places and public buildings, places of amusement or entertainment, vacant lots or other unsupervised places, between the hours of 10:00 o'clock p.m. and 6:00 o'clock a.m. of the following day if the minor is under the age of fifteen (15) years except for Friday and Saturday evenings of each week on which days the curfew imposed by this subsection shall be operative between the hours of 11:00 o'clock p.m. and 6:00 o'clock a.m. of the following day; and between the hours of 11:00 o'clock p.m. and 6:00 o'clock a.m. of the following day if the minor is between the ages of fifteen (15) and eighteen (18) years except for Friday and Saturday evenings of each week on which day for persons between the ages of fifteen (15) and eighteen (18) years on which days the curfew herein should be operative between the hours of 12:00 o'clock midnight and 6:00 o'clock a.m. of the following day. The provision of this subsection shall not apply to a minor accompanied and in the physical and immediate presence of his parent, guardian or other adult person having care or custody of the minor, or if the minor is upon an errand or business directed by his parent, guardian or other adult person having the care or custody of the minor.

(b) RESPONSIBILITY OF THE PARENT. It shall be unlawful for the parent, guardian, or other adult person having the care or custody of a minor child under the age of eighteen (18) years of age knowingly to permit the minor to violate the provisions of subsection (a).

(c) RESPONSIBILITY OF PERSONS OPERATING AMUSEMENTS. It shall be unlawful for any person operating places of amusement or entertainment to permit any minors to enter or remain in the place of amusement or entertainment during the hours prohibited by section (a); however, the provision of this subsection shall not apply when the minor is accompanied by his parent, legal guardian or other adult person having the care or legal custody of the minor.

(d) PENALTY. Any person described in subsection (b) or (c) who shall violate said provisions of subsection (b) or (c) shall be guilty of a violation of this section and shall be fined the sum of \$100.00 on each occasion or imprisoned in the County Jail for a period of thirty (30) days or both such fine and imprisonment.

## OFFENSES (GENERALLY)

Section 7-201. Short Title. This ordinance shall be known and may be cited as the "Offenses Ordinance of the Town of Tabor".

Section 7-202. Definitions. For the purposes of this ordinance, the following terms, phrases, words, and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

(1) "Town" is the Town of Tabor.

(2) "Person" is any person, firm, partnership, association, corporation, company or organization of any kind.

Section 7-203. Offenses Against Public Peace. No person in the Town shall:

(1) Tumultuous Conduct. Disturb, tend to disturb, or aid in disturbing the peace of others by violent, tumultuous, offensive or obstreperous conduct, and no person shall knowingly permit such conduct upon-any premises owned or possessed by him or under his control.

(2) Assault. Beat, strike, wound, imprison, or inflict violence on another where the circumstances show malice or assault another with intent to commit murder, rape, mayhem, robbery, or larceny. Nor shall any person assault another-with a lethal weapon, instrument, or thing with intent to commit upon the person of another any bodily injury ^where no considerable provocation appears or where the circumstances of the assault show malice.

(3) Fighting. Fight another person except in boxing exhibitions duly authorized and licensed under law.

(4) Vagrancy. Have the status or condition of a "vagrant". The following persons shall be deemed vagrants:

(a) No Lawful Means of Support. Any person having no lawful means of employment and having no lawful means of support realized solely from lawful occupations or sources; or, any person who lives idly and without visible means of support.

(b) Loitering. Any person found loitering or strolling in, about, or upon any street, alley, or other public way or public place, or at any public gathering or assembly, or in or around any store, shop, or business or commercial establishment, or on any private property or place without lawful business and conducting himself in a lewd, wanton or lascivious manner in speech or behavior.

(c) Unlawful Occupancy. Any person wandering abroad and occupying, lodging, or sleeping in any vacant or unoccupied barn, garage, shed, shop, or other building or structure, or in any automobile, truck, railroad car, or other vehicle, without owning the same or without permission of the owner or person entitled to the possession of the same, or sleeping in any vacant lot during the hours of darkness and not giving a satisfactory account of himself.

(5) Weapons.

(a) Carrying Concealed Weapons. Wear under his clothes, or conceal about his person, or display in a threatening manner, any dangerous or deadly weapon including, but not by way of limitations, any pistol, revolver, sling shot, cross-knuckles, or knuckles of lead, brass, or other metal, or any bowie knife, or any knife resembling a bowie knife, or any knife with a switch-blade or device whereby the blade or blades can be opened by a flick of a button, pressure on the handle, or other mechanical contrivance.

(b) Exception for Authorized Officials. The prohibition of this sub-section shall not be construed to forbid United States marshals, sheriffs, constables, and their deputies, and any regular, special, or ex-officio police officer, or any other law enforcement officer from carrying or wearing, while on duty, such weapons as shall be necessary in the proper discharge of their duties.

(6) Discharge of Weapons. It shall be unlawful for any person to discharge or shoot off any firearm, or use for any purpose any sling shot or other device for throwing through the air missiles or projectiles of any character; however, this section shall not apply to any law enforcement officer in the discharge of his duty.

(7) Fireworks.

(a) Discharge of Fireworks prohibited.

(1) It shall be unlawful for any person to shoot, discharge, explode, or cause to be shot, discharged, or exploded, any fireworks or other explosives within the corporate limits of the Town of Tabor, except on July 3, 4, and 5 of each year. On July 3, 4, and 5 of each year, only permissible fireworks as defined by SDCL 34-37-5 shall be permitted to be discharged within the corporate limits of the Town of Tabor and then only between the hours of 9:00 a.m. and 12:00 a.m. on each said July 3, 4, and 5.

(2) The term "fireworks" as referred to in this section means any firecrackers, torpedoes, roman candles, toy cannon, blank cartridges, sky rockets or other kind of fireworks or pyrotechnic displays. Nothing in this section chapter shall be construed as applying to toy paper caps containing not more than twenty-five hundredths of a grain of explosive composition per cap, nor shall it apply to the use of auto flares or signals necessary for the safe operation of

public or private transportation, nor does this Ordinance apply to the use of blank cartridges for ceremonial, theatrical or athletic events.

(3) It shall be unlawful for any person, firm or corporation to give any public display of fireworks without having first obtained a special permit thereof from the Town. The governing body of the Town of Tabor may, in its discretion, grant permission at any time for the public display of fireworks by responsible individuals or organizations when such display or displays shall be of such a character and so located, discharged and fired as shall not be a fire hazard or endanger persons or surrounding property.

(b) Penalty. Any person in violation of this Ordinance shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined in a minimum amount of twenty-five dollars (\$25.00) plus costs, and each subsequent violation in the same year shall result in a minimum increase in the fine by twenty-five dollars (\$25.00) per subsequent violation (i.e., twenty-five dollars (\$25.00) for first offense, fifty dollars (\$50.00) for second offense, seventy-five dollars (\$75.00) for third offense, etc., plus costs, up to a maximum fine of five hundred (\$500.00) dollars).

(8) Bonfires. Make or assist in making any bonfire in or upon any public street or place within the town without the permission of the town marshal.

(9) False Alarm of Fire or Need for Police or Ambulance Assistance. Intentionally make, turn in, or give a false alarm of fire, or of need for police or ambulance assistance, or aid or abet in the commission of such act.

(10) False Report of Crime. Make to, or file with, the Police Department of the town any false, misleading, or unfounded statement or report concerning the commission or alleged commission of any crime occurring within the town.

(11) Interference with Police Department.

(a) Resisting Officer. Resist any police officer, any member of the Police Department, or any person duly empowered with police authority, while in the discharge or apparent discharge of his duty, or in any way interfere with or hinder him in the discharge of his duty.

(b) Assisting in Escape. Offer or endeavor to assist any person in the custody of a police officer, a member of the Police Department or a person duly empowered with police authority to escape or to attempt to escape from such custody.

(c) Impersonating an Officer. No person, other than an official police officer of the town, shall wear or carry the uniform, apparel, badge, identification card or any other insignia of office like or similar to, or a colorable imitation of that adopted and worn or carried by the official police officers of the town.

Section 7-204. Offenses Against Public Health.

(1) Nuisance Declared. All weeds or plants declared to be primary noxious weeds or secondary noxious weeds by the State or County Weed Board and all other weeds suffered or allowed to grow during the growing season and all grass allowed to grow to a length exceeding eight (8) inches in height shall be deemed noxious, dangerous, and unhealthful vegetation and are hereby declared to be nuisances.

(2) Duty of Owner or Occupant. No owner of any lot, place or area within the City or the agent of such owner or the occupant of such lot, place or area, shall permit on such lot, place or area or upon any sidewalk abutting the same any weeds, tall and undesirable grass or deleterious or unhealthful growths exceeding eight (8) inches in height or other noxious matter that may be growing, lying or located thereon.

(3)

(a) The City code enforcement official or his/her authorized representative shall, during the month of May, by general public notice require all nuisance vegetation to be cut, removed or sprayed as required by this chapter.

(b) Such public notice shall be given generally by publication in the official newspaper once a week for two consecutive weeks,

(c) The notice shall provide that during the growing season every occupant, person in charge or owner of any lot who fails to cut, remove or spray nuisance vegetation is in violation of this chapter, and shall further provide that in case of failure to cut or destroy such vegetation the city will cause the same to be cut and assess the costs thereof including the costs of levying such assessment against the property benefited.

(4)

(a) Any occupant, person in charge or owner of any lot in violation of this chapter shall receive written notice from the City code enforcement official or his authorized representative of such violation.

(b) The occupant, person in charge or owner shall within forty-eight hours after the service of such notice cut, remove or spray as required all nuisance vegetation.

(c) The notice shall provide that the occupant, person in charge or owner of any lot shall cut, remove or spray the nuisance vegetation within forty-eight hours after the service of such notice, and shall further provide that in case of failure to cut or destroy such nuisance vegetation the city will cause the same to be cut and assess



the costs thereof including the costs of levying such special assessment against the property benefited.

- (d) Service of such notice may be accomplished by personally delivering the notice upon either the occupant, person in charge or owner of any lot. Personal service upon any one occupant, person in charge or owner of any lot shall constitute service upon all. Service of such notice may also be accomplished by securely posting the notice in a conspicuous place on the affected premises.

(5) Weed and Grass may be cut by City. If the occupant, person in charge, or owner of any lot fails to cut weeds, noxious vegetation, and grass exceeding eight (8) inches in length upon any such lot as required, the City code enforcement official may cause such weeds, grass, and noxious vegetation to be cut or destroyed, and for such purpose may enter upon any such lot or parcel of land.

The fees assessed for the cutting of such weeds, grass, and/or noxious vegetation shall be set by the City Council. The occupant, person in charge, or owner shall be billed accordingly. In the event that the bill is not paid by the end of the growing season, the charges shall be collected by means of special assessment.

(6) Cost assessed for noxious vegetation cutting. The City code enforcement officer or the City health officer shall cause an account to be kept against each lot for the destruction or mowing of noxious weeds or grass upon said lot as herein provided and shall certify the same to the City Finance Officer upon the completion of the work in destroying such weeds or mowing and abating said nuisance.

The City Finance Officer shall prepare an estimate of the assessment against each lot for the destruction or cutting of noxious vegetation for the preceding growing season, including therein the expense of levying such special assessment against each lot. Such estimate shall be submitted to the Council for its approval on or before the 1st day of November of each year.

The City Finance Officer shall cause to be served upon the occupant, person in charge, or owner of said lot by registered or certified mail of the time and place when the Council will meet for the purpose of approving such estimate.

Upon the day so named the Council shall meet and, if they find said estimate correct, they shall approve the same by resolution; or, if not correct, they shall correct or modify the same and approve the same as modified or corrected, and file such assessment roll with the City Finance Officer,

From the date of the approval and filing of such assessment roll with the City Finance Officer, the same shall be and become a special lien against the various pieces of property

described in said assessment roll and shall be collected in like manner as the law provides for special assessments for public improvements as are now collected.

(7) Recovery by City. In lieu of spreading the cost of the destruction of such weeds and grass and other deleterious matter against said property in the discretion of the city council, said amount may be recovered in a civil action against the owner or occupant of such property,

(8) Intent of Council. It is the intention of the Council to provide a means for the City to cause lots and parcels of land that contain noxious vegetation as described herein to be cut at no cost to the City.

(9) Expectoration. No person in the town shall expectorate upon any sidewalk, street, floor in public buildings or upon any other public place.

Section 7-205. Offenses Against Property. No person in the town shall:

(1) Against Public and Private Property.

(a) Injury or Removal. Willfully, maliciously, wantonly, negligently or otherwise injure, deface, destroy or remove real property or improvements thereto, or moveable or personal property belonging to the town or to any person in the town.

(b) Scattering Rubbish. Throw or permit to be deposited or scattered upon any sidewalk, alley, street, bridge or public passageway, or upon any private property, any waste or other material of any kind.

(c) Posting Notices. Fasten in any way any show-card, poster or other advertising device upon public or private property in the town unless legally authorized to do so.

(2) Against Public Property.

(a) Tampering. Tamper with, injure, deface, destroy or remove any sign, notice, marker, fire-alarm box, fire plug, topographical survey monument or any other personal property erected or placed by the town.

(b) Obstructing Passageways. Place or erect upon public way or passageway to any building an obstruction of any type, provided that this sub-section shall not prevent the duly authorized or required placing of temporary barriers or warning signs for the purpose of safeguarding the public.

(c) Public Signs. Destroy, injure, deface, or remove any public sign placed by the town. Conviction for a violation of this section shall result in such person being assessed the costs of such sign and the costs of its replacement.

- (d) Removal of Earth. Move, disturb, or take any earth, stone or other material from any public street, alley, park or other public ground.

Section 7-206. Offenses Involving Morals. No person in the town shall:

- (1) Prostitution.
  - (a) Committing. Commit or offer or agree to commit a lewd act or an act of prostitution or moral perversion.
  - (b) Securing. Secure or offer another for the purpose of committing a lewd act or an act of prostitution or moral perversion.
  - (c) Frequenting. Be in or near any place frequented by the public, or any public place, for the purpose of inducing, enticing, or procuring another to commit a lewd act or an act of prostitution or moral perversion.
  - (d) Meretricious Display. Make a meretricious display in or near any public place, any place frequented by the public, or any place open to the public view.
  - (e) Transportation. Knowingly transport any person to any place for the purpose of committing a lewd act or an act of prostitution or moral perversion.
  - (f) Permitting. Knowingly receive, or offer or agree to receive any person into any place or building for the purpose of performing a lewd act, or an act of prostitution or moral perversion, or to knowingly permit any person to remain in any place or building for any such purpose.
  - (g) Directing. Direct or offer to direct any person to any place or building for the purpose of committing any lewd act or act of prostitution or moral perversion.
  - (h) Aiding. Aid, abet, allow, permit, or participate in the commission of any of the acts prohibited in sub-sections (a) through (g) above.
- (4) Indecent Exposure. Publicly expose his person or make any indecent gestures.
- (5) Window-Peeping. Look, peer, or peep into, or be found loitering around or within view of any window within a building occupied as the residence of another with the intent of watching or looking through said window to observe any person undressed, or in the act of dressing or undressing.
- (6) Gambling.
  - (a) Participation Prohibited. Engage in a game of chance prohibited by the statutes of the State of South Dakota or ordinances of this town.

- (b) Possession of Materials. Have in his possession any evidence of illegal gambling in the nature of policy or pool tickets, slips or checks or memoranda of any combination or bet, or any policy wheel, dice, implement,
- (c) Owner of Premises. No person being the owner or person in control of premises shall knowingly permit the use or occupancy thereof for gambling.
- (7) Animals.
  - (a) Cruelty to Animals. Overdrive, overload, drive when overloaded, overwork, torture, cruelly beat, mutilate, or needlessly kill, or carry or transport in any vehicle or other conveyance in a cruel and inhuman manner, any animal; or cause any of these acts to be done.
  - (b) Food and Shelter. Shall fail to provide any animal in his charge or custody with necessary sustenance, drink, and protection from the elements, or cause any of these acts to be done.
  - (c) Abandonment. Abandon any animal or cause such act to be done.
  - (d) Fight Upon Exhibition. Maintain any place where fowls or any animals are suffered to fight upon exhibition, or for sport upon any wager.
  - (e) Poisoning Dogs. Poison any dog or dogs or distribute poison in any manner whatsoever with the intent or for the purpose of poisoning any dog or dogs.
  - (f) Killing Animals. Frighten, shoot at, wound, kill, take, capture, ensnare, net trap or in any other manner molest or injure any robin, lark, whippoorwill, finch, sparrow, thrush, wren, martin, swallow, snow-bird, bobolink, red-winged blackbird, crow, raven, oriole, kingbird, mocking bird, song-sparrow, or other song bird or insectivorous bird; or in any manner molest or injure the nest eggs or young of any such bird; or have in possession the nest eggs, young or body of such bird.
  - (g) Indecent Exhibition of Animals. Exhibit any stud horse or bull or other animal indecently, nor shall any person let any male animal to any female animal unless the same be done in some place wholly enclosed and out of public view.

## **CHAPTER 8**

### AUTOMOBILE TRAILER AND TOURIST CAMPS

Section 8-101. Definitions. Whenever used in this ordinance, unless a different meaning appears from the context:

(1) An "Automobile Trailer", "Trailer Coach", or "Trailer" means any vehicle or structure so designed and constructed in such manner as will permit occupancy thereof as sleeping quarters for one or more persons, or the conduct of any business or profession, occupation or trade (or use as a selling or advertising device), and so designed that it is or may be mounted on wheels and used as a conveyance on highways or town streets, propelled or drawn by its own or other motive power, excepting a device used exclusively upon stationary rails or tracks.

(2) A "Trailer Camp" means any park, trailer park, trailer court, court, camp site, lot, parcel, or tract of land designed, maintained or intended for the purpose of supplying a location or accommodations for any trailer coach or trailer coaches and upon which any trailer coach or trailer coaches are parked and shall include all buildings used or intended for use as part of the equipment thereof whether a charge is made for the use of the trailer camp and its facilities or not. "Trailer Camp" shall not include automobile or trailer sales lots on which unoccupied trailers are parked for purposes of inspection and sale.

(3) A "Tourist Camp" means any park, tourist park, tourist court, camp, court, site, lot, parcel, or tract of land upon which one or more camp cottages or cabins are located and maintained for the accommodation of transients by the day, week, or month, whether a charge is made or not.

(4) A "Unit" means a section of ground in a trailer camp of not less than 800 square feet of unoccupied space in an area designated as the location for only one automobile and one trailer.

(5) A "Cabin Plot" means a section of ground not less than 30 feet by 40 feet in area, upon which only one camp cottage or cabin is located.

(6) The word "person" shall be construed to include persons, partnership, firm, company, corporation, tenant, owner, lessee, or licensee, their agents, heirs or assigns.

Section 8-102. Enforcement. It is hereby made the duty of the Board of Trustees of the Town of Tabor to enforce all provisions of this ordinance as prescribed herein or such provisions as may hereafter be enacted, and for the purpose of securing such enforcement, any of the above members of the board, or their duly authorized representatives, shall have the right and are hereby empowered to enter upon any premises on which any automobile trailers or camp cottages or cabins are located, or are about to be located, and inspect the same and all accommodations connected therewith at any reasonable time. The board is further empowered to issue orders granting, renewing, and revoking such permits and licenses as are provided for in accordance with the provisions of this ordinance.

Section 8-103. Location Outside Camps.

(1) It shall be unlawful, within the limits of the Town of Tabor, for any person to park any trailer on any street, alley, or highway, or other public place, or on any tract of land owned by any person, occupied or unoccupied, within the Town of Tabor, except as provided in this ordinance.

(2) Emergency or temporary stopping or parking is permitted on any street, alley or highway for not longer than one hour subject to any other and further prohibitions, regulations, or limitations imposed by the traffic and parking regulations or ordinances for that street, alley or highway.

(3) No person shall park or occupy any trailer on the premises of any occupied dwelling or on any lot which is not a part of the premises of any occupied dwelling either of which is situated outside an approved trailer camp; except, the parking of only one unoccupied trailer in an accessory private garage building, or in a rear yard in any district, is permitted providing no living quarters shall be maintained or any business practiced in said trailer while such trailer is so parked or stored.

Section 8-104. Permanent Occupancy. Automobile trailers shall not be used as a permanent place of abode or as a permanent dwelling or for indefinite periods of time; Provided, that any such trailer properly connected with the town water supply and sanitary sewer systems, and constructed and located in compliance with all requirements of the building, plumbing, sanitary, health, zoning and electrical ordinances of the Town of Tabor.

Section 8-105. License for Trailer, or Tourist Camp; Application Therefore and Issuance Thereof.

(1) It shall be unlawful for any person to establish, operate or maintain, or permit to be established, operated or maintained upon any property owned or controlled by him, a trailer camp or tourist camp or combination of the two within the limits of the Town of Tabor, without having first secured a license therefore and for each of them from the Board of Trustees, granted and existing in compliance with the terms of this ordinance. Such license shall expire one year from the date of issuance but may be renewed under the provisions of this ordinance for additional periods of one year.

(2) The application for such license or the renewal thereof shall be filed with the town clerk and shall be accompanied by a fee of Five Dollars (\$5) for each unit and cabin plot in the existing or proposed camp and a license bond in the sum of One Thousand Dollars (\$1,000) to guarantee compliance with the terms of this ordinance. The application for a license or a renewal thereof shall be made on printed forms furnished by the board and shall include the name and address of the owner in fee of the tract (if the fee is vested in some person other than the applicant, a duly verified statement by that person, that the applicant is authorized by him to construct or maintain the trailer or tourist camp and make the application), and such a legal description of the premises upon which the trailer or tourist camp is or will be located as will

readily identify and definitely locate the premises. The application shall be accompanied by four copies of the camp plan showing the following, either existing or as proposed:

- (a) The extent and area used for camp purposes;
- (b) Roadways and driveways;
- (c) Location of sites or units for trailer coaches or cabins;
- (d) Location and number of sanitary conveniences, including toilets, washrooms, laundries and utility rooms to be used ,by occupants of units or cabins (in cases where cabins do not have all such facilities in proper conformance with town building, plumbing and other ordinances) ;
- (e) Method and plan of sewage disposal;
- (f) Method and plan of garbage removal;
- (g) Plan for water supply;
- (h) Plan for electrical lighting of units and cabins.

(3) Before such license may be issued, there must be a favorable recommendation by a majority of the trustees, and the premises must be inspected and approved by each of the members of the board, or their duly authorized representatives, as complying with all the provisions of this ordinance and all other applicable ordinances of the Town of Tabor.

(4) Licenses issued under the terms of this ordinance convey no right to erect any building, to do any plumbing work or to do any electrical work.

#### Section 8-106. Camp Plan.

(1) Every trailer or tourist camp shall be located on a well-drained area, and the premises shall be properly graded so as to prevent the accumulation of storm or other waters.

(2) Units and cabin plots shall be clearly designated and the camp so arranged that all units and cabin plots shall face or abut on a driveway of not less than sixteen feet in width, giving easy access from all units to a public street. Such driveway shall be paved and maintained in good condition, having natural drainage into a town street catch basin, be well lighted at night, and shall not be obstructed.

(3) No camp cottage or cabin shall be less than 280 square feet nor less than 14 feet wide at its narrowest point, and not less than 8 feet high from floor to ceiling and shall not have less than 27 squares-feet of ventilating openings, and all windows must be fully screened. If the floor be of wood, it shall be raised not less than 12 inches above the ground level.

(4) The camp shall be so laid out that no unit or cabin shall be located farther than 200 feet from the toilets and service buildings provided for herein, and walkways to such buildings shall be paved and well lighted at night.

(5) Every trailer unit shall be furnished with an electric service outlet. Such outlet shall be equipped with an externally operated switch or fuse of not less than 30 Amperes capacity, and a heavy duty outlet receptacle.

#### Section 8-107. Water Supply.

(1) An adequate supply of pure water, furnished through a pipe distribution system connected directly with the town water main, with supply faucets located not more than 200 feet from any trailer or cabin shall be furnished for drinking and domestic purposes.

(2) No common drinking vessels shall be permitted, nor shall any drinking water faucets be placed in any toilet room or water closet compartment.

(3) An abundant supply of hot water shall be provided at all times for bathing, washing and laundry facilities.

#### Section 8-108. Service Building.

(1) Every trailer or tourist camp shall have erected thereon, at a distance not greater than 200 feet from any unit or cabin it is designed to serve, a suitable building for housing toilets, showers, and laundry facilities as required by this ordinance, such building to be known as the Service Building.

(2) There shall be provided separate toilet rooms for each sex. Flush toilets provided with an adequate water supply shall be enclosed in separate compartments and shall be provided for each sex in the ratio of one toilet for each eight units or cabins or fraction thereof. Every male toilet room shall have one urinal for each sixteen units or cabins, but in no case shall any male toilet be without one urinal. Toilet rooms shall contain lavatories with hot and cold water in the ratio of one lavatory to every two or less water closets.

#### Section 8-109. Waste and Garbage Disposal.

(1) All waste from showers, toilets, laundries, faucets and lavatories shall be wasted into a sewer system extended from and connected with the town sewer system.

(2) All sanitary facilities in any trailer which are not connected with the town sewer system by means of rigid pipe connections shall be sealed and their use is hereby declared unlawful.



(3) Each faucet site shall be equipped with facilities for drainage of waste and excess water into the sewer. In no case shall any waste water be thrown or discharged upon the surface of the ground or disposed of by means other than as herein provided.

(4) Every unit shall be provided with a substantial fly tight metal garbage depository from which the contents shall be removed by the town garbage collection service.

Section 8-110. Limitation on Number of Occupants. No trailer or cabin may be inhabited by a greater number of occupants than that for which it was designed.

Section 8-111. Management.

(1) In every trailer or tourist camp there shall be an office building in which shall be located the office of the person in charge of said camp. A copy of the camp license and of this ordinance shall be posted therein and the camp register shall at all times be kept in said office.

(2) It is hereby made the duty of the attendant or person in charge, together with the licensee to:

(a) Keep at all times a register of all guests (which shall be open at all times to inspection by State and Federal officers and officers of the Town of Tabor) showing for all guests:

(1) Names and addresses.

(2) Dates of entrance and departure.

(3) License numbers of all trailers and towing or other automobiles.

(b) Maintain the camp in a clean, orderly and sanitary condition at all times.

(c) See that the provisions of this ordinance are complied with and enforced and report promptly to the proper authorities any violations of this ordinance or any other violations of law which may come to his attention.

(d) Prohibit the lighting of open fires on the premises.

(e) Prohibit the use of any trailer or cabin by a greater number of occupants than that which it is designed to accommodate.

Section 8-112. Applicability of Plumbing, Electrical and Building Ordinances. All plumbing, electrical, building-and other work on or at any camp licensed under this ordinance shall be in accordance with the ordinances of the Town of Tabor regulating such work unless said ordinances are specifically made inapplicable under the terms of this ordinance.

Section 8-113. Revocation and Suspension.

(1) The Board of Trustees is hereby authorized to revoke any license issued pursuant to the terms of this ordinance if after due investigation they determine that the holder thereof has violated any of the provisions of this ordinance or that any trailer, trailer camp, or tourist camp is being maintained in an unsanitary or unsafe manner or is a nuisance.

Section 8-114. Penalties for Violation of Ordinance. Any person found guilty of violating any provision of this ordinance shall be deemed guilty of a misdemeanor and shall be fined not less than \$5 and not more than \$500 and every day such violation exists shall constitute a separate offense and be punishable as such hereunder.

## AN ORDINANCE REGULATING TRAILERS AND TRAILER PARKS

### ARTICLE I. MOBILE HOME PARKS

Section 8-201. Definitions. As used in this article the following terms shall have the meanings ascribed to them:

(a) Mobile home park shall mean any area, tract, site or plot of land whereupon a minimum of five (5) mobile homes as herein defined are placed, located or maintained or intended to be placed, located or maintained or intended to be placed, located or maintained, for dwelling purposes on a permanent or semi-permanent basis.

(b) Licensee shall mean any person, firm, trust, partnership or corporation licensed to operate and maintain a mobile home park under the provisions of this article.

(c) Manager or operator shall mean any person named in the license who is in charge of the daily operation and maintenance of the mobile home park.

(d) Independent mobile home shall mean a mobile home which has a flush toilet and a bath or shower.

(e) Dependent mobile home shall mean a mobile home which does not have a flush toilet and a bath or shower.

(f) Mobile home is a detached residential dwelling unit designed for transportation, after fabrication, on streets or highways on its own wheels, on a flatbed, on another trailer or in another manner, and arriving at the site where it is to be occupied as a dwelling complete and ready for occupancy except for minor and incidental unpacking and assembly operations, location of jacks or other temporary or permanent foundations, connection to utilities, and the like. A travel trailer is not to be considered as a mobile home.

(g) Double-wide mobile home shall mean all mobile homes with a width greater than fourteen (14) feet.

(h) Travel trailer shall mean a mobile home not exceeding eight (8) feet in width and not more than thirty-three (33) feet in length, designed and furnished for non-permanent occupancy and transportation, on wheels, by a standard automobile.

Section 8-202. Location. Mobile home parks shall be considered a conditional use. Said mobile home parks may be located in any zoning district in the town, provided that the Board of the Trustees of the Town shall not approve the same if in their opinion such park would be in a with flood plain or due to low elevation, or location to business district and other housing.

Section 8-203. License Required. It shall be unlawful for any person to maintain or operate within the city limits of the Town of Tabor, any mobile home park without a license therefore. All mobile home parks in existence upon the effective date of this article shall within thirty (30) days thereafter obtain such a license. The license period shall be from the 1st day of October to the 30th day of September annually and all licenses shall expire on the 31st day of December annually.

Section 8-204. License Fee. The basic annual license fee for each mobile home park shall be ten dollars (\$10.00) plus a space fee for five dollars (\$5.00) for each mobile home space, occupied or unoccupied. The fee for transfer of this license as provided in this article shall be ten dollars (\$10.00).

Section 8-205. Application for license.

(a) Application for license for a mobile home park shall be filed with the finance officer, reviewed by the plan commission, and issued by the board of city commissioners. All applications, plans, maps, designs, specifications, and drawings must be submitted in triplicate, however, license renewals shall not require resubmission of said plans unless changes have occurred after the initial filing as required be section 205 (d).

(b) The application for an initial mobile home park license shall be in writing, signed by the owner, and shall include the following:

- (1) The name and address of the applicant and or the manager or operator, if different than the applicant.
- (2) The location and legal description of the mobile home park.
- (3) A complete plan of the mobile home park in conformity with all of the requirements for such as contained in this article.
- (4) Plan and specifications of all buildings, improvements and other facilities such as electrical wiring, water service pipes, sanitary sewer pipes, storm sewer drainage, gas service pipes, roads and sidewalks constructed or to be constructed within the mobile home park.

- (5) Such further information as may be required or requested by the city manager to enable him to determine if a proposed mobile home park plan will comply with all requirements of this article.

(c) Before any application required by this section may be approved for a mobile home park, the mayor shall investigate and inspect the applications, the proposed plan and the specifications. If the plans and specifications for the proposed mobile home park are in compliance with all provisions of this ordinance and all applicable ordinances and statutes, the application shall be referred by the mayor to the town board of trustees for review. Following a review by the town board of trustees, the said trustees shall either approve or deny a license at its discretion.

(d) No changes may be made in a mobile home park without filing for an adjustment to the original plan, in the same manner required of the original plan.

(e) Upon application for a transfer of the license, the board of town trustees may authorize a transfer to any mobile home park in compliance with all provisions of this article.

Section 8-206. Design requirements. A mobile home park shall conform to the following requirements:

(a) A park shall be located on a well-drained site, properly graded to insure rapid drainage and freedom from stagnant pools of water. The park may not be built on a flood plain of up to a fifty (50) year frequency.

(b) Mobile home spaces shall be provided consisting of a minimum of two thousand two hundred (2,200) square feet for each space, except for those mobile home parks constructed prior to operative date of this article, which may have a minimum of one thousand five hundred (1,500) square feet per space. All spaces must be clearly defined and marked. Mobile home spaces for doublewide mobile homes shall have a minimum size of three thousand (3,000) square feet, and must be clearly defined and marked.

(c) Mobile homes shall be placed on each space so that there shall be at least a fifteen (15) foot clearance between mobile homes. No mobile homes shall be located closer than ten (10) feet from any building or ten (10) feet from the end of another mobile home within the park, of four (4) feet from any person's line bounding the park.

(d) All mobile homes shall abut upon a driveway of not less than thirty (30) feet in width which shall have unobstructed access to a public street or highway; all driveways shall be all-weather surfaced with asphalt, portland cement, or concrete, well marked with daytime and lighted at night as required by the director of municipal services. An alley may not serve as the principal driveway of a mobile home park. One off-street parking space must be available at each mobile home space, or if contiguous to a fifty (50) foot street have parallel parking available.

(e) Walkways not less than two (2) feet wide shall be provided from the mobile home spaces to any service buildings. The walkway shall be of concrete construction, except for those walkways constructed prior to operative date of this article, which must be all-weather surfaced. All walkways must be well marked in daytime and lighted at night as directed by the director of municipal services.

(f) Underground utilities shall be required in all mobile home parks, except for those mobile home park constructed prior to operative date of this article.

(g) An electrical outlet supplying at least two hundred twenty (220) volts and one hundred (100) amperes shall be provided for each mobile home space, except for those spaces constructed prior to July, 1985, which may have sixty (60) amperes.

(h) Each mobile home space shall be provided with an untrapped sewer at least three (3) inches in diameter, which shall be connected to receive waste from the shower, bath tub, flush toilet, lavatory and kitchen sink of the mobile home, each of which shall be trapped. The sewer in each space shall be connected to discharge the mobile home waste into a public sewer system in compliance with all applicable ordinances.

(i) Each mobile home space shall have municipal water and sanitary sewer services in compliance with the State of South Dakota Plumbing Code.

(j) It shall be the duty of the park owner, his agent, or caretaker, to ensure that all mobile homes parked after October 1, 1992, shall be tied down or anchored with tie-down anchors or hurricane straps and/or cables, in accordance with specifications required and provided by the city.

(k) All mobile homes shall be skirted on all sides between the mobile home floor and ground level, within thirty (30) days of occupancy. Mobile homes shall be skirted with concrete or metal. Persons wanting to use prefabricated factory-designed plastic or polystyrene mobile home skirting must obtain written approval from the chief building inspector before installing the material.

(l) No open fires will be permitted within the mobile home park.

(m) Tightly covered garbage cans shall be provided in quantities adequate to comply with city ordinances to permit disposal of all garbage and rubbish. Garbage cans shall be located no more than two hundred (200) feet from any mobile home space. The cans must be kept in sanitary condition at all times. One or more central collection points may be used.

(n) Each mobile home park shall provide a separate grassed ground and equipped recreation area of not less than two hundred (200) square feet per mobile home space. This section may be waived if the mobile home park is within four hundred (400) feet of an existing park or playground.

(o) No owner or person in charge of any dog, cat or other pet shall be permitted to let it run at large or commit any nuisance within the limits of the mobile home park, if pets are allowed by the owner.

(p) All mobile home spaces must be within four hundred (400) feet of an existing fire hydrant, and all parks shall have adequate fire protection in full compliance with city ordinances and the National Fire Code.

Section 8-207. Location and size. Mobile home parks may be located in any place in the town as long as they are located in area that are in accord and satisfy the rest of this ordinance. The minimum size for mobile home parks shall be five (5) mobile home spaces located on a minimum site of one-fourth of an acre except for those mobile home parks constructed prior to the operative date of this article.

Section 8-208. Revocation of license.

(a) The town mayor shall inspect each mobile home park at least once a year for the renewal of the license and to determine that it is in compliance with this article.

(b) The town trustees may revoke any license to maintain and operate a park when the licensee has been found by it to have violated any provision of this article. Notification of listed violations must be given in writing to the licensee by the city mayor. A period of ninety (90) days will be allowed from the date of notification for the licensee to make necessary corrections, after which the town trustees may act to revoke the mobile home park license.

Section 8-209. Supervision. A responsible attendant or caretaker, owner or operator, shall be responsible at all times to keep the mobile home park, its facilities and grounds, in a clean, orderly and sanitary condition.

Section 8-210. Existing licensed parks. Mobile homes located as of July 1, 1992, shall not be required to meet the space, parking, and recreational area requirements of this article but shall meet all other requirements by January 1, 1992 provided, however, that all trailers that do not meet the requirements of this article in every detail shall not be permitted to expand in any degree, whatsoever except that said expansion shall meet all requirements of this article.

Section 8-211. Travel trailers. Travel trailers may be parked as unoccupied units in a yard or garage within the Town of Tabor, South Dakota, as long as the same as parked for no longer than two (2) weeks at a time. Travel trailers may not be parked as occupied units in a yard or garage anyplace within the Town of Tabor except in the duly located and licensed trailer park.

Section 8-212. Sewer use charge for travel trailers or recreational vehicles in mobile home parks.

(a) Definitions. As used in this Section:

- (1) “Travel Trailer” or “Recreational Vehicle” shall mean a camper trailer, mobile home, trailer coach, or any structure designed and constructed in such manner as will permit occupancy for transient dwelling purposes as living quarters or for the conduct of any business, profession, occupation or trade, designed so that it may be used as a conveyance on highways or city streets, propelled either by its own power or other power-driven vehicle to which it may be attached.
- (b) City sewer use required for travel trailers or recreational vehicles in mobile home parks. Every travel trailer or recreational vehicle situated for a period of more than forty-eight (48) hours within the Town of Tabor in a mobile home park as established under this Article shall be connected to the City sewer system. Each independent travel trailer or recreational vehicle space in the mobile home park shall provide a suitable sewer connection in compliance with the state and local plumbing laws and regulations. The sewer connection shall be provided with suitable fittings, so that a watertight and gastight connection can be made between the travel trailer or recreational vehicle drain and the sewer connection. Such individual sewer connection shall be so constructed that it can be closed when not linked to a travel trailer or recreational vehicle and shall be capped so as to prevent any escape of odor.
- (c) Sewer use charge. Every travel trailer or recreational vehicle within a mobile home park required to be connected to the City sewer system under this Ordinance shall be subject to a minimum charge of \$6.00 per week for City sewer service. This sewer use fee shall be billed to the mobile home park owner.
- (d) Penalty. Any person violating any of the provisions of this Ordinance or failing to comply with any of the provisions herein shall, upon conviction, be punished by a fine not exceeding two hundred dollars (\$200.00).

Section 8-213. All mobile homes licensed parks, modular homes. All mobile home homes of every type and description shall be located in licensed mobile home parks. However, the board of town trustees may, at its discretion, permit mobile homes that are, in the opinion of the board of town trustees, sufficiently different in structural details to qualify as modular house or manufactured homes to be located outside of licensed mobile home parks provided, however, that said special exceptions shall be decided on a case by case basis only and in no case shall be used for commercial or industrial purposes.

Section 8-214. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 8-215. The invalidity of any section, cause, sentence or provision of this ordinance shall not affect the validity of any other part of this ordinance which can be given effect without such invalid part or parts.

#### REGULATING AND PROHIBITING CERAIN USES OF SOUND TRUCKS

##### Section 8-301. Definitions.

(1) “Person”. The word “person” as used herein shall include the singular and the plural and shall also mean and include any person, firm, corporation, association, club, partnership, society or any other form of association or organization.

(2) “Sound truck”. The words “sound truck” as used herein shall mean any motor vehicle, or horse-drawn vehicle, having mounted thereon, or attached thereto, any sound amplifying equipment.

(3) “Sound amplifying equipment”. The words “sound amplifying equipment” as used herein shall mean any machine or device for the amplification of the human voice, music or any other sound. “Sound amplifying equipment” as used herein shall not be construed as including standard automobile radios when used and heard only by occupants of the vehicle in which installed or warning devices on authorized emergency vehicles or horns or other warning devices on other vehicles used only for traffic safety purposes.

##### Section 8-302. Non-Commercial Use of Sound Trucks.

(1) Registration required. No person shall use, or cause to be used, a sound truck with its sound amplifying equipment in operation for non-commercial purposes in the Town of Tabor before filing a registration statement with the town clerk in writing. This registration statement shall be filed in duplicate and shall state the following:

- (a) Name and home address of the applicant.
- (b) Address of place of business of applicant.
- (c) License number and motor number of the sound truck to be used by applicant.
- (d) Name and address of person who owns the sound truck.
- (e) Name and address of person having direct charge of sound truck.
- (f) Names and addresses of all persons who will use or operate the sound truck.
- (g) The purpose for which the sound truck will be used.
- (h) A general statement as to the section or sections of the town in which the sound tuck will be used.



- (i) The proposed hours of operation of the sound truck.
- (j) The number of days of proposed operation of the sound truck.
- (k) A general description of the sound amplifying equipment which is to be used.
- (l) The maximum sound producing power of the sound amplifying equipment to be used in or on the sound truck. State the following:
  - (1) The wattage to be used.
  - (2) The volume in decibels of the sound which will be produced.
  - (3) The approximate maximum distance for which sound will be thrown from the sound truck.

(2) Registration and identification. The town clerk shall return to each applicant under Section 8-301 of this ordinance one copy of said registration statement duly certified by the town clerk as a correct copy of said application. Said certified copy of the application shall be in the possession of any person operating the sound truck at all times while the sound truck's sound amplifying equipment is in operation and said copy shall be promptly displayed and shown to any policeman of the Town of Tabor upon request.

(3) Regulation for use. Non-commercial use of sound trucks in the Town of Tabor with sound amplifying equipment in operation shall be subject to the following regulations:

- (a) The only sounds permitted are music or human speech.
- (b) Operations are permitted for four (4) hours each day, except on Sundays and legal holidays when no operations shall be authorized. The permitted four (4) hours of operation shall be between the hours of 11:30 A.M. and 1:30 P.M. and between the hours of 4:30 P.M. and 6:30 P.M.
- (c) Sound amplifying equipment shall not be operated unless the sound truck upon which such equipment is mounted is operated at a speed of at least ten (10) miles per hour except when said truck is stopped or impeded by traffic. Where stopped by traffic the said sound amplifying equipment shall not be operated for longer than on minute at each such stop.
- (d) Sound shall not be issued within one hundred (100) yards of hospitals, schools, churches or courthouses.
- (e) The human speech and music amplified shall not be profane, lewd, indecent, or slanderous.

- (f) The volume of sound shall be controlled so that it will not be audible for a distance in excess of one hundred (100) feet from the sound truck and so that said volume is not unreasonably loud, raucous, jarring, disturbing, or a nuisance to persons within the area of audibility.

Section 8-303. Commercial Advertising by Sound Truck Prohibited. No person, shall operate, or cause to be operated, any sound truck for commercial sound advertising purposes in the Town of Tabor with sound amplifying equipment in operation.

Section 8-304. Penalties. Any person who violates any provision of this ordinance shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not exceeding \$500.00, or by imprisonment for not more than 30 days, or by both said fine and said imprisonment.

## REGULATION OF SEWER USE

Section 8-401. Definitions. Unless the context specifically indicates otherwise, the meaning of terms used in this ordinance shall be as follows:

- (1) "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.
- (2) "Building Drain" shall mean that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five (5) feet (1.5 meters) outside the inner face of the building wall.
- (3) "Building Sewer" shall mean the extension from the building drain to the public sewer or other place of disposal, also called house connection.
- (4) "Combined sewer" shall mean a sewer intended to receive both wastewater and storm or surface water.
- (5) "Easement" shall mean an acquired legal right for the specific use of land owned by others.
- (6) "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. All wastewater shall be considered free of floatable fat if it is properly pretreated and the wastewater does not interfere with the collection system.
- (7) "Garbage" shall mean the animal and vegetable waste resulting from the handling, preparation, cooking, and serving of foods.

- (8) "Industrial wastes" shall mean the wastewater from industrial processes, trade, or business as distinct from domestic or sanitary wastes.
- (9) "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.
- (10) "May" is permissive (see "shall," (18)).
- (11) "Person" shall mean any individual, firm, company, association, society, corporation or group.
- (12) "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  $10^{-7}$ .
- (13) "Properly Shredded Garbage" shall mean the wastes from the preparation, cooking and dispensing of food that have been shredded to such degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than 1/2 inch (1.27 centimeters) in any dimension.
- (14) "Public sewer" shall mean a common sewer controlled by a governmental agency or public utility.
- (15) "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.
- (16) "Sewage" is the spent water of a community. The preferred term is "wastewater," (24).
- (17) "Sewer" shall mean a pipe or conduit that carries wastewater or drainage water.
- (18) "Shall" is mandatory (see "may," (10)).
- (19) "Slug" shall mean any discharge of water or wastewater which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than fifteen (15) minutes more than five (5) times the average twenty-four (24) hour concentration or flows during normal operation and shall adversely affect the collection system and/or performance of the wastewater treatment works.

- (20) "Storm drain" (sometimes termed "storm sewer") shall mean a drain or sewer for conveying water, groundwater, subsurface water, or unpolluted water from any source.
- (21) "Superintendent" shall mean the (Town Maintenance Engineer, and/or of wastewater treatment works, and/or of water pollution control) of the City of Tabor of Bon Homme County, South Dakota, or his authorized deputy, agent, or representative.
- (22) "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 nonfilterable residue.
- (23) "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 benefitted by discharge to the sanitary sewers and wastewater treatment facilities provided.
- (24) "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.
- (25) "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.
- (26) "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."
- (27) "Watercourse" shall mean a natural or artificial channel for the passage of water either continuously or intermittently.
- (28) "Hearing board" shall mean that board appointed according to provision of Section 8-408. (This section to be included only if option article entitled "hearing boards" is made a part of the ordinance.)

Section 8-402. 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 of Tabor of Bon Homme

County, South Dakota, or in any area under the jurisdiction of said Tabor, any human or animal excrement, garbage, or other objectionable waste.

(b) It shall be unlawful to discharge to any natural outlet within the City of Tabor of Bon Homme County, South Dakota, or in any area under the jurisdiction of said Tabor, any sewage or other polluted waters, except where suitable treatments has been provided in accordance with subsequent provisions of this ordinance.

(c) Except as hereinafter provided, 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 human occupancy, employment, recreation, or other purposes, situated within Tabor 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 or combined sewer of Tabor 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 this ordinance, within thirty (30) days after date of official notice to do so, provided that said public sewer is within one hundred (100) feet of the property line.

#### Section 8-403. Private Wastewater Disposal.

(a) Where a public sanitary sewer is not available under the provisions of Section 8-402 (d), the building sewer shall be connected to a private wastewater disposal system complying with the provisions of this article.

(b) Before commencement of construction of a private wastewater disposal system, the owner(s) shall first obtain a written permit signed by the Town Maintenance Engineer. The application for such permit shall be made on a form furnished by Tabor, which the applicant shall supplement by any plans, specifications and other information as are deemed necessary by the Town Maintenance Engineer. A permit and inspection fee of Thirty-five Dollars (\$35.00) shall be paid to Tabor at the time the application is filed.

(c) A permit for a private wastewater disposal system shall not become effective until the installation is completed to the satisfaction of the Town Maintenance Engineer. The Town Maintenance Engineer shall be allowed to inspect the work at any state of construction, and, in any event, the applicant for the permit shall notify the Town Maintenance Engineer when the work is ready for final inspection, and before any underground portions are covered. The inspection shall be made within Forty-eight (48) hours of the notice by the Town Maintenance Engineer.

(d) The type, capacities, location and layout of a private wastewater disposal system shall comply with all recommendations of the Department of Public Health of the State of South Dakota. No permit shall be issued for any private wastewater disposal system employing subsurface soil absorption facilities where the area of the lot is less than Twenty thousand (20,000) square feet. No septic tank or cesspool shall be permitted to discharge to any natural outlet.

(e) At such time as a public sewer becomes available to a property served by a private wastewater disposal system, as provided in Section 8-403 (d), a direct connection shall be made to the public sewer within Sixty (60) days in compliance with this ordinance, and any septic tanks, cesspools, and similar private wastewater disposal facilities shall be cleaned of sludge and filled with suitable material.

(f) The owner(s) shall operate and maintain the private wastewater disposal facilities in a sanitary manner at all times, at no expense to Tabor.

(g) No statement contained in this article shall be construed to interfere with any additional requirements that may be imposed by the health officer.

#### Section 8-404. Sanitary Sewers, Building Sewers and Connection.

(a) No unauthorized person(s) shall uncover, make any connections with, or opening into, use, alter, or disturb any public sewer or appurtenances thereof without first obtaining a written permit from the Town Maintenance Engineer.

(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 Tabor. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the Town Maintenance Engineer. A permit and inspection fee of Thirty-five Dollars (\$35.00) for a residential or commercial building sewer permit and One Hundred dollars (\$100.00) for an industrial building sewer permit shall be paid to Tabor at the time the application is filed.

(c) All costs and expense incident to the installation and connection of the building sewer shall be borne by the owner(s). The owner(s) shall indemnify Tabor 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 Tabor 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 Town Maintenance Engineer to meet all requirements of this ordinance.

(f) The size, slope, alignment, materials of construction of all sanitary sewers including building sewer, 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 Tabor. In the absence of suitable code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the A.S.T.M. and W.P.C.F. Manual of Practice No. 9 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 drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer.

(h) No person(s) shall make connection of roof downspouts, foundation drains, areaway drains, or other soubrette 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 Town Maintenance 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 regulation of Tabor, or the procedures set forth in appropriate specifications of the A.S.T.M. and the W.P.C.F. Manual of Practice No. 9. All such connections shall be gastight and watertight and verified by proper testing. Any deviation from the prescribed procedures and materials must be approved by the Town Maintenance Engineer before installation.

(j) The applicant for the building sewer permit shall notify the Town Maintenance Engineer when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the Town Maintenance Engineer 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 Tabor.

#### Section 8-405. Use of the Public Sewers

(a) No person(s) shall discharge or cause to be discharged any unpolluted waters such as stormwater, surface water, groundwater, roof runoff, subsurface drainage or cooling water to any sewer, except stormwater runoff from limited areas, which stormwater may be polluted at times, may be discharged to the sanitary sewer by permission of the Town Maintenance Engineer.

(b) Stormwater other than that exempted under Section 8-405 (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 the Town Maintenance Engineer and other regulatory agencies. Unpolluted industrial cooling water or process waters may be discharged, on approval of the Town Maintenance Engineer, to a storm sewer, combined sewer, or natural outlet.

(c) No person(s) shall discharge or cause to be discharged any of the following described waters or wastes to any public sewer:

- (1) Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid, or gas.
- (2) Any waters containing toxic or poisonous solids, liquids, or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the wastewater treatment plan.
- (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, and, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cup, milk containers, etc. wither whole or ground by garbage grinders.

(d) The following described substances, materials, waters, 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 Town Maintenance 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 Town Maintenance Engineer will give consideration to such factors as the quantity of subject waste in relation to flows and velocities in the sewers, material of construction of the sewers, the wastewater treatment process employed, capacity of the wastewater treatment plant, degree of treatability of the waste in the wastewater treatment plant, degree of treatability of the waste in the wastewater treatment plan, and other pertinent factors. The limitations or restrictions on materials or characteristics of waste or wastewaters discharged to the sanitary sewer which shall not be violated without approval of the Town Maintenance Engineer are as follows:

- (1) Wastewater having a temperature higher than 150 Fahrenheit (65 Celsius).
- (2) Wastewater containing more than twenty-five (25) milligrams per liter of petroleum oil, nonbiodegradable 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 Section 8-401 (m)). Garbage grinders may be connected to sanitary sewers from homes, hotels, institutions, restaurants, hospitals, catering establishments, or similar places where garbage originates from the preparation of food in kitchens for the purpose of consumption on the premises or when served by caterers.
- (5) Any waters or wastes containing iron, chromium, copper, zinc and similar objectionable or toxic substances to such degree that any such material received in the composite wastewater at the wastewater treatment works exceeds the limits established by the Town Maintenance Engineer for such materials.
- (6) Any waters or wastes containing odor-producing substances exceeding limits which may be established by the Town Maintenance Engineer.
- (7) Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Town Maintenance Engineer in 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 the 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 8-405 (d), and which in the judgment of the Town Maintenance 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 Town Maintenance 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 the treating the wastes not covered by existing taxes or sewer charges under the provisions of Section 8-405 (j). When considering the above alternative the Town Maintenance Engineer shall give consideration to the economic impact of each alternative on the discharger. If the Town Maintenance 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 Town Maintenance Engineer.

(f) Grease, oil and sand interceptors shall be provided when, in the opinion of the Town Maintenance Engineer, they are necessary for the proper handling of liquid wastes containing floatable grease in excessive amounts as specified in Section 8-405(d)(3), or any flammable wastes, sand, and 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 Town Maintenance 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 Town Maintenance Engineer. Any removal and hauling of the collected material not performed by owner(s) 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(s) at his expense.

(h) When required by the Town Maintenance Engineer, the owner(s) of any property serviced by a building sewer carrying industrial wastes shall install a suitable structure together with such necessary meters 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 Town Maintenance 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 Town Maintenance Engineer may require a user of sewer services to provide information needed to determine compliance with this ordinance. These requirements may include:

- (1) Wastewaters discharge peak rate and volume over a specified time period.
- (2) Chemical analyses of wastewaters.
- (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 material 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 this ordinance 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 Town Maintenance Engineer.

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

Section 8-406.

(a) No person(s) 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(s) violating this provision shall be subject to immediate arrest under charge of disorderly conduct.

Section 8-407. Powers and Authority of Inspectors

(a) The Town Maintenance Engineer and other duly authorized employees of Tabor bearing proper credentials and identification shall be permitted to enter upon all properties for the purposes of inspection, observation, measurement, sampling and testing pertinent to discharge to the community system in accordance with the provisions of this ordinance.

(b) The Town Maintenance Engineer or other duly authorized employees are authorized to obtain information concerning industrial processes which have a direct bearing on the kind and source of discharge to the wastewater collection system. The industry may withhold information considered confidential. The industry may establish that the revelation to the public of the information in question might result in an advantage to competitors.

(c) While performing the necessary work on private properties referred to in Section 8-407(a), above, the Town Maintenance Engineer or duly authorized employees of Tabor shall observe all safety rules applicable to the premises established by the company, and the company shall be held harmless for injury or death to Tabor employees, and Tabor shall indemnify the company against loss or damage to its property by Tabor employees and against liability claims and demands for personal injury or property damage asserted against the company growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions as required in Section 8-405(h).

(d) The Town Maintenance Engineer and other duly authorize employees of Tabor bearing proper credentials and identification shall be permitted to enter all private properties through which Tabor holds a duly negotiated easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair, and maintenance of any portion of the wastewater facilities lying within said easement. All entry and subsequent work, if any, on said easement, shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

Section 8-408. Hearing Board

(a) A Hearing Board shall be appointed as needed for arbitration of differences between the Town Maintenance Engineer and sewer users on matters concerning interpretation and execution of the provisions of this ordinance by the Town Maintenance Engineer. The cost of the arbitration will be divided equally between the (municipality) and the sewer user.

(b) One member of the board shall be a registered professional engineer; one member shall be a practicing sanitary engineer; one member shall be a representative of industry or manufacturing enterprise; one member shall be a lawyer; and one member shall be selected at large for his interest in accomplishing the objectives of this ordinance.

#### Section 8-409. Wastewater Facilities Replacement Fund.

A reserve fund called the Wastewater Facilities Replacement Fund is hereby established within the wastewater utility fund for the purpose of providing sufficient funds to be expended for obtaining and installing equipment, accessories, and appurtenances during the useful life (20 years) of the wastewater treatment facilities necessary to maintain the capacity and performance for which such facilities are designed and constructed (see Appendix A).

#### Section 8-410. Penalties.

(a) Any person found to be violating any provision of this ordinance except Section 8-406 shall be served by Tabor with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.

(b) Any person who shall continue any violation beyond the time limit provided for in Section 8-409(a), shall be guilty of a misdemeanor, and upon conviction thereof shall be fined in an amount not exceeding One Hundred Dollars (\$100.00) for each violation. Each day in which any such violation shall continue shall be deemed a separate offense.

(c) Any person violating any of the provisions of this ordinance shall become liable to Tabor for any expense, loss, or damage occasioned Tabor by reason of such violation.

#### Section 8-411. Validity.

(a) All ordinances, or parts of ordinances in conflict herewith are hereby repealed.

(b) The invalidity of any section, clause, sentence, or provision of this ordinance shall not affect the validity of any other part of this ordinance which can be given effect without such invalid part or parts.

#### Appendix A

The reserve fund called the Wastewater Facilities Replacement Fund established within the wastewater utility fund as an interest-bearing account shall be funded by a deposit of \$3,540.00 per year obtained from the wastewater utility fund at the end of each fiscal year. Until such fund reaches \$40,000.00 at which time such costs included in the monthly sewer cost shall be deducted until the fund is reduced below the said \$40,000.00, at which time the cost shall be collected until the said fund again reaches the total sum of \$40,000.00.

## SEWER USE CHARGES

Section 8-501. Definitions. Unless the context specifically indicates otherwise, the meaning of terms used in this ordinance shall be as follows:

- (1) "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.
- (2) "Building Drain" shall mean that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five (5) feet (1.5 meters) outside the inner face of the building wall.
- (3) "Building Sewer" shall mean the extension from the building drain to the public sewer or other place of disposal, also called house connection.
- (4) "Combined sewer" shall mean a sewer intended to receive both wastewater and storm or surface water.
- (5) "Easement" shall mean an acquired legal right for the specific use of land owned by others.
- (6) "Engineer" shall mean a Registered Engineer authorized to practice engineering and registered in the State of South Dakota.
- (7) "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.
- (8) "Garbage" shall mean the animal and vegetable waste resulting from the handling, preparation, cooking, and serving of foods.
- (9) "Industrial wastes" shall mean the wastewater from industrial processes, trade, or business as distinct from domestic or sanitary wastes.
- (10) "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.
- (11) "May" is permissive (see "shall," (20)).

- (12) "Person" shall mean any individual, firm, company, association, society, corporation or group.
- (13) "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  $10^{-7}$ .
- (14) "p.p.m." parts per million equivalent to (Mg/l) milligrams per liter.
- (15) "Properly Shredded Garbage" shall mean the wastes from the preparation, cooking and dispensing of food that have been shredded to such degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than 1/2 inch (1.27 centimeters) in any dimension.
- (16) "Public sewer" shall mean a common sewer controlled by a governmental agency or public utility.
- (17) "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.
- (18) "Sewage" is the spent water of a community. The preferred term is "wastewater," (27).
- (19) "Sewer" shall mean a pipe or conduit that carries wastewater or drainage water.
- (20) "Shall" is mandatory (see "may," (11)).
- (21) "Slug" shall mean any discharge of water or wastewater which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than fifteen (15) minutes more than five (5) times the average twenty-four (24) hour concentration or flows during normal operation and shall adversely affect the collection system and/or performance of the wastewater treatment works.
- (22) "Storm drain" (sometimes termed "storm sewer") shall mean a drain or sewer for conveying water, groundwater, subsurface water, or unpolluted water from any source.
- (23) "Superintendent" shall mean the (Town Maintenance Engineer, and/or of wastewater treatment works, and/or of water pollution control) of the City of

Tabor of Bon Homme County, South Dakota, or his authorized deputy, agent, or representative.

- (24) "Suspended solids (SS)" 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 nonfilterable residue.
- (25) "Town" shall mean the Town of Tabor, South Dakota in Bon Homme County.
- (26) "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 benefitted by discharge to the sanitary sewers and wastewater treatment facilities provided.
- (27) "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.
- (28) "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.
- (29) "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."
- (30) "Watercourse" shall mean a natural or artificial channel for the passage of water either continuously or intermittently.

#### Section 8-502. Purpose.

(a) The purpose of this Ordinance shall be to repeal previous reate structures and to establish methods and procedures to establish rate schedules which generate sufficient revenue to pay all costs for the operation, maintenance and debt retirement of the complete wastewater collection and treatment facilities.

(b) The costs shall be distributed to all users of the wastewater system in proportion to each user's contribution to the total loading of the treatment facility. Factors such as strength (BOD) and (SS), volume, and delivery flow rate characteristics shall be considered and included as the basis for the user's contribution to ensure a proportional distribution of operation and maintenance cost to each class of user.



Section 8-503. Repeal of all Ordinance in Conflict.

All ordinance in conflict with this ordinance of the Town of Tabor, Bon Homme County, South Dakota, are hereby repealed.

Section 8-504. Determining the Total Annual Cost of Operation and Maintenance

(a) The Town of Tabor shall determine the total annual costs of operation and maintenance of the wastewater collection and treatment facility which are necessary to maintain the capacity and performance during the service life of the complete facility.

(b) The total annual cost of operation and maintenance shall include by not limited to labor, repairs, equipment replacement, maintenance, power, sampling, laboratory tests, reasonable contingency fund, billing, and debt retirement.

(c) The Town of Tabor shall review the total annual cost of operation and maintenance as well as each user's or class of user's proportionate share of the annual cost not less often than once every two years and will revise the system as necessary to assure equity of the user rates and surcharges, and that there is sufficient funds to adequately operate and maintain the complete facility.

(d) If a significant user, such as an industry, is added to or dropped from or alters his wastewater discharge, the Town of Tabor shall review the total annual costs and his percentage of contribution to them and revise the rates accordingly.

Section 8-505. Determining each User's Wastewater Contribution Percentage.

(a) The Town of Tabor shall determine each user's or class of user's average daily volume of wastewater. The user's volume of wastewater shall then be divided by the total volume of wastewater to determine each user's volume contribution percentage. The amount used as the total average daily volume of wastewater shall exclude infiltration and inflow

(b) The Town of Tabor or its Engineer shall determine each user's or class of user's average daily poundage of (BOD). The user's average (BOD) shall be divided by the total (BOD) of the system to determine each user's (BOD) contribution percentage.

(c) The Town of Tabor or its Engineer shall determine each user's or class of user's average daily poundage of (SS). The user's average (SS) shall be divided by the total (SS) of the system to determine each user's (SS) contribution percentage

(d) Each user's or class of user's volume contribution percentage, (BOD) contribution percentage, and (SS) contribution percentage shall be multiplied by the annual operation and maintenance costs for the complete wastewater facility's total volume flow, (BOD), and (SS) respectively.

Section 8-506. Determining a Surcharge System for Users with Excess BOD and SS.

The Town of Tabor or its Engineer will determine the average (BOD) and (SS) for the average residential user. The Town of Tabor shall assess a surcharge rate for all non-residential users discharging wastewater with (BOD) and (SS) strengths greater than the average residential user. Such users or class of users will be assessed a surcharge sufficient to cover the costs of treating such users above normal strength wastewater. Normal strength wastes are considered to be 200 p.p.m. (BOD) and 250 p.p.m. (SS). The surcharge rate structure for such above normal strength wastewater discharges is attached (Appendix A).

Section 8-507. Determining each User's Wastewater Service Charge and Payment.

(a) Each user's or class of user's wastewater treatment cost contributions as determined in Section 8-505 and 8-506 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 by be determined for each other class of user based upon an estimate of the total wastewater contribution by this class of user. The Town of Tabor may classify industrial, commercial, and other non-residential establishments as a residential user, provided that the wastewater from these establishments are equivalent to the wastes from the average residential user with respect to volume, (SS), and (BOD). Each user's wastewater treatment cost contribution will be assessed in accordance with the attached rate schedule (Appendix B).

(b) The Town of Tabor shall submit an annual statement to the user for the user's annual wastewater service charge or one-half of the user's annual wastewater service charge may be included with the monthly wastewater utility billing, Should any user fail to pay the user wastewater service charge within three months of the due date, the Town of Tabor may by giving a thirty (30) day notice in writing sent to the user at his last known P.O. address stating all water and sewer services will be disconnected if payment is not paid in full by the end of the thirty (30) day period.

Section 8-508. Validity.

(a) All ordinances or parts of ordinances in conflict herewith are hereby repealed.

(b) The invalidity of any section, clause, sentence, or provision of this ordinance shall not affect the validity of any other part of this ordinance which can be given effect without such invalid part or parts.

Appendix A

(a) Surcharge Rate Structure for above normal strength wastes.

(b) This Appendix A is attached to the original ordinance, updated Sewer Use charges shall be attached as enacted.

(c) The Town of Tabor, State of Sough Dakota or Engineer, will determine the average (SS) and (BOD) daily loading for the average residential user or in lieu of such a determination will consider the average residential strength wastewater to be 200 mg/l (BOD) and 250 mg/l (SS). The Town of Tabor or Engineer will assess a surcharge rate for all classes of users discharging wastewater with (BOD) and (SS) strengths greater than the average residential user. The surcharge will be sufficient to cover the costs of treating such class of users above normal strength wastewater.

#### Appendix B

(a) Sewer Rate Schedule for the classification of user.

(b) This Appendix B is attached to the original ordinance, updated Sewer Rate Schedules shall be attached as enacted.

(c) Classification of Users:

Residential Class 1 (R-1): Residential Class 1 users (R-1) are the base user upon which other class of users are proportioned to. A Residential Class 1 User is a single family dwelling.

Residential Class 2 (R-2): A Residential Class 2 user is multiple family dwelling. The rate shall be the rate determined for a (R-1) user times the number of units occupied.

Non-Residential Class 1 (N-R-1): Non-residential Class 1 user is an industrial, commercial, or other non-residential user whose volume and (BOD) or (SS) strength is not greater than that of an (R-1) user.

Non-Residential Class 2 (N-R-2): Non-residential Class 2 user is an industrial, commercial, or other non-residential user whose volume and/or (BOD) or (SS) strength is greater than that of an (R-1) user.

#### RESTAURANTS

Section 8-601. Definitions. The following definitions shall apply in the interpretation and enforcement of this ordinance:

(1) Restaurant shall mean and include any restaurant, coffee shop, cafeteria, short order cafe, luncheonette, tavern, sandwich stand, drug store and soda fountain serving food, and all other eating or drinking establishments, as well as kitchens or other places in which food or drink is prepared for sale elsewhere.

(2) Food shall mean and include all articles used for food, drink, confectionery or condiment, whether simple, mixed or compound, and all substances or ingredients used in the preparation thereof.

(3) Itinerant restaurant shall mean one operating for a temporary period in connection with a fair, carnival, circus, public exhibition, or other similar gathering.

(4) Employee shall mean any person who handles food or drink during preparation or serving, or who comes in contact with any eating or cooking utensils, or who is employed in a room in which food or drink is prepared or served.

(5) Utensils shall mean and include any kitchenware, tableware, glassware, cutlery, utensils, containers, or other equipment with which food or drink comes in contact during storage, preparation or serving.

(6) Health officer shall mean the Director of Public Health of the Town of Tabor or an authorized representative chosen by the Board of Trustees of the Town of Tabor.

(7) Person shall mean and include any person, firm, partnership, corporation or association.

Section 8-602. Permits Required—Posting and Revocation. It shall be unlawful for any person to operate a restaurant in the Town of Tabor who does not possess an unrevoked permit from the health officer. Such permit shall be posted in a conspicuous place. Only persons who comply with the requirements of this ordinance shall be entitled to receive and retain such a permit. A person conducting an itinerant restaurant shall also be required to secure a permit.

Such a permit may be temporarily suspended by the health officer upon the violation by the holder of any of the terms of this ordinance, or revoked after an opportunity for a hearing by the health officer upon serious or repeated violation.

Section 8-603. Permit Fees. Every applicant for a permit to operate a restaurant or itinerant restaurant shall pay to the town treasurer a fee or fees for each such establishment in accordance with the following schedule:

Restaurants, annually .....	\$15.00
Applications made between January 1st and June 30th .....	15.00
Applications made between July 1st and December 31st .....	10.00
Itinerant Restaurants, daily or as provided:	
Each days' operation .....	5.00
Total fee not to exceed for any one continuous operation .....	15.00

Section 8-604. Examination and Condemnation of Unwholesome or Adulterated Food or Drink. Samples of food, drink and other substances may be taken and examined by the health officer as often as may be necessary for the detection of unwholesomeness or adulteration. The health officer may condemn and forbid the sale of, or cause to be removed or destroyed, any food or drink which is unwholesome or adulterated.

Section 8-605. Inspection of Restaurants. Prior to the issuance of a license authorized under this chapter, the town fire marshal and health officer shall inspect the premises to determine whether or not the applicant has complied with the state health and restaurant regulations and standards and town fire code.

Section 8-606. Access to Premises and Records. The person operating the restaurant shall upon request of the health officer permit access to all parts of the establishment and shall permit copying any or all records of food purchased.

Section 8-607. Suspension and Revocation. A license issued pursuant to this chapter shall be issued upon the condition that the licensee's state permit shall remain in good standing. In the event that the licensee's state license is suspended or revoked, the licensee's town license shall be automatically suspended or revoked by action of the Board of Trustees.

Section 8-608. Penalties. Any person violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not exceeding one hundred dollars or by imprisonment not exceeding thirty days, or by both such fine and imprisonment. Each day such violation is committed, or permitted to continue, shall constitute a separate offense and shall be punishable as such hereunder.

#### LICENSING AND CONTROL OF ANIMALS

Section 8-701. Livestock not to run at large or be kept in certain areas of the city; exceptions.

(a) It shall be unlawful for any person to raise, keep or maintain, or permit to run at large, any swine or hog, horse, cow, mule, donkey, sheep or goat, chickens, ducks, geese, turkeys or poultry, or any wild animal or animals, within any area of the city which is platted into lots of an area of any size.

(b) Any animal described in subsection (a) suffered or permitted to be within the areas described in subsection (a) in violation of this section is hereby declared to be a nuisance and menace to public health and safety by reason of the density of the population of the area.

Section 8-702. Leading, riding or driving animals in parks. No person shall ride, drive or lead any horse, mule, cow or other animal in any public park.

Section 8-703. Disposition of dead animals.

(a) No dead animal of any kind shall be thrown into or upon the streets or alleys of the city, or left exposed by any person.

(b) No owner of any dead animal shall permit it to remain undisposed longer than twenty-four (24) hours after its death.

#### Section 8-704. Procedure for detention of dangerous animals.

(a) As used in this section, the following term shall have the meanings ascribed to them:

(1) Animal shall mean and include a dog, a cat, or any other animal.

(2) Owner shall mean any person who owns or harbors an animal.

(b) Any animal which shall bite a person is hereby declared a dangerous animal and a nuisance. If any person shall file a verified complaint in any court, stating that any person has been bitten by an animal, naming the owner as defendant, if he is known or can be learned from the city license records. A warrant shall issue to a police officer to take the animal into his possession and isolate it for a period of fifteen (15) days to ascertain if the animal has rabies, the cost of care thereof shall be at the expense of the owner. A copy of the warrant shall be delivered to the owner. However, with the approval of the court affixed to the warrant, the owner may be authorized to keep, or arrange for the care of, the animal under proper safeguards for a fifteen (15) day period, during which tests may be made as to the animal's condition.

(c) The court may fix a time of hearing of the complaint issued pursuant to subsection (b), and give notice to the owner thereof. At the hearing, the court may enter an order authorizing or confirming the acts of the officer and for such judgment as to the care and custody of the animal as may be proper to safeguard it, its owner and the public, and a judgment for the city for the costs of the animal's care against the owner.

## ARTICLE II. DOGS

### DIVISION 1. GENERALLY

Section 8-705. Applicability of article to other animals. The provisions of the following sections shall include cats and other domesticated animals so far as is applicable, but permitted animals other than dogs are not required to be licensed.

#### Section 8-705A.

(1) General Definitions. Words when used in this Chapter unless the text otherwise plainly refers, shall have the meaning indicated:

- (a) At Large. Off or outside of the premises belonging to the owner or keeper of such dog and not under the control of such owner or keeper, or the agent or servant member of this immediate family, by means of a leash, cord or chain not to exceed ten (10) feet in length, provided that an unleashed dog off the owners premises shall not be deemed to be at large if he is under the immediate control of the owner or his agent and engaged in a course of training which require the animal to be unleashed.
- (b) Dog. Any member of the canine family, both male and female.
- (c) Leash. A cord, chain, device or physical restraint not more than ten (10) feet in length by which a dog is controlled by the person accompanying it sufficient to restrain dogs.
- (d) Owner. A person owning, keeping or harboring a dog; the occupant of any premises to which a dog customarily returns is presumed to be the owner.
- (e) Domestic Animal. Any of various animals (as the horse, sheep, dog, cat, goat) domesticated by man so as to live and breed in a tame condition.
- (f) Cat. Any member of the feline family, both male and female. For the purposes of this Ordinance, “cat” is meant to include only common domesticated cats, and not any wild species of cat.
- (g) Premises. The dwelling house and outbuildings and the lot or tract of land on which the same are situated and shall include an automobile or other vehicle in which the owner of the dog shall be an occupant or of which he shall have control, or in which any dog shall be situated with the consent of the owner of the vehicle.
- (h) Vaccination. The injection by a veterinarian or other qualified person of a vaccine approved by, and administered in accordance with, the provisions of this Chapter and resolutions of the governing body of the City.
- (i) Veterinarian. A licensed practitioner of veterinary medicine licensed to practice such profession in the state.

(2) Limit in number of dogs and cats. It shall be unlawful for any person or persons, or household, in the limits of the City of Tabor to own or possess more than four (4) dogs and four (4) adult cats. OF the four (4) dogs that can be owned or possessed, only three (3) of the dogs can weigh more than twenty-five pounds (25 lbs). It is the intent of this Ordinance to set an aggregate limit to the number of dogs that may be legally owned by one family, household, or co-habitants of any kind.

This Ordinance does not apply to litters of dog puppies or kittens from the time of their birth until they are eight weeks old.

Section 8-706. Dogs running at large prohibited; impoundment.

(a) It shall be unlawful for any owner of a dog to allow his dog to run at large at any time beyond the limits of the land of its owner, and upon the streets, sidewalks, or other public or private property. For the purpose of this section, a dog shall be considered not to be at large whenever the dog is under the immediate control of a person by means of a leash, chain, cord or rope of not more than ten (10) feet in length and of sufficient strength to control the dog.

(b) Any dog found at large in violation of subsection (a) shall be impounded in accordance with the provisions of this article and shall be subject to changes and provisions.

(c) Any owner found in violation of this section shall be fined in the amount of twenty-five dollars (\$25.00) for the first offense, fifty dollars (\$50.00) for the second offense and one hundred dollars (\$100.00) for each subsequent offense thereafter within any one (1) year period.

Section 8-707. Procedures when dog is suspected of having rabies. If a dog is believed to have rabies, or has been bitten by an animal which is believed to have rabies, proceedings may be taken as provided as to licensed dogs, unlicensed dogs shall be impounded and dealt with as provided; it shall be the duty of any physician or veterinarian to immediately notify the police department of any injury by dog or animal bite or of any animal suspected of having rabies. All expenses incurred by the city for the impoundment of the dog will be reimbursed to the city by the owner before the dog is released.

Section 8-708. Charges and fees imposed by this article to constitute obligation to the city.

The charges and license fees fixed by this article are declared to be an obligation due the city from the owner, keeper, person in charge or persons who harbor any dog and, if not paid within ten (10) days after the charges or fees are due, the board of trustees, after notice to the person of a special assessment lien or an action in court to collect or enforce the city's claim.

Section 8-709. Keeping vicious or dangerous dogs.

(a) It shall be unlawful for any person to keep or harbor within the city any vicious or dangerous dog.

(b) A vicious or dangerous dog shall be defined as a dog which without obvious or overt provocation bites, mauls or otherwise attacks or attempts to attack in such a manner as to cause bodily harm. Any person violating this section shall be fined in the amount of sixty dollars



(\$60.00) and the animal shall be subject to these provisions. If the owner is unknown, the animal shall be immediately destroyed in a humane manner.

Section 8-710. Disturbance of peace by barking dogs, animal howling and noise.

The owner of a dog or any other animal shall not suffer or allow the animal to disturb the peace and quiet of the city, by allowing the animal to continuously bark or howl for a period of more than fifteen minutes per twenty-four hour intervals. A violation of this section shall be punishable by a fine of twenty-five dollars (\$25.00) for the first offense, fifty dollars (\$50.00) for the second offense and one hundred dollars (\$100.00) for each violation thereof.

## DIVISION 2. LICENSES

Section 8-711. Annual license fee required.

Each owner, keeper and person in charge of any dog shall, before the first day of January in each year, pay a license fee as established by resolution of the board of city trustees.

Section 8-712. When licensing not required.

No dog need be licensed pursuant to this division if the dog is under three (3) months of age and is kept on the property of the owner.

Section 8-713. Rabies vaccination prerequisite to license.

No license required by this division shall be issued for any dog unless it shall have been vaccinated by a licensed veterinarian with antirabic vaccine within three (3) months preceding the date on which the dog is licensed, or, in case of a permanent vaccine, at any time prior to the time of licensing. Vaccination with live embryonated egg vaccine within two (2) years shall be deemed vaccination sufficient to permit the issuance of the license required by this division, and a veterinarian's certificate to that effect shall be in compliance with this section.

Section 8-714. Issuance of license tag; to be worn by licensed dog.

The town clerk or his designee shall issue his receipt for the payment of the license fee imposed upon dogs by this division, and the finance officer or his designee shall issue to the person a certificate to the effect that the dog therein described has been duly registered and shall also deliver to such a person a metal tag, which certificate and tag shall bear the registry number of the dog together with the year in which the certificate and tag was issued, and the tag shall be securely fastened upon the collar of the dog so registered.

Section 8-715. Kennel licenses.

(a) Any person desiring to operate a kennel and pay a kennel fee therefore in lieu of the license fee required for dogs imposed by this division may make application for a kennel license, the fee for which shall be established by the board of city trustees by resolution.

(b) The application for a kennel license shall state the place where the kennel will be operated, and the animals must be kept in a substantial enclosure thereon and kept therein at all times, except when the same may be on a leash in the custody of the owner or his agent.

(c) If dogs are kept as prescribed in this section, they need not be separately licensed, but the kennel fee shall cover all of the dogs while so confined.

(d) The definition of a kennel shall be an enclosed place wherein more than two dogs are kept.

(e) Nothing in this section shall be construed to allow the establishment of a kennel in conflict with the provisions of any other ordinance of the town.

### DIVISION 3. IMPOUNDMENT

Section 8-716. Duty to impound unlicensed or unvaccinated dogs.

It shall be the duty of each police officer, animal control officer, or other person designated by the city manager, to apprehend any dog not licensed or not vaccinated as required by this chapter and to impound the dog at a city pound or other suitable place designated by the city manager.

Section 8-717. Register of impounded dogs; licensed dogs to be separated from unlicensed dogs.

The person designated to be in charge of the pound shall while receiving any dogs make a registry, entering the breed, color and sex of such dog, whether the dog is licensed, and the date and place the dog was apprehended. If the dog is licensed, he shall enter the name and address of the owner and the number of the license tax. Licensed dogs shall be separated from unlicensed dogs.

Section 8-718. Notice of impoundment.

The animal control officer or other designated person shall at his earliest convenience, notify the owner of any licensed dog of the impoundment. In the event of unlicensed dogs or other animals impounded, the animal control officer or other designated person shall post a written notice at a conspicuous place in the Bon Homme County Courthouse or have published in a local newspaper the information required.

Section 8-719. Impoundment and maintenance charges.

The board of city trustees shall by resolution establish charges for the improvement and maintenance of animals which charges must be paid to the finance officer prior to recovery of the animal.

Section 8-720. Unlicensed dogs to be vaccinated.

An unlicensed dog impounded pursuant to this division must be licensed before it may be released to its owner.

(a) Upon release of an unlicensed dog to its owner, a thirty dollar (\$30.00) deposit shall be left by the owner with the finance officer or his designee. Such deposit, less the licensing fees provided, shall be returned to the owner upon proof of the required vaccination provided for.

(b) Any person who purchases a dog from the city pound shall be required to abide by the same procedures as provided in subsection (a) of this section.

Section 8-721. Time for keeping dogs impounded.

Licensed dogs impounded pursuant to this division shall be kept for at least three (3) days and unlicensed dogs or other animals impounded pursuant to this division shall be kept for one (1) day after giving or posting of the notice required by this division, and at the expiration of which time the dog shall be destroyed in some humane manner.

Section 8-722. Certain animals not to be released.

Any dog or other animal which appears to be suffering from rabies or any other infectious or dangerous disease shall not be released, but may be forthwith destroyed.

Section 8-723. Donation of dogs to medical and similar institutions.

Whenever any hospital or reputable institution of learning shall apply to the person in charge of the pound for permission to use any dog impounded pursuant to this division, remaining unclaimed, for research purposes in the study of the prevention of the disease or the betterment of mankind, the person in charge of the pound may surrender to the hospital or institution the unclaimed dogs, upon reasonable terms.

## ANTI-LITTER

Section 8-801. Short Title. This ordinance shall be known and may be cited as the “Tabor Anti-Litter Ordinance”.

Section 8-802. Definitions. For the purposes of this ordinance the following terms, phrases, word and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words used in the plural

number include the singular number, and words used in the singular number include the plural number. The word “shall” is always mandatory and not merely directory.

(1) “Town” is the Town of Tabor.

(2) “Commercial Handbill” is any printed or written matter, any sample or device, dodger, circular, leaflet, pamphlet, paper, booklet, or any other printed or otherwise reproduced original or copies of any matter of literature:

(a) Which advertises for sale any merchandise, product, commodity, or thing; or

(b) Which directs attention to any business or mercantile or commercial establishment, or other activity, for the purpose of either directly or indirectly promoting the interest thereof by sales; or

(c) Which directs attention to or advertises any meeting, theatrical performance, exhibition, or event of any kind, for which an admission fee is charged for the purpose of private gain or profit; but the terms of this clause shall not apply where an admission fee is charged or a collection is taken up for the purpose of defraying the expenses incident to such meeting, theatrical performance, exhibition, or event of any kind, when either of the same is held, given or takes place in connection with the dissemination of information which is not restricted under the ordinary rules of decency, good morals, public peace, safety and good order; Provided, that nothing contained in this clause shall be deemed to authorize the holding, giving or taking place of any meeting, theatrical performance, exhibition, or event of any kind, without a license, where such license is or may be required by any law of this state, or under any ordinance of this town; or

(d) Which, while containing reading matter other than advertising matter, is predominantly and essentially an advertisement, and is distributed or circulated for advertising purposes, or for the private benefit and gain of any person so engaged as advertiser or distributor.

(3) “Garbage” is putrescible animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of food.

(4) “Litter” is “garbage”, “refuse”, and “rubbish” as defined herein and all other waste material which, if thrown or deposited as herein prohibited, tends to create a danger to public health, safety and welfare.

(5) “Newspaper” is any newspaper of general circulation as defined by general law, any newspaper duly entered with the Post Office Department of the United States, in accordance with Federal statute or regulation, and any newspaper filed and recorded with any recording officer as provided by general law; and , in addition

thereto, shall mean and include any periodical or current magazine regularly published with not less than four issues per year, ad sold to the public.

- (6) “Non-Commercial Handbill” is any printed or written matter, any sample, or device, dodger, circular, leaflet, pamphlet, newspaper, magazine, paper, booklet, or any other printed or otherwise reproduced original or copies of any matter of literature not included in the aforesaid definitions of a commercial handbill or newspaper.
- (7) “Park” is a park, reservation, playground, beach, recreation center or any other public area in the town, owned or used by the town and devoted to active or passive recreation.
- (8) “Person” is any person, firm, partnership, association, corporation, company or organization of any kind.
- (9) “Private Premises” is any dwelling, house, building, or other structure, designed or used either wholly or in part for private residential purposes, whether inhabited or temporarily or continuously uninhabited or vacant, and shall include any yard, grounds, walk, driveway, porch, steps, vestibule or mailbox belonging or appurtenant to such dwelling, house, building or other structure.
- (10) “Public Place” is any and all streets, sidewalks, boulevards, alleys or other public ways and any and all public parks, squares, spaces, grounds, and buildings.
- (11) “Refuse” is all putrescible and nonputrescible solid wastes (except body wastes), including garbage, rubbish, ashes, street cleanings, dead animal, abandoned automobiles, and solid market and industrial wastes.
- (12) “Rubbish” is nonputrescible solid wastes consisting of both combustible and non-combustible wastes, such as paper, wrappings, cigarettes, cardboard, tin cans, yard clippings, leaves, wood, glass, bedding, crockery and similar materials.
- (13) “Vehicle” is every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, including devices used exclusively upon stationary rails or tracks.

Section 8-803. Litter in Public Places. No person shall throw or deposit litter in or upon any street, sidewalk or other public place within the town except in public receptacles, in authorized private receptacles for collection, or in official town dumps.

Section 8-804. Placement of Litter in Receptacles so as to Prevent Scattering. Persons placing litter in public receptacles or in authorized private receptacles shall do so in such a

manner as to prevent it from being carried or deposited by the elements upon any street, sidewalk or other public place or upon private property.

Section 8-805. Sweeping Litter Into Gutters Prohibited. No person shall sweep into or deposit in any gutter, street or other public place within the town the accumulation of litter from any building or lot or from any public or private sidewalk or driveway. Persons owning or occupying property shall keep the sidewalk in front of their premises free of litter.

Section 8-806. Merchants Duty to Keep Sidewalks Free of Litter. No person owning or occupying a place of business shall sweep into or deposit in any gutter, street or other public place within the town the accumulation of litter from any building or lot or from any public or private sidewalk or driveway. Persons owning or occupying places of business within the town shall keep the sidewalk in front of their business premises free of litter.

Section 8-807. Litter Thrown by Persons in Vehicles. No person, while a driver or passenger in a vehicle, shall throw or deposit litter upon any street or other public place within the town, or upon private property.

Section 8-808. Truck Loads Causing Litter. No person shall drive or move any truck or other vehicle within the town unless such vehicle is so constructed or loaded as to prevent any load, contents or litter from being blown or deposited upon any street, alley or other public place. Nor shall any person drive or move any vehicle or truck within the town, the wheels or tires of which carry onto or deposit in any street, alley or other public place, mud, dirt, sticky substances, litter or foreign matter of any kind.

Section 8-809. Litter in Parks. No person shall throw or deposit litter in any park within the town except in public receptacles and in such a manner that the litter will be prevented from being carried or deposited by the elements upon any part of the park or upon any street or other public place. Where public receptacles are not provided, all such litter shall be carried away from the park by the person responsible for its presence and properly disposed of elsewhere as provided herein.

Section 8-810. Litter in Lakes and Fountains. No person shall throw or deposit litter in any fountain, pond, lake, stream, bay or any other body of water in a park or elsewhere within the town.

Section 8-811. Throwing or Distributing Commercial Handbills in Public Places. No person shall throw or deposit any commercial or non-commercial handbill in or upon any sidewalk, street or other public place within the town. Nor shall any person hand out or distribute or sell any commercial handbill in any public place. Provided, however, that it shall not be unlawful on any sidewalk, street, or other public place within the town for any person to hand out or distribute, without charge to the receiver thereof, any non-commercial handbill to any person willing to accept it.

Section 8-812. Placing Commercial and Non-Commercial Handbills on Vehicles. No person shall throw or deposit any commercial or non-commercial handbill in or upon any vehicle. Provided, however, that it shall not be unlawful in any public place for a person to hand out or distribute without charge to the receiver thereof a non-commercial handbill to any occupant of a vehicle who is will to accept it.

Section 8-813. Depositing Commercial and Non-Commercial Handbills on Uninhabited or Vacant Premises. No person shall throw or deposit any commercial or non-commercial handbill in or upon any private premises which are temporarily or continuously uninhabited or vacant.

Section 8-814. Prohibiting Distribution of Handbills Where Properly Posted. No person shall throw, deposit or distribute any commercial or non-commercial handbill upon any private premises, if requested by anyone thereon not to do so, or if there is placed on said premises in a conspicuous position near the entrance thereof a sign baring the words: "No Trespassing", "No Peddlers or Agents", "No Advertisement", or any similar notice, indicating in any matter that the occupants of said premises do not desire to be molested or have their right of privacy disturbed, or to have any such handbills left upon such premises.

Section 8-815. Distributing Commercial and Non-Commercial Handbills at Inhabited Private Premises. No person shall throw, deposit or distribute any commercial or non-commercial handbill in or upon private premises which are inhabited, except by handing or transmitting any such handbill directly to the owner, occupant, or other person then present in or upon such private premises. Provided, however, that in case of inhabited private premises which are not posted, as provided in this ordinance, such person, unless requested by anyone upon such premises not to do so, may place or deposit any such handbill in or upon such inhabited private premises, if such handbill is so placed or deposited as to secure or prevent such handbill from being blown or drifted about such premises or sidewalks, streets, or other public places, and except that mailboxes may not be so used when so prohibited by Federal postal law or regulations.

(1) Exemption for Mail and Newspapers. The provisions of this section shall not apply to the distribution of mail by the United States, nor to newspapers (as defined herein) except that newspapers shall be placed on private property in such a manner as to prevent their being carried or deposited by the elements upon any street, sidewalk or other public place or upon private property.

Section 8-816. Dropping Litter From Aircraft. No person in an aircraft shall throw out, drop or deposit within the town any litter, handbill or any other object.

Section 8-817. Posting Notices Prohibited. No person shall post or affix any notice, poster or other paper or device, calculated to attract the attention of the public, to any lamp post,

public utility pole or shade tree, or upon any public structure or building, except as may be authorized or required by law

Section 8-818. Litter on Occupied Private Property. No person shall throw or deposit litter on any occupied private property within the town, whether owned by such person or not, except that the owner or person in control of private property may maintain authorized private receptacles for collection in such a manner that litter will be prevented from being carried or deposited by the elements upon any street, sidewalk or other public place or upon any private property.

Section 8-819. Owner to Maintain Premises Free of Litter. The owner or person in control of any private property shall at all times maintain the premises free of litter. Provided, however, that this section shall not prohibit the storage of litter in authorized private receptacles for collection.

Section 8-820. Litter on Vacant Lots. No person shall throw or deposit litter on any open or vacant private property within the town whether owned by such person or not.

Section 8-821. Penalties. Any person violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in an amount not exceeding \$50. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder.

#### COLLECTION, REMOVAL, AND DISPOSAL OF GARBAGE AND RUBBISH BY COMMERCIAL SOLID WASTE HAULERS

Section 8-901. Definitions. Terms used in this chapter unless the context otherwise plainly requires, shall mean:

- (a) Garbage. Includes, but is not restricted to every accumulation of animal, vegetable, or other mineral:
  - (1) Resulting from the preparation and consumption of edible food stuffs; or
  - (2) Resulting from decay, dealing in, or storage of meats, fish, fowl, fruits, or vegetables, including the cans, containers, or wrappers or waste along with such materials; or
  - (3) Such industrial, domestic, and organic solid waste or residue of animals sold for meat; or
  - (4) Fruit, vegetable, and animal matter from kitchens, dining rooms, markets, fruit establishments, or any other place using, dealing in, or handling meats, fish, fowl, fruits, vegetables, or grains; or



- (5) Offal, animal excreta, or the carcasses of animals, fish or fowl.
- (b) Occupant. The person who has the use of, or occupies, any building, whether a residence or commercial, or a part or portion thereof, whether the actual owner, tenant, or subtenant. In the case of vacant buildings, a residence or commercial, or any vacant portion of the buildings, the owner, agent, or other person having custody of said building shall have the responsibility of an occupant of said building.
- (c) Owner. The actual owner of the property, building, or site, or the agent of the owner in charge of said building, property, or site or the person whom any rental upon said building, property, or she is paid. In the case of property being leased under agreement which hold the lessee responsible for maintenance and repair, the lessee shall be, in. such cases, considered as the owner.
- (d) Refuse, Garbage, rubbish, and rubble, incinerator ash, incinerator residues, street cleanings, market and industrial solid waste, and sewage waste in dry or semi-dry form.
- (e) Residential Occupant. A residential occupant shall include a dwelling house and a place of human habitation and shall be any household established in a building whether or not it is a single family dwelling, Each residential occupant, including multiple family dwellings of three (3) or more units, shall be liable for solid waste collection pursuant to this definition,
- (f) Rubbish. Includes, but is not restricted to, all non-putrescible waste or debris such as paper, cardboard, grass, tree or shrub trimmings., rugs, straw, clothing, wood, wood products, crockery, glass, rubber, metal, plastic, construction waste, and debris, tin cans, bedding, or litter of any kind.
- (g) Rubble. Stone, brick, rock, or similar organic material,
- (h) Solid Waste Hauler. Any person, firm, or corporation who collects garbage, rubbish, rubble, and refuse within the geographical limits of the municipality or from a central collection point and transports such a disposal site.
- (i) Truck. Any truck, trailer, semi-trailer, conveyance, or other vehicle which has been designed and manufactured specifically for the purpose of collecting garbage, rubbish, rubble, and refuse, or to haul or transport garbage, rubbish, rubble, and refuse upon public highways or thoroughfares.
- (j) Yard Waste. Leaves, grass clippings, plant or garden residue, or similar organic mailer.

Section 8-902. System For Garbage Collection And Disposal. The Board of Trustees for the Town of Tabor shall have the power and duty to provide for the removal of garbage and rubbish as provided for in this Title.

Section 8-903. Accumulation of Refuse Prohibited. No person, owner, agent, or occupant of any premises in the Town of Tabor, whether vacant or improved, shall allow any accumulation of garbage, rubbish, rubble or refuse to remain thereon for longer than two (2) weeks if such garbage, rubbish, rubble or refuse is within four hundred (400) feet of any dwelling house or commercial building, nor for more than four (4) weeks if beyond said distance, nor for any period of time if the same is found by the city to constitute a public or private nuisance,

Section 8-904. Refuse Removal. All garbage, rubbish, rubble, and refuse created, produced, or accumulated in or about any premises in the City limits of the Town of Tabor shall be removed from the premises at least once every two weeks, The city may require more frequent removal if necessary for certain premises,

All owners or occupants any premises in the Town of Tabor may contract privately with a solid waste hauler for the removal of garbage, rubbish, rubble, and refuse from their premises in compliance with the terms of this chapter. The rate to be charged to the occupant for garbage, rubbish, rubble, and refuse shall be as established by the solid waste hauler. All billing will be done directly by the solid waste hauler for the service.

Section 8-905. Burying of Refuse, No person, owner, agent, or occupant of any premises in the Town of Tabor shall keep, place, or deposit garbage, rubbish, rubble or refuse at any public or private grounds or premises within the Town of Tabor, except in containers or receptacles for collection upon premises owned, occupied, or under possession or control of such person, provided, however, that the Town of Tabor Board of Trustees may designate certain areas, locations, or containers for the deposit of garbage, rubbish, rubble, refuse or yard waste composting,

Section 8-906. Collection Vehicles. Trucks of any solid waste hauler used for collecting garbage and rubbish within the Town of Tabor shall have a watertight metal tank and shall be covered so that not more than one-half (1/2) of any truck can be uncovered at any one time. The cover shall be fully closed while the truck is traveling between place of collection and place of transfer disposal. At all times, the trucks shall obey all weight limits imposed on them by state law while driving on city streets, including any seasonal load limits. All solid waste haulers collecting garbage shall clean and disinfect ail equipment as needed to prevent health hazards.

Section 8-907. License Required for Solid Waste Hauler.

- (a) It shall be unlawful for any solid waste hauler to collect and dispose any garbage and rubbish from within the City limits of the Town of Tabor

without a license for the same. The Board of Trustees for the Town of Tabor is hereby empowered to issue licenses to any person, firm, or corporation who is a solid waste hauler. A solid waste hauler duly licensed under this ordinance shall have the power to remove and dispose of garbage and rubbish found in the Town of Tabor at the solid waste hauler's expense under the rules and regulations as may be adopted by the Tabor Town Board of Trustees.

- (b) The Tabor Town Board of Trustees shall have the right to make inspections from time to time of the collection and disposal process of the solid waste hauler and to set up what rules and regulations they think are necessary to achieve sanitary and desirable process. The solid waste hauler shall furnish his own equipment to carry on his duties.
- (c) Any solid waste hauler issued a license under this ordinance shall fully comply with all Federal, State, County and City ordinances, statutes, laws, and regulations In support thereof.

Section 8-908. License Fee and Term.

- (a) The license fee for each solid waste hauler shall be \$5.00 per year. The license period shall be from the 1st day July to the 30th day of June annually. All solid waste haulers currently collecting, removing and disposing of garbage from within the City limits of the Town of Tabor shall, within 30 days after the effective date of this ordinance, obtain such a license.
- (b) The Tabor Town Board of Trustees may determine the number of licenses to be issued. The license may contain the conditions under which the licensee is to operate. All licenses issued under this section are non-transferable, except by written permission of the Tabor Town Board of Trustees.

Section 8-909. Application for License. Application by a solid waste hauler for a license to collect, remove or dispose of garbage and rubbish from within the City limits of the Town of Tabor shall be filed with the City finance Officer and reviewed and issued by the Tabor Town Board of Trustees. The license application by a solid waste hauler shall be in writing, signed by the applicant and shall include the following:

- (1) The name and address of the applicant and/or the manage or operator if different than the applicant;

- (2) The name and business address of the solid waste hauler, if different than above;
- (3) The proposed garbage collection and removal times, the estimated number of garbage collection sites and customers, by the solid waste hauler within the Town of Tabor;
- (4) Such other and further information as may be required or requested by the Tabor Town Board of Trustees to ensure the solid waste hauler's compliance with this ordinance.

License renewals shall not require resubmission of the information contained in the original application by the solid waste hauler unless changes have occurred after the initial filing of the original application. Following a review by the Tabor Town Board of Trustees, the board shall at its discretion approve-or deny any license to a solid waste hauler.

Section 8-910. Transport to Southern Missouri Recycling & Waste Management Landfill: Any solid waste hauler issued a license by the Town of Tabor under this ordinance shall transport all garbage and rubbish collected from any premises in the City limits of the Town of Tabor to Southern Missouri Recycling & Waste Management landfill located in Charles Mix County. The solid waste hauler shall collect from the owners or occupants of any premises in the Town of Tabor, all items that are accepted at the above listed landfill with the solid waste hauler assuming all costs for disposal. The solid waste hauler shall comply with all terms and conditions of this landfill. The solid waste hauler shall submit copies of weigh slips or other documentation showing to the City Finance Office each month proof of delivery to the Southern Missouri Recycling and Waste Management Landfill.

Section 8-911. Penalty. Any person violating any of the provisions of this Ordinance or failing to comply with any of the provisions herein shall, upon conviction, be punished by a fine not exceeding two hundred dollars (\$200.00).

#### ANIMALS AND FOWL RUNNING AT LARGE

Section 8-1001. Definition of Terms. As used in this ordinance.

(1) “Animal” shall mean any and all types of animals both domesticated and wild, male and female, singular and plural.

(2) “Fowl” shall mean any and all fowl, domesticated and wild, male and female, singular and plural.

(3) “At Large” shall mean off the premises of the owner or custodian of the animal or fowl, and not under the immediate control of the owner or custodian.

Section 8-1002. Animals and Fowl Not to be Permitted at Large. No person owning or having in his custody animals or fowl shall permit the same to go at large to the injury or annoyance of others, nor shall such animals or fowl be permitted at large upon the streets or other public ways of the town. Such action is declared to be a nuisance and dangerous to the public health and safety; provided, however, that no livestock shall be permitted, whether at large or otherwise, to be within the town limits of the Town of Tabor.

Section 8-1003. Property Owner May Impound. Any person finding any animal or fowl upon his property to his injury or annoyance may take up same and remove it to any private or other animal shelter that will take possession of it. If no such shelter is available, he may hold the animal or fowl in his own possession, and as soon as possible notify the town marshal of this custody, giving a description of the animal or fowl and the name of the owner if known.

Section 8-1004. Penalties. Any person found guilty of violating any of the provisions of this ordinance shall be guilty of a misdemeanor and subject to a fine not exceeding \$50.

Section 8-1005. Disposition of Unredeemed Animals. Any animal or fowl not redeemed within 72 hours will be disposed of.

#### OPEN FIRES AND BURNING OF TRASH, REFUSE, LEAVES OR OTHER COMBUSTIBLE MATERIALS AND RECREATIONAL FIRES AND FIRE PITS

Section 8-1101. That open fires and the burning of refuse, garbage, leaves and other combustible materials are hereby prohibited within the corporate limits of the Town of Tabor, South Dakota.

Section 8-1102. That the Board of Trustees be and they are hereby authorized and empowered to permit burning days once in the spring and one in the fall upon application to the Town Board of Trustees for a permit for persons within the territorial limits of the Town of Tabor to burn leaves or other refuse during certain periods to be selected by the Town Board of Trustees.

Section 8-1103. No person shall haul any refuse, leaves or garbage or burn the same at any public dumping grounds owned by the Town of Tabor at any time and the burning at the said Town refuse site will be accomplished only by proper municipal authority.

Section 8-1104. Any person, firm or corporation violating any provision of this ordinance shall be fined not less than \$50 nor more than \$100 for each offense; a separate offense shall be deemed committed on each day during or on which the violation occurs or continues.

Section 8-1105. Recreational Fires and Fire Pits

(a) Definitions. As used in this Section:

- (1) The term "recreational fire" as referred to in this section is the burning of natural firewood or commercial logs, for pleasure, religious, ceremonial, cooking or similar purposes. Gas and charcoal grills are not deemed recreational fires and are not subject to this provision. Unless meeting the requirements of this Ordinance, bonfires shall not be deemed recreational fires and are expressly prohibited.
  - (2) The term "fire pit" as used in this ordinance includes either a below ground pit or a portable device, constructed of steel, brick, or masonry, such as commercial fire kettle or similar commercial devices intended to contain and control outdoor wood fires, and includes any outdoor fireplace or fire-walled device which because of its structure will contain the fire.
- (b) Recreational Fires and Fire Pits Permitted. Recreational fires and fire pits are permitted within the corporate limits of the Town of Tabor under the following conditions:
- (1) All recreational fires and fire pits must be conducted on private property and shall not be conducted on alleys, streets or boulevards.
  - (2) All below ground fire pits shall be at least four inches in depth and shall be surrounded on the outside, above ground, by a noncombustible material such as steel, brick, or masonry. Portable fire pits, constructed of steel, brick, or masonry, shall be used in accordance with the manufacturer's specifications and these regulations. All portable freestanding fire pits shall have a fire screen which encloses the open fire designed to control sparks from leaving the immediate fire area.
  - (3) Fire pit location. Recreational fires in commercial freestanding fire kettles or similar commercial devices shall not be conducted within ten feet of any structure or combustible material, such as houses, garages, sheds, decks, wood piles and wooden fences. Recreational fires in below ground commercial open fire rings or constructed fire pits shall not be conducted within twenty feet of any structure or combustible material such as houses, garages, sheds, decks, wood piles and wooden fences.
  - (4) Container capacity. The fuel load capacity of the fire pit container shall exceed three feet in diameter or two feet in height.
  - (5) Fuel type. Only natural firewood or commercial logs may be burned in a fire pit. Burning of treated lumber, pallets, scrap wood, tree trimmings, leaves, yard waste, paper, cardboard, garbage and similar items is not permitted. Liquid accelerants shall not be used in any fire pit.

- (6) Attendance. A fire pit fire shall be constantly attended and supervised by an adult until the fire has been completely extinguished.
- (7) Fire-extinguishing equipment. A portable fire extinguisher or other approved extinguishing equipment, such as a garden hose, sand, or dirt, shall be readily available to extinguish a fire pit fire.

(c) Discontinuance. Recreational burning that is offensive or objectionable because of smoke or odor emissions or when atmospheric conditions or local circumstances similar to high wind and drought conditions make such fires hazardous shall be prohibited. Police and fire department officers are authorized to require that a recreational fire be immediately extinguished and discontinued if it is determined that the fire is not in compliance with this article, or the smoke is offensive to nearby neighbors, or the burning is determined to constitute a hazardous condition.

(d) Exception for Municipal Park Campground Campfires. Recreational campfires at approved municipal park campgrounds are permitted and are therefore exempt from the requirements of this Section, provided such campfires are kindled in and confined to fire rings provided for such purpose and provided only natural firewood or commercial logs are burned. A campfire shall be constantly attended and supervised by an adult until the fire has been completely extinguished. Liquid accelerants shall not be used and suitable extinguishing material or water shall be available to extinguish the campfire.

#### ABANDONED, JUNKED, DISMANTLED, OR INOPERATIVE MOTOR VEHICLES

##### Section 8-1201. Declaration of Public Interest in Disposal.

Abandoned, inoperable or junked motor vehicles and parts thereof constitute a hazard to the health and welfare of the people of the city in that such vehicles and parts thereof can harbor noxious diseases, furnish shelter and breeding places for vermin and present physical danger to the safety and well-being of children and other citizens. Abandoned, inoperable or junked motor vehicles and parts thereof also constitute a blight on the landscape of the city and, therefore, are a detriment to the environment. The indiscriminate abandonment and retirement of motor vehicles and parts thereof constitutes a waste of valuable sources of useful metal. It is therefore in the public interest that the present accumulation of abandoned, inoperable or junked motor vehicles and parts thereof be eliminated; that future abandonment or junking of motor vehicles and parts thereof be discouraged; that the expansion of existing scrap recycling facilities be developed; and that other acceptable and economically useful methods for the disposal of abandoned, inoperable or junked motor vehicles and parts thereof be developed.

##### Section 8-1202. Definitions.

- (1) "Abandoned motor vehicle" means any motor vehicle that is left unattended on any public street, alley, public place or parking lot within the city longer than forty-eight (48) hours without notifying the Town of Tabor or the Bon Homme County sheriff's department and making arrangements for the parking of such motor vehicle on public property, or that is in an inoperable or unusable condition, or that is not currently licensed and is left on private property for more than ten (10) days.
- (2) "City" means the town of Tabor.
- (3) "Inoperable vehicle" means any motor vehicle, as herein defined, which has not physically moved twenty-five feet in a two-month period or which is not in operating condition due to damage or removal of inoperability of one or more tires and wheels, damage or removal or inoperability of the engine or other essential parts required for operation of the vehicle, or which does not have lawfully affixed thereto a valid state license plate or which constitutes an immediate health, safety, fire or traffic hazard.
- (4) "Junked motor vehicle" means any motor vehicle the condition of which is substantially wrecked, dismantled, inoperative, unlicensed or in need of repairs exceeding or equaling 50 percent of the fair market value of the vehicle, or discarded.
- (5) "Motor vehicle" means any vehicle which is designed to travel along, or on the ground or water and shall include, but not be limited to, automobiles, buses, motorbikes, motorcycles, motor scooters, trucks, tractors, go-carts, golf carts, campers, trailers, boats and farm equipment.
- (6) "Person" means any person, firm, partnership, association, corporation, company or organization of any kind.
- (7) "Private property" means any real property within the city, which is privately owned, and which is not public property as defined in this section.
- (8) "Public property" means any street, alley or highway, or boulevard which shall include the entire width between the boundary lines of every way publicly maintained for the purposes of vehicular travel, and also means any other publicly owned property or facility.

Section 8-1203. Storing parking or leaving dismantled or other such motor vehicles prohibited and declared nuisance.

No person shall park, store or leave, or permit the parking, storing or leaving of any motor vehicle that is abandoned, inoperable or junked as defined in this article, whether attended



or not, upon any public property within the city for a period of time longer than forty-eight (48) hours or on any private property for a period of time longer than ten (10) days. The presence of an abandoned, inoperable or junked motor vehicle or parts thereof on private or public property is prohibited and hereby declared a public nuisance, which may be abated as such in accordance with the provisions of this ordinance. This section shall not apply to any motor vehicle that is:

- (1) Totally enclosed within a building, or behind a solid fenced or screened enclosure approved by the city, the same being no less than eight (8) feet high on private property or leased public property; or
- (2) On the premises of a business enterprise lawfully licensed by the State of South Dakota for sales, use, or excise tax purposes and properly operated in the appropriate business zone, pursuant to the zoning laws of the city, if any, and stored within a building, or behind a solid fenced or screened enclosure approved by the city, the same being no less than eight (8) feet high; or,
- (3) In an appropriate storage place or depository maintained in a lawful place and manner by the city; or
- (4) Designed for operation on a drag strip or raceway provided that such vehicle is properly stored during non-racing seasons.

#### Section 8-1204. Responsibility for removal.

The owner of the abandoned, inoperable or junked motor vehicle or the parts thereof and the owner or occupant of the private property on which the abandoned, inoperable or junked motor vehicle or the parts thereof are located shall be responsible for its removal.

#### Section 8-1205. Enforcement.

##### 1. Administrative proceedings.

- (a) If a nuisance exists, a notice of violation shall be issued to the offender, to the concerned property owner and to the person in possession of the property whereon the offense was committed, directing abatement.
- (b) Notice may be, served upon the offender, the concerned property owner and the person in possession of the property whereon the offense was committed by personal service, by registered mail, or by posting notice in a conspicuous place within the City limits of the Town of Tabor, South Dakota, and by publication for a period of one week in the legal newspaper of the Town of Tabor.

- (c) Within 7 days after completion of the notice hereinabove mentioned in sub-paragraph b, an appeal may be filed by the offender, the concerned property owner or the person in possession of the property whereon the offense was committed with the City Council. Within 15 days after filing, appeal shall be heard before the City Council. All persons who fail to protest shall be deemed to have waived all objections.
- (d) Abatement shall be accomplished within 7 days after notification of the decision of the City Council, unless the offender, concerned property owner or the person in possession of the property whereon the offense was committed can show cause why more time is needed. Notification of the City Council shall be mailed by registered or certified mail.
- (e) If the abatement is not completed within the time hereinabove mentioned in subparagraph d, the City shall abate the nuisance and file an account with the City Council, which account shall specify the sum expended in abating said nuisance.
- (f) At least seven (7) days after filing of the account hereinabove mentioned in subparagraph e, the City Council shall hold a hearing. Notice announcing the time of the City Council meeting shall be mailed by registered or certified mail to the concerned property owner, to the person in possession and to the offender at least seven (7) days prior to said hearing.
- (g) The City Council shall hear the matter and if the account is accepted, the amount thereof shall become a lien upon the motor vehicle removed under the provisions of this Ordinance and upon the real property whereon the offense was committed.

Section 8-1206. Penalties; prohibition not stayed by notice requirements.

Any person violating any of the provisions of this Ordinance shall be guilty of a misdemeanor, and upon conviction shall be subject to a fine of not less than fifty dollars (\$50.00) or more than two hundred dollars (\$200.00) per day for each day the violation remains thereafter and the cost of removal and disposal of the motor vehicle or the parts thereof. A violation of this Ordinance is not stayed by or conditioned on the notice requirements.

## REGULATING BICYCLES

Section 8-1301. Bicycle Riding. It shall be unlawful for any person to operate or ride a bicycle on any public sidewalk within the limits of the town of Tabor.

## DUMPING OF WASTE MATERIAL AT THE TOWN OF TABOR DUMP SITE AND TO PROHIBIT THE DISPOSAL AND DUMPING OF HOUSEHOLD GARBAGE

Section 8-1401. That it shall be unlawful for any person, corporation, co-partnership, resident or non-resident of the Town of Tabor, or any person, to dump or dispose of waste or leave household garbage at the Tabor dump.

Section 8-1402. That the only materials to be dumped at the Tabor dump site are to include iron, steel, tin, wood, tree cuttings, stumps and other material not classified as garbage but classified, generally, as rubble.

Section 8-1403. No person, firm, corporation or co-partnership, either a resident or non-resident of the Town of Tabor, shall at any time, under any conditions, permit the dumping, wasting, disposal of, or leaving of any food remnants, household garbage, industrial wastes, manufacturing waste, packing house waste, dead animals or anything of such a nature at the Tabor dump site, and such dumping, wasting or disposal shall be unlawful.

Section 8-1404. Penalties. Any person who shall dump in violation of this ordinance any material at the Tabor dump site shall be fined not more than \$100 and imprisoned in the County Jail not more than thirty (30) days, or both such fine and imprisonment

### CHAPTER 9

#### TRAFFIC REGULATION

Section 9-201. Definitions. As used in this chapter, the following terms shall have the meanings ascribed to them:

- (1) Business district shall mean the territory contiguous to a highway when fifty percent (50%) or more of the frontage thereon for a distance of three hundred (300) feet or more is occupied by buildings in use for business.
- (2) Highway shall mean the entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public as a matter of right for purposes of vehicular travel.
- (3) Intersection shall mean the area embraced within the prolongation of the lateral curb lines or, if none, then the lateral boundary lines of two (2) or more highways which join one another at an angle whether or not one such highway crosses the other; however, such an area, in the case of the point where an alley and a street meet, shall not be deemed an intersection.
- (4) Motor vehicle shall mean any vehicle as defined in this section which is self-propelled.

(5) Motorcycle shall mean any motor vehicle designed to travel on not more than three (3) wheels in contact with the ground, except tractors.

(6) Private driveway shall mean a driveway not open to the use of the public for purposes of vehicular travel.

(7) Residence district shall mean the territory contiguous to a highway not comprising a business district when the frontage on the highway for a distance of three hundred (300) feet or more is mainly occupied by dwellings or by dwellings and buildings in use for business.

(8) Right-of-way shall mean the right of one (1) vehicle or pedestrian to proceed in a lawful manner in preference to another vehicle or pedestrian approaching under such circumstances of direction, speed and proximity as to give rise to danger of collision unless one grants precedence to the other.

(9) Safety zone shall mean the area of space officially set aside within a highway for the exclusive use of pedestrians and which is so plainly marked or indicated by proper signs as to be plainly visible at all times while set apart as a safety zone.

(10) Semitrailer shall mean any 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.

(11) Trailer shall mean any vehicle without motive power designed for carrying property or passengers wholly on its own structure and for being drawn by a motor vehicle.

(12) Vehicle shall mean any device in, upon, or by which any person or property is or may be transported or drawn upon a public highway, except devices moved by human power or used exclusively upon stationary rails or tracks; however, the provisions of this chapter concerning operation of vehicles and rules of the road shall apply to a bicycle or a ridden animal and they shall be deemed vehicles for the purpose of this chapter.

Section 9-202. Obedience to police officers. No person shall refuse or fail to comply with any lawful order, signal, or direction of a police officer pursuant to this chapter.

Section 9-203. Toy vehicles on highways. It shall be unlawful for any person on roller skates or riding in or by means of any coasters, toy vehicles, or similar device, to go upon any highway except while crossing a highway on a crosswalk.

Section 9-204. Prohibited manner of riding motorcycles. It shall be unlawful for the driver of any motorcycle on a highway to carry any other person upon the handlebars, frame or tank of the motorcycle or for any person so to ride upon any such vehicle.

Section 9-205. Clinging to moving vehicles. It shall be unlawful for any person traveling upon any motorcycle, coaster, sled, roller skates or any toy vehicle to cling to or attach himself or his vehicle to any other moving vehicle upon any roadway.

Section 9-206. Riding on outside of motor vehicle. No person shall ride on any vehicle upon any portion thereof not designated or intended for the use of passengers. This section shall not apply to persons riding within truck bodies in the space intended for merchandise.

Section 9-207. Penalty for violation of this chapter. Except as may be otherwise specifically provided for in this chapter any person violating any of the provisions of this chapter shall be punished by imprisonment in the municipal jail for a period of not more than thirty (30) days, or by a fine of not less than One Dollar (\$1) nor more than One Hundred Dollars (\$100) or by both fine and imprisonment.

Section 9-208. Warning tickets: Issuance; correction of defects.

(1) Notwithstanding any other provision of this division, any member of the police department is authorized to issue a warning ticket to the driver of any motor vehicle who is in violation of any of the terms and provisions of this chapter or other traffic ordinances of the town.

(2) Any warning ticket authorized by subsection (1), if issued, shall clearly designate the provision of this chapter or other town traffic ordinances which is alleged to have been violated, and the ticket shall provide for notification to the police department when the violation is alleged to have been corrected, which correction shall be made not later than ten (10) days after the date of issuance of the warning ticket, unless such time is extended at the discretion of the issuing police officer.

(3) The driver of any motor vehicle who shall fail or refuse to comply with the provisions or requirements set forth in a warning ticket issued pursuant to this section by a member of the police department, shall be punished as prescribed herein.

Section 9-209. Board of Trustees to designate character and type of signs. The Board, of Trustees shall by resolution determine and designate the character or type of all official traffic signs and signals; however, all official traffic signs and signals now erected and now in operation are hereby designated official traffic signs and signals and provided further, such signs and signals shall be uniform, so far as practicable, with the state highway signs and signals, and shall be uniform, so far as practicable, through the town.

Section 9-210. Obedience to traffic-control devices. The driver of any vehicle shall obey the instructions of any official traffic-control device applicable thereto placed in accordance with the provisions of this chapter, unless otherwise directed by a traffic or police officer, and subject to the exceptions granted the driver of an authorized emergency vehicle.

Section 9-211. Unauthorized signs and signals. It shall be unlawful for any person to place, maintain or display upon or in view of any highway any unofficial sign, signal or device which purports to be, or is, an imitation, or resembles an official traffic sign or signal or which attempts to direct the movement of traffic. Each such prohibited sign, signal or device is hereby declared to be a public nuisance and the town marshal is hereby empowered to remove the sign or cause it to be removed without notice.

Section 9-212. Damaging or interfering with official traffic-control devices. It shall be unlawful for any person to willfully deface, injure, move, obstruct or interfere with any official traffic sign or signal.

Section 9-213. Driver's license or permit required; display.

(1) It shall be unlawful for any person who is a resident of the state to drive or operate upon the public streets, alleys or highways within the town any motor vehicle, without having secured and having in his actual physical possession a driver's license or permit therefore, as required by state law.

(2) The driver's license or permit required by subsection (1) shall forthwith be exhibited by the driver or operator at the request of the town marshal so as to allow the town marshal to examine the driver's license or permit and its contents.

Section 9-214. Driving while under influence of liquor or drug.

(1) It shall be unlawful for any person to operate or be in actual physical control of any motor vehicle while under the influence of alcoholic liquor or of any drug. Any person who shall operate or be in actual physical control of any motor vehicle while under the influence of alcoholic liquor or of any drug shall be deemed guilty of a public offense.

(2) In any prosecution for a violation of this section relating to driving a vehicle while under the influence of intoxicating liquor, the amount of alcohol in the defendant's blood at the time alleged, as shown by chemical analysis of the defendant's blood, urine, breath, or other bodily substance, shall give rise to the following presumptions:

- (a) If there was, at that time, five hundredths percent (.05%) or less by weight of alcohol in the defendant's blood, it shall be presumed that the defendant was not under the influence of intoxicating liquor.
- (b) If there was at that percent (.05%), but (.10%) by weight of such fact shall not the defendant was or intoxicating liquor, with other competent or innocence of the time, in excess of five hundredths less than ten hundredths percent alcohol in the defendant's blood, give rise to any presumption that was not under the influence of but such fact may be considered evidence in determining the guilt defendant.

- (c) If there was, at that time, ten hundredths percent (.10%) or more by weight of alcohol in the defendant's blood, it shall be presumed that the defendant was under the influence of intoxicating liquor.

The foregoing provisions of this subsection shall not be construed as limiting the introduction of any other competent evidence bearing upon the question whether or not the defendant was under the influence of intoxicating liquor.

- (3) The provisions of subsection (2) shall not be construed as limiting the introduction of any other competent evidence bearing upon the question of whether or not the defendant was under the influence of intoxicating liquor.

- (4) Persons convicted of violations of this section shall be punished as follows:

- (a) If conviction for a violation of Section 9-214 is for a first offense, such person shall be imprisoned in the municipal jail for not less than ten (10) days nor more than ninety (90) days, or shall be fined not less than Fifty Dollars (\$50) nor more than Three Hundred Dollars (\$300), or both, and the defendant be prohibited from operating a motor vehicle on the public highways of this town under such restrictions and in such a manner as the Court may determine for a period not exceeding one year.

- (b) If conviction for a violation of Section 9-214 is for a second offense, such persons shall be imprisoned in the municipal jail for not less than thirty (30) days nor more than six (6) months, or shall be fined not less than One Hundred Dollars (\$100) nor more than Five Hundred Dollars (\$5:00) , or both, and the Court shall, in pronouncing sentence, make its order that the defendant be prohibited from operating a motor vehicle on the public highways of this town under such restrictions and in such a manner as the Court may determine for a- period not exceeding one year, and if the motor vehicle which such person was operating while under the influence of alcoholic liquor or any drug is registered in the name of such person, the motor vehicle shall be impounded in a reputable garage by the Court for a period of not less than two (2) months nor greater than one year at the expense and risk of the owner thereof; provided, any motor vehicle so impounded shall be released to the holder of a bona fide lien thereon, executed prior to such impounding, when possession of such motor vehicle is requested in writing by such lienholder for the purpose of foreclosing or satisfying his lien thereon.

- (c) If conviction for^violation of Section 9-214 for a third offense, or subsequent offense thereafter, such persons shall be imprisoned in the penitentiary for not more than three (3) years, or in the municipal jail for not less than ninety (90) days nor more than one year or shall be fined not less than Two Hundred Dollars (\$200) nor more than Five Hundred Dollars (\$500), or both, and the defendant

prohibited from driving a motor vehicle for such period of time as may be determined by the Court, but in no event less than one year from the day of his final discharge.

Section 9-215. Reckless driving. Any person who drives a vehicle within the town carelessly or heedlessly, or in disregard of the rights or safety of others, or without due caution and circumspection and at a speed or in a manner so as to endanger or be likely to endanger any person or property, shall be guilty of reckless driving.

Section 9-216. Careless driving. Any person who drives a vehicle within the town carelessly in disregard to the width, grade, curves, corners, conditions, or customary usage of the streets or highways, or whose temporary inadvertence to the operation of the vehicle causes or is likely to cause damage to any person or property, shall be guilty of careless driving.

Section 9-217. Exhibition driving. Any person who drives a vehicle within the town in such a manner that creates or causes unnecessary engine noise; or any tire squeal, skid or slide upon acceleration or stopping; or that simulates a temporary race; or that causes the vehicle to unnecessarily turn abruptly or sway, shall be guilty of exhibition driving.

Section 9-218. Vehicles to be driven on the right side of the road;-slow moving vehicles. Upon all highways, except one-way highways, the driver of a vehicle shall drive it upon the right half of the highway and shall drive a slow moving vehicle as closely as possible to the right-hand edge or curb of the highway, except when overtaking and passing another vehicle subject to the limitations applicable in overtaking and passing as set forth in this division.

Section 9-219. Crossing sidewalks.

(1) The driver of a motor vehicle shall not drive the vehicle upon any sidewalk except at a permanent or temporary driveway.

(2) In crossing a sidewalk to or from any alley, lot or building, no vehicle shall be driven at a speed greater than four (4) miles an hour.

(3) Any person driving any vehicle to or from an alley, lot or building across any sidewalk shall give ample notice and warning of his approach and in the business district shall come to a full stop before crossing the sidewalk.

Section 9-220. Oncoming vehicles to be passed to the right. Drivers of vehicles proceeding in opposite directions shall pass each other to the right, each giving to the other at least one-half (1/2) of the main traveled portion of the roadway as nearly as possible.

Section 9-221. Speed limit. It shall be unlawful for any person to operate any vehicle upon the public streets, alleys, or public grounds of the Town of Tabor at a greater rate of speed than twenty (20) miles per hour.



Section 9-222. Overtaking other vehicles generally. The driver of any vehicle overtaking another vehicle proceeding in the same direction shall pass at a safe distance to the left thereof and shall not cut in front of the overtaken vehicle until safely clear of /the overtaken vehicle, nor shall the driver of a vehicle deviate from his direct line of travel without ascertaining that the movement can be made with safety to other vehicles approaching from the rear, and about to overtake and pass the overtaking vehicle.

Section 9-223. Vehicle not to be overtaken unless left lane is clear. The driver of a vehicle shall not drive to the left side of the center line of a highway in overtaking and passing another vehicle proceeding in the same direction unless such left side is clearly visible and is free of oncoming traffic for a sufficient distance ahead to permit such overtaking and passing to be made in safety.

Section 9-224. Following too closely. The driver of a motor vehicle shall not follow another vehicle more closely than is reasonable and prudent, having due regard to the speed of such vehicles and the traffic upon and condition of the highway.

Section 9-225. Backing into intersections. It shall be unlawful for the driver of any vehicle to back such vehicle around a corner at an intersection or into an intersection of public highways.

Section 9-226. Obstructions to driver's vision or operation of vehicle. It shall be unlawful for the driver of any vehicle to drive the vehicle when it is so loaded or when there are in the front seat of the vehicle such number of persons as to obstruct the view of the driver to the front or sides, or to interfere with the driver's control over the driving mechanism of the vehicle.

Section 9-227. Duties of drivers during fires.

(1) It shall be unlawful for any driver of a vehicle, after a fire alarm has been sounded and prior to the time when the fire, on account of which the alarm was sounded, is extinguished, to fail to obey the following requirements:

- (a) Immediately upon the approach of any fire apparatus to a fire, all other vehicles shall draw as near as possible to the right-hand curb or edge of the roadway and remain standing until the fire apparatus shall have passed.
- (b) All drivers of vehicles shall grant the right-of-way to fire apparatus going to a fire.
- (c) It shall be unlawful for the driver of any vehicle other than one on official business to follow any fire apparatus traveling in response to a fire alarm closer than five hundred (500) feet or to drive into or park his vehicle within the block where fire apparatus has stopped in answer to a fire alarm.

- (d) No driver of a vehicle other than fire apparatus shall park or stop within fifty (50) feet of any fire hydrant.
- (e) No person shall obstruct any fire apparatus going to a fire or hinder or obstruct any member of the fire department who is at the time in the discharge of his duty as a fireman.
- (f) No driver of a vehicle, except fire apparatus, shall drive at a dangerous rate of speed or in any event at a rate of speed in excess of fifteen (15) miles per hour.
- (g) No person shall drive upon or over or in any manner interfere with a fire hose.
- (h) No person shall approach within a distance of less than fifty (50) feet of a fire unless he is a member of the fire department or is called upon by members of the fire department for assistance.

(2) As used in this section, "fire apparatus" shall include fire trucks, hose carts, ladder wagons and vehicles carrying members of the fire department.

Section 9-228. Right-of-way in intersections; unlawful speed as forfeiting right-of-way. When two (2) vehicles approach or enter an intersection at approximately the same time, the driver of the vehicle' on the left shall yield the right-of-way to the vehicle on the right, except as otherwise provided in this division. The driver of any vehicle traveling at an unlawful speed shall forfeit any right-of-way which he might otherwise have under this section.

Section 9-229. Where all vehicles must stop. All vehicles entering Lidice Street from a side street or alley shall stop before entering such street. Whenever a stop sign has been erected, it shall be unlawful for the driver of any vehicle to fail to stop in obedience thereto.

Section 9-230. Entry into highway from alley, building, private road or driveway. The driver of a vehicle about to enter or cross a public highway from any alley, building, private road or driveway shall yield the right-of-way to all vehicles approaching on the public highway.

Section 9-231. Yielding right-of-way to emergency vehicles.

(1) The driver of a vehicle upon a highway shall yield the right-of-way to police or fire department vehicles when they are operated upon official business, and ambulances, and the drivers thereof sound audible signal by bell, siren or exhaust whistle. The provisions of this section shall not operate to relieve the driver of a police or fire department vehicle or ambulance from the duty to drive with due regard for the safety of all persons using the highway, nor shall it protect the driver of any such vehicle from the consequence of an arbitrary exercise of such right-of-way.

(2) On the approach of an authorized emergency vehicle or vehicles giving audible signals by bell, siren or exhaust whistle, the operator of every other vehicle shall immediately

drive the vehicle to a position as near as possible and parallel to the right-hand curb or edge of the roadway, clear of any intersection, and shall stop and remain in such position until the authorized emergency vehicle or vehicles shall have passed, unless otherwise directed by a traffic or police officer.

Section 9-232. Manner of making right turns. Except as otherwise directed by traffic signs and signals, or police officers, the driver of a vehicle intending to turn to the right at an intersection shall approach the intersection in the lane for traffic nearest to the right-hand side of the highway, and in turning shall keep as closely as practicable to the right-hand curb or edge of the highway.

Section 9-233. Manner of making left turns. The driver of a vehicle intending to turn left at any intersection shall approach the intersection in the extreme left-hand lane lawfully available to traffic moving in the direction of travel of such vehicle, and, after entering the intersection, the left turn shall be made so as to leave the intersection in a lane lawfully available to traffic moving in such direction upon the roadway being entered. Whenever practicable, the left turn shall be made in that portion of the intersection to the left of ^the center of the intersection.

Section 9-234. U-turns. At any intersection where traffic is controlled by traffic-control signals or by a police officer, or where warned by the words "No U-Turn", it shall be unlawful for the operator of a vehicle to turn the vehicle at the intersection in a complete circle or so as to proceed in the opposite direction. The driver of a vehicle shall not turn a vehicle so as to proceed in the opposite direction except at an intersection.

Section 9-235. Starting, stopping or turning signals. The method of making hand and arm signals for slowing down, stopping or turning shall be as follows:

- (1) Left arm straight out for a turn to the left.
- (2) Left arm pointed upward for a turn to the right.
- (3) Left arm pointed down for stopping or suddenly checking speed.

Section 9-236. Duty to stop and give information and aid. The driver of any vehicle involved in any accident resulting in injury or death to any person or damage to property shall immediately stop and give his name and address, and the name and address of the owner and the license number of the vehicle he is driving to the person struck or the driver or occupants of any vehicle collided with and shall render to any person injured in such accident reasonable assistance, including the carrying of such person to a physician or surgeon for medical treatment if it is apparent that such treatment is necessary or is requested by the ^injured person.

Section 9-237. Notice to the town marshal. The driver of any vehicle which is in any manner involved in an accident within the town resulting in bodily injury to or death of any person, or total property damage to all property involved in the apparent extent of One Hundred

Dollars (\$100) or more, shall immediately make a report of the accident by the quickest means of communication to the town marshal.

Section 9-238. Accident reports to be forwarded to highway patrol. The town marshal shall forward a copy of each accident report filed with it to the superintendent of the division of the highway patrol having jurisdiction in the town. If the superintendent of the division of the highway patrol having jurisdiction in the town so requires, the town marshal shall file supplemental reports upon forms furnished by the superintendent of the division of the highway patrol having jurisdiction in the town.

Section 9-239. Right-of-way at intersections and in crosswalks; exception. The operator of any vehicle shall yield the right-of-way to a pedestrian crossing a highway within any marked crosswalk or within any unmarked crosswalk at the end of a block, or an entrance an alley, except at intersections where the movement of traffic is\ regulated by police officers or traffic-control signals.

Section 9-240. Unlawful to pass vehicles stopped for pedestrians. Whenever any vehicle has stopped at a crosswalk or intersection to permit a pedestrian to cross a highway or an entrance to an alley, it shall be unlawful for the operator of any other vehicle approaching from the rear to overtake and pass the stopped vehicle.

Section 9-241. Crossing at other than pedestrian crossing areas. A pedestrian crossing a highway at any point other than a marked crosswalk, a controlled intersection or an unmarked crosswalk at the end of a block shall yield the right-of-way to vehicles upon the highway; however, this section shall not relieve the driver of a vehicle from the duty to exercise due care for the safety of pedestrians.

Section 9-242. Unattended vehicles. No person having control or charge of a motor vehicle shall allow it to stand on any highway unattended without first setting the brakes thereon and stopping the motor of the vehicle.

Section 9-243. Establishment of no parking zones and limited parking zones. The Board of Trustees from time to time may establish by resolution and cause to be designated and marked' streets, and parts thereof, where vehicles may not be parked or may be parked for limited periods only.

Section 9-244. Parking, stopping or standing not to obstruct streets. It shall be unlawful for any driver to stop, stand or park any vehicle in such a manner as to leave available less than twenty (20) feet in width of the traveled roadway for the free movement of vehicular traffic, except when necessary to avoid conflict with other traffic, or in compliance with the direction of a police officer, or necessary obedience to traffic signals or signs.

Section 9-245. Double parking. No vehicle shall be double parked on any street. "Double parking", for the purpose of this section, shall be defined as 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 to another vehicle which is parked parallel at the curb.

Section 9-246. Parking in violation of signs or markings. The driver of a vehicle shall not stop, stand or park the vehicle in excess of any time limit or in violation of any traffic signal or sign, or restriction painted on the pavement.

Section 9-247. Maximum parking period. No person shall permit any vehicle to stand continuously for more than twelve (12) hours upon any street, alley or other public place in the town.

Section 9-248. Moving certain unlawfully parked vehicles. A vehicle parked in violation of section 9-243 or a vehicle permitted to stand in violation of section 9-247 may be moved either by the town marshal or street department to such other place as the department determine. The owner or other person claiming the vehicle shall pay the towing and storage charges before being given possession of said vehicle; however, the payment of such costs shall not be a bar to the prosecution of such owner or other person responsible for the violation.

Section 9-249. Parking restrictions on trucks and buses. No person shall park any bus, van, transport, freight, stock, gas or oil transport truck or other like vehicle in the business section of Lidice Street or other public place in the town, except:

(1) At such places as have been marked and designated by the town marshal for truck parking.

(2) It shall be the duty of the town marshal to notify any person violating the provisions of this section to remove such vehicle.

Section 9-250. Penalty. Except as otherwise provided in section 9-214, any person or persons violating any provisions of this chapter shall be deemed guilty of a misdemeanor and shall upon conviction be punished by a fine not exceeding ,50 or by imprisonment for a period not exceeding 30 days or both. Each violation of the provisions of this chapter shall constitute a separate offense.

## **CHAPTER 10**

### **PARADES**

Section 10-101. Definitions.

(1) "Town Marshal" is the town marshal of the Town of Tabor.

(2) "Town" is the Town of Tabor.

(3) "Parade" is any parade, march, ceremony, show, exhibition, pageant, or procession of any kind, or any similar display, in or upon any street, park, or other public place in the town.

(4) "Parade permit" is a permit as required by this ordinance.

(5) "Person" is any person, firm, partnership, association, corporation, company or organization of any kind.

Section 10-102. Permit Required. No person shall engage in, participate in, aid, form or start any parade, unless a parade permit shall have been obtained from the town marshal.

Section 10-103. Exceptions. This ordinance shall not apply

(1) Funeral processions;

(2) Students participating in supervised school activities;

(3) A governmental agency acting within the scope of its functions.

Section 10-104. Penalty. Any person, firm or corporation violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in an amount not exceeding \$100.00 or be imprisoned for a period not exceeding 30 days or be both so fined and imprisoned.

## BUILDING MOVING

Section 10-201. Definitions. For the purposes of this ordinance the following terms, phrases, words, and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

(1) "Building" is a structure designed, built or occupied as a shelter or roofed enclosure for persons, animals or property and used for residential, business, mercantile, storage, commercial, industrial, institutional, assembly, educational or recreational purposes. A structure of the following dimensions shall not fall within this definition:

(2) "Town" is the Town of Tabor.

(3) "Person" is any person, firm, partnership, association, corporation, company or organization of any kind.

Section 10-202. Permit Required. No person shall move any building over, along or across any highway, street or alley in the Town of Tabor without first obtaining a permit from the town clerk.

Section 10-203. Application. A person seeking issuance of a permit hereunder shall file an application for such permit with the town clerk.

(1) Form. The application shall be made in writing, upon forms provided by the town clerk and shall be filed in the office of the clerk.

(2) Contents. The application shall set forth:

- (a) A description of the building proposed to be moved, giving street number, construction materials, dimensions, number of rooms and condition of exterior and interior;
- (b) A legal description of the lot from which the building is to be moved, giving the lot, block and tract number, if located in the town;
- (c) A legal description of the lot to which it is proposed such building be removed, giving lot, block and tract number, if located in the town;
- (d) The portion of the lot to be occupied by the building when moved;
- (e) The highways, streets and alleys over, along or across which the building is proposed to be moved;
- (f) Proposed moving date and hours;
- (g) Any additional information which the town clerk shall find necessary to a fair determination of whether a permit should issue.

Section 10-204. Clean-up. Every person who shall move a building, after securing a permit as required by this chapter, shall cause such area vacated by the removal of such building to be made free of any debris, refuse, or litter, and such foundation shall be made safe and secure so as not to be a public nuisance or danger.

## UNIFORM CULVERTS

Section 10-301. Uniform Culverts.

(1) All property owners within the limits of the Town of Tabor, South Dakota, who construct or maintain a private drive or driveway abutting on or intersecting with any public street shall provide for adequate drainage by installing a culvert as herein after specified across said drive or driveway.

(2) All culverts which are placed pursuant to this ordinance shall be made of galvanized steel of the full circle, arch or pipe arch type, with either riveted or bolted lap-joint, lock-seam or welded seam construction and the corrugations of such culvert shall not, in any case, be less than two and one-half (2 1/2) inches center to center. The corrugations shall have a depth of not less than one-half (1/2) inch. The culverts may be made of reinforced concrete of not less than four (4) inches thickness said concrete shall consist of not less than one (1) part of Portland Cement, (type 4), to four (4) parts sand and gravel mixed.

(3) The diameter or cross section of all culverts placed in drain ways or ditches along public streets, pursuant to this ordinance, shall be of adequate diameter to effectively permit the free flow of all water; the size of the culvert installed or to be installed pursuant to this ordinance shall be as directed by the Board of Trustees and in no case shall the diameter of any such steel culvert be less than fourteen (14) inches inside diameter or if the culvert be of concrete construction, then the culvert shall not be less than fourteen (14) inches in cross section, said cross section measurement is to be taken at the distance between the medium points of two of the parallel sides.

(4) It shall be the duty of the Board of Trustees to notify all property owners to install such culverts in existing driveways. All culverts shall be placed at the property owners expense within a time designated by said Board of Trustees, which time, in any case, shall not be longer than ninety (90) days after notice to the property owner. All property owners who shall hereafter construct any such drive or driveway which abuts or intersects with any public street shall first apply to the Board of Trustees for a permit to construct such drive or driveway and the Board of Trustees shall determine the diameter of the culvert to be installed in such drive or driveway and shall issue its permit specifying the size of culvert to be installed.

(5) The building and construction of all such drives or driveways abutting on or intersecting with the public streets and providing for the drainage of run-off water, shall be done under the supervision of the street commissioner or any person appointed by the Board of Trustees for such supervision, who shall act in accordance with instructions from the Town Board of Trustees.

(6) The Board of Trustees shall prescribe the diameter or cross section as the case may be of the culverts and may establish different size culverts in different localities within the town and shall determine the manner in which the same shall be placed to correspond with the established grade of the drainways or ditches and in accordance with such plans, specifications and directions as the Board of Trustees shall determine in the resolution directing the repair of construction of the same.

(7) Any person violating the provisions of the preceding sections by refusing to install a culvert as required by this ordinance and as directed by the Board of Trustees shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not



more than One Hundred Dollars (\$100) for each violation. Each violation shall be deemed to have taken place when work as directed in the notice shall not be performed by the expiration of the time designated in said notice.

(8) The Board of Trustees may grant exceptions in the case of driveways which are existing or which may be constructed which driveways adequately provide for the drainage of water along the public streets of the Town of Tabor. All such exceptions shall be upon the unanimous approval of the Town Board of Trustees.

## SNOW REMOVAL

Section 10-401. Definitions. The following definitions shall apply in the interpretation and enforcement of this ordinance;

(1) "Street" or "highway" means the entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.

(2) "Roadway" means that portion of a street or highway improved, designed, or ordinarily used for vehicular travel, exclusive of the berm or shoulder.

(3) "Sidewalk" means that portion of a street between the curb lines, or the lateral lines of a roadway, and the adjacent property lines intended for the use of pedestrians.

(4) "Business day" is any day not a Sunday or a national holiday.

(5) "Business hours" are the hours between 8:00 A.M. and 5:00 P.M. on any business day.

Section 10-402. Snow and Ice to be Removed from Sidewalks by Private Persons.

(1) Every person, partnership, corporation, joint-stock company, or syndicate in charge or control of any building or lot of land within the town fronting or abutting on a paved sidewalk, whether as owner, tenant, occupant, lessee, or otherwise, shall remove and clear away, or cause to be removed and cleared away, snow and ice from a path of at least 36 inches in width from so much of said sidewalk as is in front of or abuts on said building or lot of land.

(a) Except as provided in subsection (2) hereof, snow and ice shall be so removed from sidewalks in all business districts within the town by eight (8) business hours after the cessation of any fall of snow, sleet, or freezing rain or by the beginning of business hours of the next business day following such fall, whichever period is shorter.

(b) Except as provided in subsection (2) hereof, snow and ice shall be so removed from all other sidewalks within the town on the same day of the cessation of any

fall of snow, sleet, or freezing rain or within the first eight (8) hours of daylight after the cessation of any such fall, whichever period is longer.

(2) However, in the event snow and ice on a sidewalk has become so hard that it cannot be removed without likelihood of damage to the sidewalk, the person or entity charged with its removal shall, within the time mentioned in subsection (1) hereof, cause enough sand or other abrasive to be put on the sidewalk to make travel thereon reasonably safe; and shall then, as soon thereafter as weather permits, cause a path in said sidewalk of at least 36 inches in width to be thoroughly cleaned.

Section 10-403. Depositing of Snow and Ice Restricted. No person, partnership, corporation, joint-stock company, or syndicate shall deposit or cause to be deposited any snow and ice on or against a fire hydrant or on any sidewalk, roadway, or loading and unloading areas of a public transportation system, except that snow and ice may be windrowed on public roadways incident to the cleaning thereof or windrowed on curbs incident to the cleaning of sidewalks in business districts.

#### Section 10-404. Violations; Work Done, Liability Therefore; Penalty

(1) In the event of the failure of any person, partnership, corporation, joint-stock company, or syndicate to clear away or treat with abrasives and subsequently clear away any snow and ice from any sidewalk as hereinbefore provided, or cause this to be done, the Board of Trustees shall, as soon as practicable after such failure, cause such work to be done.

(2) The Board of Trustees shall ascertain and keep a record of the exact cost of all work they cause to be done in accordance with this section an account of each act or omission of each person, partnership, corporation, joint-stock company, or syndicate; and they shall identify these persons or entities with particularity.

(3) Each person, partnership, corporation, joint-stock company, or syndicate whose act or omission makes it necessary that the Board of Trustees cause work to be done in accordance with this section shall be liable to the town for the cost of such work. It shall be the duty of the Board of Trustees to sue for these costs and penalties, and it shall be the duty of the town attorney to assist in the bringing of these suits.

Section 10-405. Penalties. Any person, partnership, corporation, joint-stock company, or syndicate who violates any provision of this ordinance shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in an amount not exceeding Fifty Dollars or be imprisoned for a period not exceeding thirty days or be both so fined and imprisoned. Each day such violation is committed or permitted to continue, shall constitute a separate offense and shall be punishable as such hereunder.

Section 10-406. Separability. If any section, subsection, sentence, clause, phrase, or portion of this ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions hereof.

Section 10-407. Ordinances Repealed. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

## **CHAPTER 11**

### ZONING (RESERVED)

### SUBDIVISION (RESERVED)

## **CHAPTER 12**

### DEMOLITION, VACATION OR REPAIR OF SUBSTANDARD BUILDINGS

Section 12-101. Dangerous Buildings Defined. All buildings or structures which have any or all of the following defects shall be deemed "dangerous buildings":

(1) Those whose interior walls or other vertical structural members list, lean or buckle to such an extent that a plumb line passing through the center of gravity falls outside of the middle third of its base.

(2) Those which, exclusive of the foundation/ show thirty-three (33) percent or more damage or deterioration of the supporting member or members, or fifty (50) percent of damage or deterioration of the non-supporting enclosing or outside walls or covering.

(3) Those which have improperly distributed loads upon the floors or roofs or in which the same are overloaded, or which have insufficient strength to be reasonably safe for the purpose used.

(4) Those which have been damaged by fire, wind or other causes so as to have become dangerous to life, safety, morals or the general health and welfare of the occupants or the people of the Town of Tabor.

(5) Those which have become or are so dilapidated, decayed, unsafe, insanitary or which so utterly fail to provide the amenities essential to decent living that they are unfit for human habitation, or are likely to cause sickness or disease, so as to work injury to the health, morals, safety or general welfare of those living therein.

(6) Those having light, air, and sanitation facilities which are inadequate to protect the health, morals, safety, or general welfare of human beings that live or may live therein.

(7) Those having inadequate facilities for egress in case of fire or panic or those having insufficient stairways, elevators, fire escapes, or other means of communication.

(8) Those which have parts thereof which are so attached that they may fall and injure members of the public or property.

(9) Those which because of their condition are unsafe, insanitary, or dangerous to the health, morals, safety or general welfare of the people of this town.

(10) Those buildings existing in violation of any provision of the Building Code of this town, or any provision of the fire prevention code, or other ordinances of this town.

Section 12-102. Standards for Repair, Vacation or Demolition. The following standards shall be followed in ordering repair, vacation, or demolition:

(1) If the "dangerous building" can reasonably be repaired so that it will no longer exist in violation of the terms of this ordinance it shall be ordered repaired.

(2) If the "dangerous building" is in such condition as to make it dangerous to the health, morals, safety, or: general welfare of its occupants it shall be ordered to be vacated.

(3) In any case where a "dangerous building" is 50 percent damaged or decayed, or deteriorated from its original value or structure, it shall be demolished, and in all cases where a building cannot be 'repaired so that it will no longer exist in violation of the terms of this ordinance it shall be demolished. In all cases where a "dangerous building" is a fire hazard existing or erected in violation of the terms of this ordinance or any ordinance of the town or statute of the state of South Dakota, it shall be demolished.

Section 12-103. Dangerous Buildings—Nuisances. All "dangerous buildings" within the terms of Section 12-101 of this ordinance are hereby declared to be public nuisances, and shall be repaired, vacated, or demolished as hereinbefore and hereinafter provided.

Section 12-104. Violations—Penalty for Disregarding Notices or Orders. The owner of any "dangerous building" who shall fail to comply with any notice or order to repair, vacate, or demolish said building given by any person authorized by this ordinance to give such notice or order shall be guilty of a misdemeanor and upon conviction thereof shall be fined not exceeding Two Hundred Dollars (\$200) for each offense and a further sum of Ten Dollars (\$10) for each and every day such failure to comply continues beyond the date fixed for compliance.

The occupant or lessee in possession who fails to comply with any notice to vacate and who fails to repair said building in accordance with any notice given as provided for in this ordinance shall be guilty of a misdemeanor and upon conviction thereof shall be fined not exceeding Two Hundred Dollars (\$200) for each offense and a further sum of Ten Dollars (\$10) for each and every day such failure to comply continues beyond the date fixed for compliance.

Any person removing the notice provided for hereinabove shall be guilty of a misdemeanor and upon conviction shall be fined not exceeding Two Hundred Dollars (\$200) for each offense.

Section 12-105. Duties of the Town Attorney. The town attorney shall:

- (1) Prosecute ,all persons failing to comply with the terms of the notices provided for herein and the order provided for herein.
- (2) Appear at all hearings in regard to "dangerous buildings".
- (3) Bring suit to collect all municipal liens, assessments, or costs incurred in repairing or causing to be vacated or demolished "dangerous buildings".
- (4) Take such other legal action as is necessary to carry out the terms and provisions of this ordinance.

Section 12-106. Where Owner Absent from the Town. In cases, except emergency cases, where the owner, occupant, lessee, or mortgagee is absent from the town all notices or orders provided for herein shall be sent by registered mail to the owner, occupant, mortgagee, lessee and all other persons having an interest in said building as shown by the land records of the Register of Deeds of the County of Bon Homme to the last known address of each, and a copy of such notice shall be posted in a conspicuous place on the "dangerous building" to which it relates. Such mailing and posting shall be deemed adequate service.

Section 12-107. Duties of Fire Department. The employees of the Fire Department shall make a report in writing to the Building Inspector of all buildings or structures which are, may be, or are suspected to be "dangerous buildings" within the terms of this ordinance. Such reports must be delivered to the Building Inspector within 24 hours of the discovery of such buildings by any employee of the Fire Department.

Section 12-108. Duties of Police Department. All employees of the Police Department shall make a report in writing to the Building Inspector of any buildings or structures which are, may be, or are suspected to be "dangerous buildings" within the terms of this ordinance. Such reports must be delivered to the Building Inspector within 24 hours of the discovery of such buildings by any employee of the Police Department.

Section 12-109. New Structures and Additions Specifically Classified for Tax Purpose and Adopting a Formula for Reduced Taxation of New Structures and Additions.

- (1) All new industrial, commercial and non-residential agricultural structures, or additions to existing structures, which new structures or additions have a true and full value of \$30,000 or more added to real property, are specifically classified for the purpose of taxation.

All real property qualifying under this section not completed before April 1, 1985, as determined by the county assessor of Bon Homme County, South Dakota, shall be classified in the manner prescribed in this section.

(2) Such structures as described in the above and foregoing section of this ordinance shall, following construction, be valued for taxation purposes in the usual manner; provided, however, the following formula shall be used in municipal geographic limits of the Town of Tabor to obtain the assessed value to be used for tax purposes:

- (a) For the first tax year following construction, not more than twenty-five (25) percent of the usual assessed value shall be used for tax purposes on such property;
  - (b) For the second tax year following construction, not more than fifty (50) percent of the usual assessed value shall be used for tax purposes on such property;
  - (c) For the third, fourth and fifth tax years following construction, not more than seventy-five (75) percent of the usual assessed value shall be used for tax purposes on such property;
  - (d) Thereafter, such property shall be assessed at the same percentage as is all other property for tax purposes.
- (3) This ordinance is adopted pursuant to and in accordance with SDCL §§10-6-35.1, 10-6-35.2 and 10-6-35.4.
- (4) This ordinance shall be effective within the territorial municipality as aforesaid of the Town of Tabor, Bon Homme County, South Dakota, in that the Bon Homme County Board of Commissioners have not adopted any formula pursuant to SDCL 10-6-35.

## FIRE LIMITS

### Section 12-201. Fire Limits.

(1) Extent of Fire Limits. All that portion of the Town of Tabor, South Dakota, described as follows, to-wit: The west half of Blocks Five (5) and Six (6) and the east half of Blocks Seven (7) and Eight (8) in said Town of Tabor is hereby constituted and declared to be within the fire limits of the Town of Tabor, South Dakota.

(2) Construction of buildings. Only buildings for business purposes shall be built fronting on Lidice Street of said blocks, and such auxiliary buildings in the rear of such business buildings as may be used in connection therewith can be constructed in said area above described, and all such buildings must be such as are known as fire proof buildings. That no building shall be deemed fire proof unless the outer walls thereof are made of brick, stone, or

mortar, or of a metal framework, and the roof is of fire proof construction, and no frame veneered or iron covered building shall be erected within said limits.

When any wooden building or buildings not of fire proof material, heretofore erected within the fire limits of this town, shall have been damaged fifty percent of the value by fire or otherwise, the same shall not be repaired or reconstructed, but must, if rebuilt at all, be replaced by a fire proof building.

( 2a) Historical buildings, moving them within the fire limits established herein. That the Town Board of Trustees may permit on proper application the moving onto and the maintenance and improvement of a structure not conforming to the fire code provided that the said property is a historical building more than 80 years of age, and, in the opinion of the Town Board of Trustees, constitutes a fitting memorial to the Czechoslovakian heritage of the Town of Tabor, and provided further that said building shall be placed on property designated by the Town Board of Trustees owned by a non-profit organization qualifying under Internal Revenue Code Section 501(c)(3).

(3) Construction and reconstruction of buildings. That when any wooden building or a building not constructed of fire proof materials, within the fire limits hereinbefore prescribed and established, shall have been damaged by fire or otherwise fifty percent of its value such structure shall be torn down and removed, or removed beyond the fire limits as herein established. That such damage may be ascertained, the Board of Trustees shall appoint three disinterested persons residing within the Town of Tabor, one of whom shall preferably be a mason or carpenter, and the other two preferably reputable businessmen, who shall constitute a Board of Appraisers.

When such board is appointed and called up to act under the provisions of this ordinance, they shall make a personal examination of the structure and the damages thereto and shall make a detailed report to the Board of Trustees and must state therein the percent of damages to such structure, and whether in their judgment it would be advisable to permit the same to be repaired which report when prepared and signed must be filed with the Town Clerk to be passed upon by the Board of Trustees.

That if such report shall be against the repairing of such building and such report be approved by the Board of Trustees, such structure so condemned shall be immediately torn down and removed or removed without the limits of the fire district herein defined.

The Board of Trustees shall constitute and is hereby declared to be a building committee and shall keep a record book of all building permits issued together with the statement upon which said permits are based. No building within said fire limits shall be repaired or built without first getting a permit from the building committee and an approval thereof and such application for permit shall give a description, size of each building, of the kind of materials that it is to be constructed and also a showing that it conforms to the safety of the lives and health of

the people. The board or building committee will also investigate as to the size and strength of the foundation and the walls of the building so that it conforms to the proper strength and safety to, the public as well as to the occupants thereof and shall grant a permit only if the above provisions are fully complied with.

(4) Penalty for violation. No person, firm or corporation shall erect, build or cause to be erected within said fire limits other than a fire proof building, and any person, firm or corporation violating any of the provisions of this ordinance shall be deemed guilty of committing a nuisance; and on conviction thereof, shall be fined in any sum not less than Twenty-five Dollars and not to exceed One Hundred Dollars; and any building or any addition to any building hereinafter erected or established within the fire limits of this town, contrary to the provisions of this chapter, shall be removed at the cost of the person, firm or corporation so erecting the same.

It shall further be the duty of the town marshal, when any building is found to be in the course of erection or establishment by removal or otherwise, within the fire limits of said town, contrary to the provisions hereof, to notify the owner or the agent of the owner, or the persons engaged in the building or establishing by removal or otherwise of any such building or addition to any building to desist from the prosecution of such work and to abate and remove the same at once; and if such person, or persons shall for the space of three days fail to abate and remove the same, or refuse to comply with such notice, he or they shall on conviction thereof be fined as provided herein, and shall be subject to a like penalty for each and every day such building is permitted to remain after such notice. It is hereby made the duty of the town marshal in case such person or persons refuse to comply with the notice herein to enter upon the premises and remove and abate such building or addition, and the owner or owners of such building or addition is liable for and shall pay all costs and expense incurred in abating and removing such building, and such town marshal shall in the name of the Town of Tabor bring an action against such person or persons to recover the costs and expenses of such abatement and removal and all material or so much as may be necessary found on such premises for the purposes of such building may be held as security and sold under execution to satisfy any judgment that may be obtained in such action for such costs and expenses.

(5) That this ordinance shall take effect and be in full force and effect from and after the publication and passage of said ordinance as by law provided.

## FIRE DEPARTMENT

### Section 12-301. Volunteer Fire Department.

(1) The fire department of this town shall consist of a chief, assistant chief, and other officers and members of such fire companies and hook and ladder companies as the Board of Trustees may from time to time direct and authorize. There being now a regularly organized



volunteer fire department in this town, such fire department and its organizations is hereby approved and ratified and recognized as the volunteer fire department of this town.

(2) The fire department shall elect, and have the exclusive power of removal of its own officers; and it shall make its own by-laws and govern its own affairs, subject to the ultimate control of the Board of Trustees; provided, however, that the title to all fire houses, fire equipment and apparatus installed by the town shall vest in the town.

(3) The whole department shall be under the command of the chief, who shall have the general charge of the fire houses and apparatus and see that the same are always kept in good order and ready for use; but he shall not incur at any time any expenditure exceeding ten dollars without the consent and approval of the Board of Trustees. He shall make returns to the board as it may direct of all the officers and members of the companies belonging to the department with the date of admission of such as have become members since his last report.

(4) No fire apparatus shall, without the consent of the chief be taken from its proper place, nor shall it be applied to private use.

(5) No person shall open or tamper with any of the public hydrants or take any water there from, except public watering places, unless for the purpose of extinguishing fires or washing fire apparatus, or in connection with the maintenance and operation of the waterworks system by the engineer in charge of the waterworks system or other duly authorized person.

(6) No person shall trespass upon any of the property or premises used in connection with the waterworks system and the fire department of this town, or tamper with any of the apparatus used in connection therewith.

(7) It shall be the duty of the town marshal to report immediately to every fire when the alarm is given, to preserve order, prescribe limits within which those not engaged in the extinguishing the fire shall not come, and to protect property from theft.

(8) Any person violating any of the provisions of sections four, five and six of this chapter shall upon conviction thereof be fined in any sum not exceeding \$50.

#### BUILDING PERMITS AND FEES FOR CERTAIN BUILDING CONSTRUCTION AND/OR IMPROVEMENTS

Section 12-401. Building permit- When required. A building permit shall be required for each construction, remodeling, improvement or the like:

- (1) Involving and exterior change of dimensions of an existing structure, such as an addition, deck, attached garage, or the like, regardless of cost of improvement;
- (2) Any new home, building or other structure construction including detached garage, storage shed, or the like, regardless of cost of improvement;

- (3) The moving in and relocation of any home, building or other structure onto a new foundation or location, regardless of cost of improvement; and
- (4) Involving repair, remodeling or maintenance (even though no new improvement is involved) of a cost anticipated to be in excess of one thousand dollars (\$1,000.00), including material and labor; and if the labor is anticipated to be done by the owner, family, friends, or otherwise gratis, the labor shall have an assigned cost or value equal to that if the project had been hired done.

#### Section 12-402. Building permit application.

Prior to the commencement of construction that might require the issuance of a building permit under the requirements of this chapter, the person desiring the construction, or his or her primary contractor, shall submit an application to the zoning administrator for such zoning/building permit. The application shall be on a form provided by the zoning administrator, and the applicant shall provide all information required on the form and any other information required by the zoning administrator. In the event of a dispute over responsibility for the application and/or accuracy thereof, the property owner(s) on which the construction is proposed shall be finally responsible for the same.

#### Section 12-403. Building permit fees.

A fee for each building permit shall be paid to the municipal finance officer at the time of submission of the application, according to the fee schedule from time to time adopted by the city council. Where work for which such permit is required is started prior to obtaining the permit, the fee may be doubled, unless such doubling is, for good cause, waived by the city council; but the payment of such double fee shall not relieve any persons from fully complying with all requirements of law in the execution of the work nor from any other penalties, nor shall any person be deemed entitled to continue with any work without obtaining the necessary permit therefore.

#### Section 12-404. Zoning; setback, building compliance.

The city council shall employ or appoint a person or persons, either employed by the city or as (an) independent contractor(s), the function of which shall be to oversee that construction within the city or within the zoning jurisdiction of the city meets all zoning laws and regulations including setback requirements and all building code laws and regulations. The municipal finance officer, as the zoning administrator may serve as the zoning compliance person, with another person or persons to be employed or appointed as building inspector.

#### Section 12-405. Setback investigation.

Following submission of the zoning/building permit application, and upon a determination that the construction and use would meet the appropriate zoning classification, the

city's building inspector shall arrange with the property owner(s) or contractor to make an onsite inspection of the premises to verify the appropriate setback requirements and compliance therewith. Once the setback has been approved the owner(s) or contractor shall make no deviations from the same without further approval from the city's building inspector. If the construction is of such a nature that a physical inspection of the premises is not necessary (reshingling, interior remodeling, residing, etc. such that the setbacks will not be changed or altered), the city may, if it chooses, waive the on-site inspection.

#### Section 12-406. Property boundaries.

For any onsite setback inspection, the property owner(s) or contractor shall attempt to locate the property line(s) and boundary areas necessary for the city building inspector to make his or her appropriate determination. In addition, the building inspector shall use the means and maps of the city reasonably at his or her disposal to make a reasonable effort to locate the same. If the property line/boundary areas are not located following reasonable means and inspection, the city building inspector or the city council, may require that property owner(s) or contractor, at the owner's or contractor's expense, to hire or retain a registered land surveyor or engineer to do a survey of the property or to otherwise locate the property line(s) or boundary areas. Once the boundaries are found and setback compliance has been obtained, the property owner(s) and contractor may proceed with construction.

## CHAPTER 13

### WATER, TELEPHONE AND POWER

Section 13-101. Telephone Franchise. Northwestern Bell Telephone Company, a corporation, its successors and assigns, are hereby granted the right to use and occupy the streets, alleys and other public places of the town of Tabor, South Dakota, for a term of twenty years from the effective date hereof, for the purpose of constructing, maintaining and operating a general telephone and telegraph system within said town.

Section 13-102. The rights herein granted are subject to the exercises of police power as the same now is or may hereinafter be conferred upon said town.

Section 13-103. Northwestern Bell Telephone Company shall, upon demand, pay to the town of Tabor, South Dakota, the cost of publishing this ordinance and of holding the election hereinafter referred to.

Section 13-104. This ordinance shall be in full force and effect and shall constitute a binding contract between the town of Tabor, and Northwestern Bell Telephone Company who in the same shall been approved by majority of the electors of said town voting thereon at the election provided herein, and when the provisions hereof have been accepted in writing by Northwestern Bell Telephone Company and such acceptance is filed with the town clerk.

Section 13-105. That the proposition of granting a franchise to Northwestern Bell Telephone Company, in accordance with the terms of this ordinance, shall be submitted to a vote of the electors of this town at a special election, to be held not sooner than thirty days after the publication of this ordinance, which special election shall be called for that purpose by a resolution of this Board of Trustees Adopted after the publication of this ordinance.

Section 13-201. Electric Franchise. Bon Homme Yankton Electric Association, Inc., a cooperative organized and existing under the laws of the State of South Dakota, its successors and assigns, is hereby granted a franchise for the following purposes:

(1) To construct or acquire, either or both, and thereafter to operate and maintain electric facilities consisting of, without limitation, poles, wires, generating plants, substations, transformers, switches, and appurtenances, within the limits of the town of Tabor, State of South Dakota, for the purpose of generating, supplying, and distribution of electric energy for light, heat and power;

(2) To furnish electric energy for light, heat and power for public and private use within the town and to transmit electricity through and beyond the town;

(3) To construct, reconstruct, maintain and operate electric transmission and distribution lines with all necessary appurtenances, including, within limitations, poles, wires, anchors, anchor rods, switches, and transformers on, over, along, upon, under or across the public streets, roads, alleys, or other public thoroughfares of the town;

(4) To make all necessary excavations in the public streets, roads, or other public thoroughfares and to cut and trim all trees or shrubbery insofar as may be necessary to keep them clear of the transmission or distribution lines and appurtenances.

Section 13-202. The electric facilities shall be constructed, operated and maintained in a proper workmanship like manner so as to afford all reasonable safeguards to the public.

Section 13-203. All poles, wires, anchors, anchor rods, switches, and transformers and other appurtenances which are located on, over, along, under or across the public streets, roads, Alleys or other public thoroughfares of the town shall be so placed as not to interfere with the traffic on the travel portions of such thoroughfares; and the Bon Homme Yankton Electric Association, after the construction or reconstruction of the electric transmission or distribution lines, will restore to their original condition the streets, roads, alleys or other public thoroughfares upon which such lines have been constructed insofar as this is practicable.

Section 13-204. Whenever the poles, anchors, anchor rods, transformers, switches and other appurtenances located on, over, along, under or across the public streets, roads, alleys or other public thoroughfares interfered with the widening or improvement of such public thoroughfares, the Bon Homme Yankton Electric Association shall, at the request of the town,

move its poles, anchors, anchor rods, transformers, switches, and other appurtenances at its own expense to such other reasonable location as may be designated by an accredited representative of the town.

Section 13-205. The service rendered by the Bon Homme Yankton Electric Association shall be continuous except that it shall not be held accountable for a failure of service which is caused by folds, Acts of God, strikes, or other causes beyond its control.

Section 13-206. The Bon Homme Yankton Electric Association will comply with all reasonable rules and regulations of the town and with all ordinances now in effect or which may hereafter be passed insofar as they do not conflict with the terms and purpose of this franchise herein granted.

Section 13-207. This franchise shall be effective on the 20th day from and after its passage, approval and publication, as required by law, and it shall continue in effect for a period of 20 years.

#### COMMUNITY ANTENNA FRANCHISE

Section 13-301. Short Title. This ordinance shall be know and may be cited as the Tabor Community Antenna Franchise Ordinance.

Section 13-302. Definitions. For the purpose of this ordinance, the following terms, phrases, words, and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The word “shall” is always mandatory and not merely directory.

- (1) “City” shall mean the Town of Tabor, South Dakota.
- (2) “City Council” shall mean the City Council of Tabor, South Dakota.
- (3) “Cable Television System”, “Cable System” or “CATV” shall mean a system utilizing coaxial cable and certain electronic and other components which deliver to subscribing members of the public various communications services.
- (4) “FCC” shall mean Federal Communications Commission.
- (5) “Person” shall mean any person, firm partnership, association, corporation or organization of any kind and any other legally recognized entity.
- (6) “Grantee” shall mean Midwest Communications Company an affiliate of successor in accordance with the provision of this Franchise by Grantee.

(7) “Subscribers” are those persons contracting to receive cable television reception services furnished under this Franchise by Grantee.

(8) “Cable Television Reception Service” shall mean the simultaneous delivery by the Grantee to television receivers or any other suitable type of audio-video communications receivers.

(9) “Affiliate” or “Affiliated Company” means a corporation, partnership or other business entity which is wholly owned by the same person or persons who own Midwest Communications Company or its parent company.

Section 13-303. Qualifications of Grantee and Grant of Nonexclusive Authority. Whereas, the City has approved of the legal, character, financial, technical and other qualifications of the Grantee and the adequacy and feasibility of the Grantee’s construction arrangements as part of a full public proceeding affording due process, including notice to all interested persons and members of the public, there is hereby granted by the City to the Grantee a nonexclusive franchise, right and privilege to construct, erect, operate, modify and maintain, I, upon, along, across, above and over and under the highways, street, alleys, sidewalks, public ways and public places now laid out or dedicated and all extensions thereof, and additions thereto, in the City, poles, wires, cables, underground conduits, manholes and other television conductors and fixtures necessary for the maintenance and operation in the City of a Cable Television System for the purpose of distributing television and radio signals, and other electronic impulses in order to furnish television and radio programs, and various communications and other electronic services to the public. The right so granted includes the right to use and occupy said streets, alleys, public ways, and public places and all manner of easements for the purposes here set forth.

Section 13-304. Duration and Acceptance of Franchise. The Franchise granted the Grantee herein shall terminate 15 years from date of grant, subject to renewal for periods of reasonable duration on the same terms and conditions as contained herein, or on such different or additional terms and conditions as may be lawfully specified by the City and as are consistent with the requirements of Rule 76.31 or other applicable rules of the Federal Communications Commission. No renewal hereof shall be granted unless authorized by the City following a public hearing. Grantee shall be awarded a franchise renewal provided its application show that its CATV service during the proceeding franchise period has reflected material compliance with the terms of the Franchise Ordinance and a good-faith effort to serve the needs and interests of the service area.

Section 13-305. Compliance with Applicable Laws Regulations, Ordinances and Codes.

(1) The Grantee shall, at all times, operate and maintain its Cable Television System in full compliance with the rules, regulations and standards of the FCC and any applicable rules, regulations and standards of the State of South Dakota.

(2) The Grantee shall, at all times, during the life of this Franchise, be subject to all lawful exercise of the police power by the City and to any such reasonable regulations as the City shall hereafter provide.

Section 13-306. Territorial Area Involved. This Franchise relates to the present territorial limits of the City and to any area henceforth added thereto during the term of this Franchise. During the term of this Franchise Ordinance, Grantee shall offer CATB service upon request at its then established normal installation and monthly rates to any permanent dwelling or other building within the then territorial limits of the City, subject to application of established credit and other business policies of Grantee.

Section 13-307. Liability and Indemnification. Grantee shall at all times keep in effect the following types of insurance coverage:

(1) Workers Compensation upon its employees engaged in any manner in the installation or servicing of its plant and equipment within the City of Tabor.

(2) Property Damage Liability insurance to the extent of Fifty Thousand (\$50,000.00) as to any person and One Hundred Thousand Dollars (\$100,000.00) as to any one accident, and personal injury liability insurance to the extent of One Hundred Thousand Dollars (\$100,000.00) as to any one person and Three Hundred Thousand Dollars (\$300,000.00) as to any one accident.

Grantee shall indemnify, protect, and save harmless the City from and against losses and physical damage to property and bodily injury or death to persons, including payments made under any Workers Compensation law which may be caused by the erection, maintenance use or removal of any of their attachments, poles or other undertakings, within the City, or by any action or grantee, its agents or employees. Grantee shall carry insurance in the above described amount to protect the parties hereto from and against all claims, demands, actions, suits, judgments, costs, expenses and liabilities which may arise or result, directly or indirectly, from or by reason of such loss, injury or damage. Grantee shall also carry such insurance as it deems necessary to protect it from all claims under the Workers Compensation laws in effect that may be applicable to Grantee. The City shall give the Grantee prompt written notice of any such claims, demands, actions, suits, judgments, cost expenses or liabilities. All insurance required shall be and remain in full force and effect for the entire life of the rights granted hereunder.

Section 13-308. Operation Maintenance of System.

(1) The Grantee shall provide for regular billing of accounts and be so operated that complaints and requests for repairs or adjustments may be received at any time.

(2) The Grantee shall render safe and efficient service, make repairs promptly, and interrupt service only for good cause and for the shortest possible time. Such interruptions,

insofar as possible, shall be preceded by notice and shall occur during periods of minimum use of the system.

(3) The Grantee shall provide for safe, adequate and prompt service for its facility.

Section 13-309. Emergency Use of Facilities. In case of any emergency or disaster the Grantee shall, upon request of the City Council make available its facilities to the City for emergency use during the emergency or disaster.

Section 13-310. Safety Requirements. The Grantee shall at all times employ ordinary care and shall install and maintain in use commonly accepted methods and devices for preventing failures and accidents which are likely to cause damages, injuries, or nuisances to the public.

Section 13-311. New Developments. It shall be the policy of the City liberally to amend this Franchise, upon application of the Grantee, when necessary to enable the Grantee to take advantage of any developments in the field of transmission of television and radio signals which will afford it an opportunity more effectively, efficiently or economically to serve its customers. Provided however, that this section shall not be construed to require the City to make any amendment or to prohibit it from unilaterally changing its policy stated herein.

Section 13-312. Limitations of Rights Granted.

(1) All transmission and distribution structures, lines and equipment erected by the grantee within the City shall be so located as to cause minimum interference with the proper use of streets, alleys and other public ways and places, and to cause minimum interference with the rights and reasonable convenience of property owners who join any of the said streets, alleys, or other public ways and places, and said poles or fixtures shall be removed by Grantee wherever in the opinion of the City Council the same restrict or obstruct the operation or location of any future streets or public places in the City.

(2) All transmission and distributing structures, lines and equipment erected by Grantee within the City shall be located, erected and maintained so as not to endanger or interfere with the lives of persons, or to interfere with any installations of the City or of a public utility serving the City or to interfere with new improvements the City may deem proper to make.

(3) In the maintenance and operation of its television transmission and distribution system in the streets, alleys and other public places and in the course of any new construction or addition to its facilities, Grantee shall proceed so as to cause the least possible inconvenience to the general public; any opening or obstruction in the streets or other public places made by Grantee in the course of its operations shall be guarded and protected at all times by the



placement of adequate barriers, fences, or boardings, the bounds of which, during periods of dusk and darkness, shall be clearly designated by warning lights.

(4) In case of disturbance of any street, sidewalk, alley, public way, or paved area the Grantee shall at its own cost and expense and in a manner approved by the City Council, replace and restore such street, sidewalk, alley, public way or paved area in as good a condition as before the work involving such disturbance was done.

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

(6) All installations of equipment shall be of permanent nature, durable and installed in accordance with good engineering practice, and of sufficient height to comply with all existing City regulations, ordinances, and state laws so as not to interfere in any manner with the right of the public or individual property owner, and any equipment installed in a public way or place shall not interfere with the usual travel on such public way or usual use of such public place by the public and during the construction, repair, or removal thereof, shall not obstruct or impede traffic.

(7) The Grantee, shall on the request of any person, temporarily raise or lower its wires to permit the moving of buildings. The expense of such temporary removal or raising or lowering of wires shall be paid by the person requesting the same, and the Grantee shall have the authority to require such payment in advance. The Grantee shall be given not less than forty-eight (48) hours advance notice to arrange for such temporary wire changes.

(8) The Grantee shall have the authority to trim trees overhanging upon streets, alleys, sidewalks and public ways and places of the City so as to prevent the branches of such trees from coming in contact with the wires and cables of the Grantee except that at the option of the City such trimming may be done by it or under its supervision and direction at the expense of the Grantee.

(9) In all sections of the City where the cables, wires or other like facilities of public utilities are placed underground the Grantee shall in the future place its wires, cables, or other like facilities underground to the maximum extent that existing technology reasonably permits the Grantee to do so.

(10) Grantee shall at its expense protect, support, temporarily disconnect, relocate on the same street, alley or public place, or remove from the street, alley or public place any property of Grantee when required by the City by reason of traffic conditions, public safety, street vacation, freeway and street construction, change of establishments of street grade, installation of sewers, drains, waterpipes, power lines, signal lines, and tracks or any other types

of structures or improvements by governmental agencies when acting in a governmental or proprietary capacity or other structure of public improvements provided, however, that Grantee shall in all such cases have the privileges to abandon any property of Grantee in place as hereinafter provided.

(11) In the event that the use of any part of the system is discontinued for any reason for a continuous period of twelve (12) months, or in the event such systems or property have been installed in any street or public place without complying with the requirements of this ordinance, or the rights granted hereunder have been terminated, cancelled or have expired Grantee shall promptly remove from the streets, or public places all such property and poles of such system other than any which the City may permit to be abandoned in place. In the event of such removal, Grantee shall promptly remove from the streets or public places all such property and poles of such system other than any which the City may permit to be abandoned in place. In the event of such removal Grantee shall promptly restore the street or other area from which such property has been removed to a condition satisfactory to the City.

(12) Any property of Grantee to be abandoned in place shall be abandoned in such a manner as the City may prescribe. Upon permanent abandonment of the property of Grantee in place, it shall submit to the City an instrument to be approved by the City, transferring to the City the ownership of such property.

Section 13-313. Removal of Facilities Upon Request. Upon termination of service to any subscriber the Grantee shall promptly remove all its facilities and equipment from the premises of such subscriber upon his request.

Section 13-314. Transfer of Franchise. The Grantee shall not assign or transfer any rights granted under this ordinance to any person, company or corporation without the prior approval of the City Council, which approval shall not be unreasonably withheld; provided the Grantee shall have the right to assign its rights under this ordinance to an affiliated company without further approval of the City Council.

Section 13-315. Erection, Removal and Common use of Poles.

(1) No poles or other wire-holding structure shall be erected by the Grantee without prior approval of the City Engineer with regard to locations, height, type or any other pertinent aspect. However, no locations of any pole or wire-holding structure of the Grantee shall be a vested interest and such poles or structures shall be removed or modified by the Grantee at its own expense whenever the City Council determines that the public convenience would be enhanced thereby.

(2) There is hereby granted to the extent that the City is authorized to do so, the right and authority to Grantee to lease, rent, or in any other manner obtain the use of towers, poles, lines, cables and other equipment, and facilities from any and all holders of public licenses and

franchises within the corporate limits of the City, including telephone and electric service franchises, to use such towers, poles, lines, cables and other equipment and facilities, subject to all existing and future ordinances and regulations of the City. It is stated intention of the City that all other holders of public licenses and franchises within the corporate limits of the City shall cooperate with Grantee to allow Grantee joint usage of its poles and pole-line facilities wherever possible or wherever such usage does not interfere with the normal operation of said poles and pole lines so that the number of new for additional poles constructed by Grantee within the City may be minimized.

(3) Grantee shall grant to the City, free of expense, joint use of any and all poles owned by it for any proper municipal purpose acceptable to Grantee insofar as it may be done without interfering with the free use and enjoyment of Grantee's own wires and fixtures and the City shall hold Grantee harmless from any and all claims, actions, causes of action, or damages caused by the placing of the City's wires or appurtenances upon the poles of Grantee. Proper regard shall be given to all existing safety rules covering construction and maintenance in effect at the time of construction. If in accommodating the City's joint use of their poles, Grantee is required to change or replace poles or install new poles the City shall compensate Grantee for such additional expense.

#### Section. 13-316. Rates.

(1) Grantee shall at all times maintain on file with the Municipal Finance Officer a schedule setting forth all rates and charges to be made to subscribers for CATB service, including installation charges.

(2) The rates and charges for services to subscribers shall be initially set by Grantee, subject to any applicable rules and regulations of federal and state agencies.

Section 13-317. Complaint Procedures. Complaints regarding the quality of service, equipment malfunctions and similar matters shall first be directed to Grantee's office, should Grantee fail to satisfy a complaint, it may then be directed to the Municipal Finance Office for investigation. In response to a complaint, Grantee shall be afforded a reasonable opportunity to present written statements of its position. The Municipal Finance Officer shall attempt to resolve the complaints but if this cannot be achieved he shall submit a recommendation to the City Council recommending that: (1) the complaint be dismissed or (2) corrective action be taken by Grantee. Appeal from the City Council's action may be made to the appropriate judicial or administrative forum.

Section 13-318. Compliance with FCC Franchise Standards. Pursuant to applicable FCC standards the following recitations and provisions are set forth:

(1) Grantee's legal character, financial, technical and other qualifications and the adequacy and feasibility of its construction arrangements have been approved by the City

Council of the City after consideration in a full public proceeding affording due process to all interested parties.

(2) The initial franchise period shall be fifteen (15) years in duration and renewal franchise periods shall also be fifteen (15) years in duration.

#### Section 13-319. Construction Schedules and Standards.

(1) Within sixty (60) days after the effective date of this Ordinance, the Grantee shall file with the appropriate governmental authorities all initial papers, applications, contracts and other documents necessary to obtain nay and all commencement of construction an operation of the Cable Television System and shall thereafter make diligent efforts to obtain the proper execution, delivery of such documents and any amendments thereto. In the event that all necessary waivers, consents and licenses are not obtained within one year after the effective date of this Ordinance, this Franchise Ordinance may be repealed at the option of the City by the adoption of an appropriate repealer ordinance.

(2) Within sixty (60) days after all necessary waiver, consents and licenses have been obtained, the Grantee shall commence the construction of the Cable Television System an pursue such with diligence.

(3) The Grantee shall commence operation on or before October 1, 1987, or this Franchise shall be subject to repeal as prescribed in subparagraph (1) herein.

(4) Delays in the performance of Grantee's obligations under this ordinance which are caused by strikes, equipment shortages and state of war, acts or God or other circumstances beyond the control of Grantee, shall not be construed to be violations of the provisions of this ordinance, and reasonable extensions of the time shall be granted therefore.

(5) All construction practices shall be in accordance with all applicable sections of the Occupational Safety and Health Act of 1970 and any amendments thereto as well as all applicable codes, including the provisions of the electrical code. All of the Grantee's plant and equipment shall be installed, constructed, repaired, maintained and operated in accordance with good engineering practices. The Grantees shall at all times employ ordinary care and shall install and maintain in use commonly accepted methods and devices preventing failures and accidents which are likely to cause damage, injury or nuisance to the public.

#### Section 13-320. Grantee Rules.

(1) The Grantee shall have the authority to promulgate such rules, regulations, terms and conditions covering the conduct of this business as shall be reasonably necessary to enable the Grantee to exercise its rights and perform its obligations under this ordinance.

(2) All such rules, regulations, terms and conditions promulgated under the subsection (1) above shall not be in conflict with the provisions hereof, or applicable federal or state law or rules promulgated by the City in the exercise of its regulatory authority granted hereunder.

(3) One copy of all such rules, regulations, terms and conditions promulgated under subsection (1) above, together with any amendments, additions or deletions thereof, shall be kept currently on file with the Municipal Finance Officer and another copy thereof shall be maintained for public inspection during normal business hours at Grantee's office in the City; no such rules, regulations, terms, conditions or amendments additions or deletions thereto shall take effect unless and until so filed and maintained.

Section 13-321. Termination of Franchise. The City reserves the right to terminate any franchise granted hereunder and rescind all rights and privileges associated therewith in the event of:

(1) Noncompliance by the Grantee with any provision of this ordinance, Amendment hereto, or of any supplemental written agreement entered into by and between the City and the Grantee.

(2) The Grantee becomes insolvent enters into receivership or liquidation, files an application for bankruptcy or for composition of creditors, is unable to pay its debts as they mature or is in financial difficulty of sufficient consequence so as to jeopardize the continued operation of the network.

(3) Violation by the Grantee of any FCC or applicable state order ruling or the order or ruling of any other governmental body having jurisdiction over the Grantee, unless the Grantee is lawfully contesting the legality or applicability of such rule of order.

Upon the occurrences of any of the above-listed events the City Council may, after hearing, upon (30) days written notice to the Grantee citing the reasons alleged to constitute cause for revocation, set a reasonable time in which the Grantee must remedy the cause. If during the thirty (30) day period, the City Council may declare the notice to be null & void. If the Grantee fails to remedy the cause within the time specified after hearing, the City Council may revoke the franchise. In any event, before a franchise may be terminated, the Grantee shall be provided with an opportunity to be heard before the City Council.

Section 13-322. Unauthorized Cable Tapping. It shall be unlawful for any person or persons to obtain any cable television services from any cable television company or any firm or private person by installing, rearranging, or tampering with any facilities or equipment of said Cable Television Company unless the same is done with the knowledge of and with the permission of the Cable Television Company. Any person or persons found guilty of a violation of any of the provisions of the Section shall be deemed guilty of a misdemeanor.

Section 13-323. Separability.

(1) If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions hereof.

(2) Should any provision of the Franchise be inconsistent or at variance with any rule, regulation or policy, in whole or in part, of the Federal Communications Commission or any other agency having jurisdiction, such provision shall be invalid, but the remaining provisions hereof shall not be affected thereby.

WATER CODE

Section 13-401. Water Code.

(1) Turning on. No water from the town water supply shall be turned on for service into any premises by any person but the superintendent of public works or some person authorized by him to perform this service.

(2) Application - Fee - Every person desiring to have water turned on for service into any premises from any water tap or service pipe within the Town of Tabor shall first make written application with the Tabor City Finance Office in such form as may be prescribed for that purpose. Pursuant to the written application for municipal water service, the applicant shall agree to abide by and accept all of the provisions of this Chapter as conditions governing the use of the Town water supply by the applicant, A non-refundable application fee in the amount of thirty dollars (\$30.00) shall accompany the application.

(3) Deposit. A deposit of \$10 shall be made with each such application, this sum to be retained by the town, to insure payment of all bills when service to the applicant is discontinued permanently this deposit, less any amount still due the town for water service, shall be refunded without interest. Provided, that where any applicant for water service is the owner of the premises to be served, no such deposit shall be required. Furthermore, the applicant shall pay a deposit of \$25.00 to be used for street repair upon making the connection. A refund of any portion not used of the \$25.00 shall be made to the applicant.

(3a) Deposit. A deposit of \$75 shall be made by all mobile homes located in mobile home parks and/or on rented property as a meter deposit, and, in addition thereto, an application to have water turned on shall be made in writing to the Town Clerk and shall contain an agreement by the applicant to abide by and accept all of the provisions of this chapter as a condition governing the use of the town water supply by the applicant. A fee of \$5 shall be paid for turning on the water after the meter deposit shall have been paid. The meter shall at all times

belong to the Town of Tabor, South Dakota, and, upon its return in working condition, the sum of \$65 of said deposit shall be returned to the mobile home owner .

(3b) Connection. No connection with a water main or with water service shall be made without a permit being issued and 24 hours notice having been given to the Town Clerk. All such connections shall be made and all such work done at the expense of the applicant who shall also furnish all materials necessary for the hooking up of such water main or line to the mobile home so serviced; all such connections shall be made under the supervision of the Town Superintendent, and no connection shall be covered or concealed or put into operation until the work has been inspected by him.

(3c) Equal Status. In the event that the water service is a new service and a service line is needed, then and in that event Section 5 of Section 13-401 of the town water code, as amended, shall control, and any such mobile home shall be treated as if the same were a permanent structure.

(3d) Penalty. Any person, firm or corporation violating any provision of this article shall be fined not less than \$50 nor more than \$100 for each offense; and a separate offense shall be deemed committed on each day during or on which the violation occurs or continues.

(4) Discontinued Service - Reconnect Fee - When water service has been turned off at the request the consumer, or when the Town has involuntarily disconnected water service, prior to having municipal water service restored to the premises, any arrearages for unpaid water service to the property shall be paid in full and a non-refundable reconnect fee in the amount of fifty dollars (\$50.00) shall also be paid.

(5) Plumbing. No water shall be turned on for service in premises in which the plumbing does not comply with the ordinances of the town; provided that water may be turned on for construction work in unfinished buildings, subject to the provisions of this chapter.

(6) Service connection—fee. No connections with a water main shall be made without & permit being issued and twenty-four hours notice having been given to the town clerk. All such connections shall be made and all such work done at the expense of the applicant who shall also furnish materials necessary for such work; all such connections shall be made under the supervision of the superintendent, and no connections shall be covered until the work has been inspected by him. Applications for such connections must be made to the clerk, and a fee of \$125.00 shall be paid for each connection.

(7) Resale. No water shall be resold or distributed by the recipient thereof from the town supply to any premises other than that for which application has been made and the meter installed, except in case of emergency.

(8) Tampering. It shall be unlawful for any person not authorized by the town to tamper with, alter or injure any part of the town waterworks or supply system, or any meter.

(9) Penalty. Any person, firm or corporation violating any provision of this article shall be fined not less than \$50.00 nor more than \$100.00 for each offense; and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

#### Section 13-402. Service Pipes.

(1) Installation. All service pipes from the mains to the applicant's premise or to a hydrant shall be installed by the applicant at his sole cost and expense.

(2) Pipes. No service shall be installed unless it conforms to specifications drawn up by the Board of Trustees and approved thereby. All service pipes shall be of not less than one (1) inch inside diameter. A copy of such specifications shall be kept on file by the Clerk and shall be open to inspection by any person interested.

(3) Repairs. All repairs for service pipes and plumbing systems of buildings shall be made by and at the expense of the owners of the premises served. The town may, in case of an emergency, repair any service pipes, and if this is done, the cost of such repair work shall be repaid to the town by the owner of the premises served.

(4) Excavations. Excavations for installing service pipes or repairing the same shall be made in compliance with the ordinance provisions relating to making excavations in streets. Provided, that it shall be unlawful to place any service pipe in the same excavation with, or directly over, any drain pipe or sewer pipe.

(5) Shutoff Boxes. Shutoff boxes or service boxes shall be placed on every service pipe and shall be located between the main and the nearest curb line and the sidewalk line where this is practical. Such boxes shall be so located that they are easily accessible and shall be protected from frost. Such shutoff boxes after their installation and inspection shall become property of the municipality of the Town of Tabor provided, however, that the service pipe from the main to the shutoff box or service box and the premises or hydrant shall be maintained and repaired at the sole cost of the owner.

(6) Penalty. Any person, firm or corporation violating any provision of this article shall be fined not less than \$25.00 nor more than \$100.00 for each offense; and separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

#### Section 13-403. Meters: Rates.



(1) Meters Required. All premises using the town water supply must be equipped with an adequate water meter furnished by the town; provided, that such water service may be supplied by the town at a flat rate of charge until such meter may be installed.

Before any premises are occupied a water meter shall be installed therein as herein required or application made for such water service at the flat rate of charge until the meter can be installed or no water shall be furnished such premises.

(2) Installation. Meters shall be installed in a location that will be easy of access.

(3) Reading Meters. The Superintendent of Public Works shall read or cause to be read every water meter used in the town at such times as are necessary that the bills may be sent out at the proper time.

(4) Testing Meters. Any municipal water meter shall be taken out and tested upon complaint of the consumer upon payment of a fee of \$12.00. If upon test the meter is not within the three percent of being accurate, it shall be repaired or replaced and the \$12.00 fee returned to the consumer.

(5) Rates. All property upon which any building has been or may hereafter be erected having a connection with any mains or pipes which may be hereafter constructed and used in connection with the town water system shall pay the following rates per quarter:

1000 Gals. minimum	\$5.00	9000 Gals.	21.00
2000 Gals.	7.00	10000 Gals.	23.00
3000 Gals.	9.00	11000 Gals.	25.00
4000 Gals.	11.00	12000 Gals.	27.00
5000 Gals.	13.00	13000 Gals.	29.00
6000 Gals.	15.00	14000 Gals.	31.00
7000 Gals.	17.00	15000 Gals.	33.00
8000 Gals.	19.00	\$2.00 per 100 Gals. Thereafter	

(6) Bills. Bills for water used shall be dated and sent out at such times as may be directed by the President and Board of Trustees.

(7) Construction Contractors. During the construction of any building and before any water is installed as is herein provided, the contractor so constructing such building may be permitted to use the town water supply by making application therefore, and paying the flat fee prescribed by the Board of Trustees.

(8) Nonpayment. The water supply may be shut off from any premises for which the water bill remains unpaid for a period of ten days after the bill is rendered and mailed. When shut off, water shall not be turned on except upon the payment of the usual fee for turning on water.

(9) Lien. Charges for water shall be lien upon the premises as provided by statute. Whenever a bill for water service remains unpaid sixty days after it has been rendered, the Clerk may file with the Recorder of Bon Homme County a statement of lien claim. This statement shall contain the legal description of the premises served, the amount of the unpaid bill, and a notice that the town claims a lien for this amount as well as for all charges for water served subsequent to the period covered by the bill.

If the consumer of water whose bill is unpaid is not the owner of the premises, and the clerk has notice of this, then notice shall be mailed to the owner of the premises, if his address is known to the Clerk, whenever such bills remain unpaid for a period of sixty days after it has been rendered.

The failure of the Clerk to record such lien claim or to mail such notice, or the failure of the owner to receive such notice, shall not affect the right to foreclose the lien for unpaid water bills as mentioned in the following section.

(10) Foreclosure of Lien. Property subject to a lien for unpaid water charges shall be sold for nonpayment of the same, and the proceeds of such sale shall be applied to pay the charges, after deducting costs, as is the case in the foreclosure of statutory liens. Such foreclosure shall be bill in equity in the name of the town.

The town attorney is hereby authorized and directed to institute such proceedings, in the name of the town, in any Court having jurisdiction over such matters, against any property for which water bill has remained unpaid sixty days after it has been rendered.

(11) Penalty. Any person, firm or corporation violating any provision of this article shall be fined not less than \$50.00 nor more than \$100.00 for each offense; and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues.