

CHAPTER 1

MUNICIPAL ORGANIZATION

Revised Chapter 1, Ordinance #2011-11, Adopted 11/08/11; Amended 1-101 #2021-16, 12/29/2021

1-101 ALDERMANIC WARDS

The City shall be divided into three wards, which shall be combined and consolidated into one election precinct, and shall be designated respectively as Wards One, Two and Three. The wards shall be described by setting for the certain street or avenue designations or other landmarks that divide and border the wards. Any reference to the street or avenue below shall mean an imaginary line running down the approximate middle of each street or avenue. The wards of the City of Bowdle are as set forth below and the map thereof. Any discrepancies shall be resolved by reference to the map rather than the physical descriptions set forth herein.

- a) **WARD ONE:** All of that portion of the City of Bowdle, South Dakota lying east and north of the line running due south from the north limits of the City following US Highway 73, a.k.a. North Larimer Avenue to its intersection with Pine Street; then running east along East Pine Street to its intersection with North Stewart Avenue; then north along North Stewart Avenue to its intersection with East Elm Street; then west along East Elm Street to its intersection with North Wood Avenue; then following North Wood Avenue to its intersection with East Hone Street; then following East Hone Street in an easterly direction to the eastern limits of the City.
- b) **WARD TWO:** All that portion of the City of Bowdle, South Dakota lying south and east of the line following Bridge Street to the southern limits of the City, then following Bridge Street east to its intersection with Bowdle Avenue; then running north along Bowdle Avenue to its intersection with West Oak Street; then east following West Oak Street to its intersection with South West Avenue; then north following South West Avenue to its intersection with West Pine Street; then east following West Pine Street and then East Pine Street to its intersection with South Stewart Avenue; then north following North Stewart Avenue to its intersection with East Elm Street; then west following East Elm Street to its intersection with North Wood Avenue; then north following North Wood Avenue to its intersection with East Hone Street; then following East Hone Street in an easterly direction to the eastern limits of the City.
- c) **WARD THREE:** All that portion of the City of Bowdle, South Dakota lying west and north of a line running due south from the north limits of the City following US Highway 73, a.k.a. North Larimer Avenue, to its intersection with West Pine Street; then running west along West Pine Street to its intersection with South West Avenue; then south following South West Avenue to its intersection with West Oak Street; then following West Oak Street to its intersection with Bowdle Avenue; then south following Bowdle Avenue to its intersection with Bridge Street; then following Bridge Street in a southwestern direction to the western limits of the City.

1-102 VOTING PRECINCTS

- a) **VOTING PRECINCTS FOR MUNICIPAL ELECTIONS** – All three wards within the City of Bowdle are hereby combined and consolidated to one election precinct for the purpose of holding all municipal elections and the polling place for such consolidated precincts shall be determined annually by the City Council.
- b) **VOTING PRECINCTS FOR GENERAL AND PRIMARY ELECTIONS** – Each ward in the City of Bowdle shall constitute an election precinct for all General and Primary

elections. The precincts shall be set forth by Haakon County in accordance with SDCL.

1-103 MAYOR-COUNCIL FORM (*Amended section 1-103.a on 09/3/19-effective 2020 election)

The City shall be governed by a mayor and a common council, consisting of six aldermen also known as Council Members; two of whom shall be elected from each ward.

- a) Terms of Office:
Mayor – Two (02) year term.
Council Members – Two (02) year terms. Terms will alternate within the wards so that each year one of the Council Member’s terms will expire.
- b) Qualifying for Office: Pursuant to SDCL, qualifying for office shall include taking an oath of office within thirty (30) of being duly elected or appointed and before entering upon their respective duties.
- c) Salary and Compensation: The compensation of the Mayor and Council Members shall be determined from time to time by resolution of the Council and a roll call vote; said resolution shall require a two-thirds (2/3) majority of the votes of all Council present and voting.

1-104 MAYOR – DUTIES

The Mayor shall preside at all meetings of the Council but shall have no vote except in the case of a tie. He shall perform such other duties as may be prescribed by laws and ordinances and take care that such laws and ordinances are faithfully executed. He shall annually and from time to time give the Council information relative to the affairs of the City and shall recommend for their consideration such measures as he may deem expedient. He shall have the power to sign or veto any ordinance or resolution passed by the Council, and the power to veto any part or item of an ordinance or resolution appropriating money.

1-105 PRESIDENT OF COUNCIL – VICE PRESIDENT

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

The President of the Council, in the absence of the Mayor, shall be the presiding officer of the Council and during the absence of the Mayor from the City or his temporary disability, shall be the acting Mayor and possess all the powers of the Mayor.

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

1-106 SUPERVISION OF DEPARTMENTS

The Mayor, with approval of the Council, at the first regular meeting after the annual election in each year and after the qualification of the newly elected council members, shall appoint one member of the Council to act in a supervisory capacity in the departments of water, street, police, fire and any other departments of the city. The Council Member so appointed shall have supervision over the department to which he is named as supervisor, and shall from time to time as requested by the Council, report as to the condition and matters in said department.

1-107

MEETINGS

- a) **QUORUM REQUIRED:** A majority of the Council elected or appointed shall constitute a quorum, but a lesser number may adjourn. A quorum must be present for the transaction of any business.
- b) **ORDER OF BUSINESS:** The Mayor will call to order all council meetings, and the City Finance Officer shall call the role, noting if quorum is present so as to conduct business in the prescribed manner. Unfinished business from preceding meetings shall be taken up in order, unless some other business is made the special order of the meeting.
- c) **REGULAR MEETINGS:** The City Council shall meet at 7:00 o'clock PM in the council chambers on the first Monday of each month. If a meeting day falls on a legal holiday, the council shall meet on the next succeeding day.
- d) **SPECIAL MEETINGS:** Upon request by the Mayor or three Council Members, the City Finance Officer shall call a special meeting. Written notice stating time and purpose for the meeting shall be delivered to the Council and Mayor at least one (1) hour prior to the meeting.

1-108

RULES

Robert's Rules of Order, revised, shall be followed except when in conflict with a city ordinance. In addition, the following rules and ordinances are adopted for the conduct of council business.

- a) If a quorum is not present at the opening of the meeting, a police officer may be sent to compel absent members to attend.
- b) All motions, except adjournment, tabling or referral to committee shall be reduced to writing upon request of the Mayor or any alderman.
- c) All resolutions presented to the council shall be in writing and acted upon at once, unless postponed or referred to by the committee. Voting on any motion shall be by a yes or nay vote, which will be recorded by the Finance Officer.
- d) Reports made to the Council, when deemed necessary by the Mayor, shall be in writing.
- e) Standing committees shall be appointed by the Mayor and consist of three members. Such committees shall be:
 - 1. Building
 - 2. Police
 - 3. Street
 - 4. Water and Sewer
 - 5. Airport
 - 6. Budget and Finance
 - 7. Garbage
 - 8. Health/Recreation
 - 9. Nuisance
 - 10. Safety
- f) The presiding officer shall return without motion all papers, petitions and any other documents unless otherwise ordered.

- g) These rules may be suspended or amended by a vote of the majority of aldermen elected.

CHAPTER 2

OFFICERS AND EMPLOYEES

Revised Chapter 2, Ordinance #2011-11, Adopted 11/08/11, Amended 02/05/18

2-101

OFFICERS

The officers of the City shall include the following: City Attorney, City Administrator, Public Works Director, Finance Officer, Chief of Police, and such additional officers as may be deemed necessary for the proper administration of municipal business. Such officers shall be hired by the Mayor and Council Members and shall hold office until their successors are duly hired and qualified.

- a) Oath of Office: Each officer and such other officers as may be required shall take an oath of office before entering upon the discharge of duties. The oath shall be subscribed by the person taking it and shall be filed and preserved in the Finance Office.
- b) Removal of Officials: The Mayor shall have the power to remove any official whenever he/she shall be of the opinion that the interest of the City demands a removal. The Mayor shall report the reason for such removal to the Council at a regular or special meeting to be held not less than five (05) nor more than fifteen (15) days after such removal. If the Mayor shall fail or refuse to file with the Finance Officer a statement of the reason for the removal or if the Council by a two-thirds vote of all its members as authorized by law, disapproves the removal, the official shall thereupon become restored to said office. No official shall be removed a second time for the same incident.

2-201

CITY ADMINISTRATOR

- a) Creation of Office. The office of the City Administrator is hereby created.
- b) Powers and Duties of City Administrator. The City Administrator shall be the chief administrative officer of the City and shall be responsible to the Mayor and City Council for the proper administration, coordination, and delegation of all affairs of the City. The City Administrator shall have the powers and shall be required to perform the duties as set forth from time to time by the City Council by resolution. The City Administrator may also hold more than one office, including that of the Finance Officer.
- c) Bond. The City Administrator shall furnish a surety bond in such an amount as is approved by the Mayor and City Council, said bond to be conditioned on the faithful performance of all the City Administrator's duties. The City shall pay the premium of the bond.
- d) Compensation. The annual salary of the City Administrator is to be fixed by resolution and to be paid monthly by warrants.

2-202

CITY FINANCE OFFICER

- a) Duties of the Finance Officer. The Finance Officer shall in all things perform any duties required by state law to be performed by the city finance officer, city auditor or the city treasurer. Any references in state law to duties, obligations or requirements of the city finance officer, city auditor or city treasurer shall be deemed as reference to and duties of the Finance Officer.

- b) Revenues and Special Funds. All money belonging to the City from taxation, licenses, fines, permits, the operation of utilities, or from any other source, shall be paid into the City treasury, and the City Council shall designate by ordinance to what fund or funds such money shall be applied. The Finance Officer shall keep full, true, and just accounts of all financial affairs of such form and in such manner from time to time as required by the South Dakota Department of Revenue. (SDCL 9-14-18)
- c) Bond. The Finance Officer shall furnish a surety bond in such amount as is approved by the Mayor and City Council, said bond to be conditioned on the faithful performance of the Finance Officer's duties. The City shall pay the premium of the bond.
- e) Compensation. The annual salary of the City Finance Officer is to be fixed by resolution and to be paid monthly by warrants.

2-203

CITY ATTORNEY

- a) Duties. The City Attorney shall draft all legal documents required of him/her and function as the legal advisor to the city. The City Attorney shall furnish opinions, on request, of the Mayor or Council, prosecute violations of city ordinances, represent the city in any court action, and perform other services required by nature of the office.
- b) Compensation. The salary of the City Attorney is to be determined by and set by an employment contract between the governing board of this city and City Attorney, which contract, and the resulting salary shall be negotiated between them.

2-204

CHIEF OF POLICE

- a) Duties and responsibilities. The Chief of Police shall have charge of all members of the police force, subject to the powers of the Mayor. All Police Officers shall possess the power of constables and shall enforce the laws of the state and ordinances of the city. While on duty each police officer shall display the insignia of his office, except when otherwise required and he shall be orderly in conduct, refrain from violent and insolent language, and shall abstain from intoxication or other dereliction of duty.
- b) Compensation. The annual salary of the Chief of Police is to be fixed by resolution and to be paid monthly by warrants.

2-205

PUBLIC WORKS DIRECTOR

- a) Duties. The Director of Public Works performs supervisory duties in administering the maintenance and repair activities on streets, wastewater, water, airport, rubble site, swimming pool, parks, and related public works. Duties involve organizing, assigning, and reviewing the operations.
- b) Compensation. The annual salary of the Public Works Director is to be fixed by resolution and is to be paid monthly by warrants.

CHAPTER 3
PUBLIC PLACES
(Section 303 Amended 03/18/2019)

3-101 DEFINITIONS

Parks: A park, playground, recreation center such as ball diamonds, golf courses, tennis courts, or any other public area in the City owned or used by the City and devoted to active or passive recreation.

Public Place: Any and all streets, sidewalks, boulevards, alleys, or other public ways and any and all public parks, squares, spaces, grounds, and buildings open to public use.

3-201 DEPTH OF GRAVE

All adult graves dug in any cemetery shall be at least six feet deep.

3-202 BODIES EXHUMED

Nobody shall be exhumed except by the permission of the Board of Health or the public authorities.

3-203 DRIVING IN CEMETERY

No driving shall be permitted in any cemetery except on the streets thereof.

3-204 MALICIOUS MISCHIEF WITHIN

No person shall pick flowers, break any tree, shrubs, or plant, and deface or mark any monument or stone or any structure within any cemetery.

3-205 CONDUCT WITHIN

No person shall disturb the quiet and good order of any cemetery.

3-301 PROTECTION OF PARK PROPERTY

It shall be unlawful for any person to deface, damage or in any way interfere with any public or private structure or property, without the consent of the owner.

1992 Revised Ordinance 92, sec. 10; 12/30/92

3-302 ANIMALS IN PARKS

It shall be unlawful for any person to lead or drive any animal or vehicle upon the grass or plant space in a park, except places provided for parking and driving.

3-303 MUNICIPAL TREES

The City Council shall have the authority and jurisdiction to regulate the planting, maintenance and removal of trees along public streets and other publicly owned property such as parks and boulevards to ensure the public safety and preserve the aesthetics of such public sites. The City Council shall have the authority to determine the type and kind of trees to be planted on municipal streets, public rights of ways or in parks.

3-303.1 PERMISSION TO PLANT AND MAINTAIN

No person shall plant, spray, fertilize, preserve, prune, remove, cut above ground, or otherwise disturb any tree on any street or municipally owned property without first receiving permission from the City Council or Public Works Director.

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

- b) Recommended municipal trees are as follows: Redmond Linden; Discovery Elm; Hackberry; Northern Acclaim Honey locust; Stately Manor Coffee tree (pod-less only); Bur Oak; Heritage Oak; and Prairie Stature Oak.
- c) Trees planted in the public right of ways shall comply with the following distance requirements.
 - 1. Distance for planting trees in relation to a street or alley are as follows:
 - a. No tree shall be planted where the distance between any two man-made improvements, such as curb and sidewalk, is less than nine feet (9'); and trees shall be planted five feet (5') from the back of curb when two man-made improvements exist.
 - b. Trees shall be planted a minimum of ten feet (10') from the back of the curb when no other improvements exist.
 - c. Trees shall be planted twelve feet (12') from the outer edge of a street or alley when a curb does not exist.
 - d) No tree shall be planted or permitted to grow so close to any curb, sidewalk or public structure or improvement, such that it interferes with vehicular traffic or parking, pedestrian movement along the walkway or such that it touches or crowds the public structure or improvement.
 - e) No tree shall be planted within fifty feet (50') of the center of any intersection.
 - f) No tree shall be planted within ten feet (10') of any fireplug or water hydrant.
 - g) No tree shall be planted so that its natural growth will eventually interfere with any above ground utility wire.
 - h) No tree shall be planted within five feet (5') of any underground water, sewer, or other utility line.

3-303.2 RESPONSIBILITIES

- a) The care, maintenance, pruning and removal of municipal trees, after the planting thereof has been planted according to the guidelines set herein, shall continue to be the responsibility of the private property owner or his/her successor who planted the tree. While the city has jurisdiction over municipal trees, the cost of planting, care, pruning, removal, and the like is the responsibility of the private property owner.
- b) Every private owner of every tree adjacent to or in close proximity with a street light, electrical line, sewer or water pipe or other utility line or pipe, shall keep said tree in proper shape and condition, and shall when necessary, prune or remove the same, at his/her expense, in proper manner, so that tree does not interfere with or hinder normal usage of said street, sidewalk, area, utility, etc., or block any light from any such street light. The minimum clearance of any overhanging portion thereof shall be eight feet (8') above any sidewalk; and sixteen feet (16') above any street or alley.
- c) The City shall also maintain the right to prune, trim, or remove trees, plants and shrubs within the public right of ways of all streets, alleys, boulevards and land as may be necessary to eliminate traffic hazards, ensure public safety, and to prevent any injury to sewer and water infrastructure or other public improvements.

3-303.3 ABUSE OF TREES

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

3-303.4 PERMISSION TO EXCAVATE

All trees on any street or other publicly owned property near any excavation or construction of any building or structure, or street work, shall be guarded with a good substantial fence, frame or box, and all building material, dirt or other debris shall be kept outside such a barrier. No person shall excavate any ditches, tunnels, trenches, or lay any drive within a radius of ten (10) feet from any public tree without first obtaining permission from the City Council.

3-304 RUBBISH

It shall be unlawful for any person to throw or deposit any refuse or offal of any kind in any park or any publicly owned body of water.

1992 Revised Ordinance 92, sec. 10; 12/30/92

CHAPTER 4

ALCOHOLIC BEVERAGES

Amended Chapter 4, Sections 4-100 thru 4-106, Repealed Sections 4-107 thru 4-110, Ordinance #2016-05, Adopted 09/06/16, Amended Sections 4-102.1 and 4-103 12/03/18

4-100 DEFINITIONS AND REGULATIONS

Terms in this Chapter shall have the meanings as set forth by SDCL title 35 unless a different meaning is set forth within this Chapter. SDCL title 35 shall govern any issue not addressed herein Chapter 4 as adopted.

4-101 UNAUTHORIZED TRAFFIC

No person shall produce, transport, store or sell any alcoholic beverages except as authorized under the provisions of SDCL title 35.

4-102 LICENSE REQUIRED

No person shall sell, offer for sale, keep for sale, exchange, distill, manufacture, produce, bottle, blend or otherwise concoct, within the City of Bowdle or within one (1) mile of its territorial limits, any alcoholic beverages, defined by statute, without having a license therefor, as required by SDCL title 35, or as authorized by such title. It shall be unlawful for any person within the City of Bowdle to engage in the business of selling or offering for sale any intoxicating liquor malt beverages without first having procured a license thereof.

4-102.1 APPLICATION FOR LICENSE

- a) All applications for alcoholic beverage licenses shall be made in accordance with SDCL title 35 and submitted to the Finance Office.
- b) All applications shall be submitted with the fees established through the resolution of the City Council and in accordance with SDCL title 35.

4-102.2 APPLICATION REGULATIONS

- a) Public Hearing. The City Council shall hold a public hearing to consider all alcoholic beverage applications. See exception in 4-106.
- b) Any person having been convicted of a felony as defined by SDCL shall not be the holder of a license to sell alcoholic beverages.
- c) Location Restrictions. No application for any on-sale license of alcoholic beverages except malt beverages shall be approved by the city council where the applicant's place of business is within 100 yards, measured by the regular and usual path of travel, of any door or exit of any now existing school or church or within one block from the outer edge of the campus of any educational institution as it now exists within the city.
- d) Special Meeting to Consider Application. If the applicant requests the City of Bowdle to hold a special council meeting to consider the application for a new license or the transfer thereof regulated through this Chapter, the person requesting said meeting shall pay all costs associated with the meeting.

4-102.3 NUMBER OF ALCOHOLIC BEVERAGE LICENSES ALLOWED TO BE ISSUED

- a) The maximum number of Off-Sale Package Liquor Licenses, as defined by SDCL title 35, to be authorized by the City, in any given year shall not exceed the total number of three (3) licenses.
- b) The maximum number of On-Premises Retail Sale Liquor Licenses, as defined by SDCL title 35, to be authorized by the City, in any given year shall not exceed the total number of three (3) licenses.

The City Council of the City of Bowdle reserves the right and authority to review and adjust the number of Alcoholic Beverage Licenses established by this Ordinance through resolution of said Council on or before the 1st day of September of every year.

4-103

HOURS OF BUSINESS – SALES RESTRICTED TO PREMISES

- a) On-Sale Licensee. It shall be unlawful for any on-sale licensee to sell, serve, or allow to be consumed on the premises covered by the license, alcoholic beverages between the hours of 2:00 a.m. and 7:00 a.m. on the same day.
- b) Off-Sale Licensee. It shall be unlawful for any off-sale licensee to sell alcoholic beverages between the hours of 2:00 a.m. and 7:00 a.m. on the same.
- c) No on-sale licensee may sell or allow to be consumed any alcoholic beverages outside the building of the licensed premises unless the licensee's business operates out of a permanent structure and the consumption of the alcoholic beverage occurs in an outdoor designated area located on the premises of the licensee which is approved by the City Council.

4-104

ALCOHOLIC BEVERAGE LICENSEE REGULATIONS

- a) No on-sale licensee shall serve alcoholic beverages except on the premises authorized by his or her license.
- b) No on-sale dealer of alcoholic beverages except malt beverage retailers shall sell any alcoholic beverages except by the drink and he or she shall not sell any original package, whether such original package is full or partially full.
- c) It is unlawful for any person to consume any alcoholic beverage upon the premises of a licensed on-sale dealer if the alcoholic beverage was not purchased from the on-sale dealer.
- d) No on-sale licensee of alcoholic beverages shall permit any person to become intoxicated on his or her licensed premises.
- e) No off-sale licensee shall permit any intoxicating liquors to be consumed in or around the said licensed premises unless in compliance with the sampling regulations allowed through SDCL title 35; and, shall not make any deliveries outside of the licensed place of business.
- f) It is unlawful to sell or give for use as a beverage, any alcoholic beverages to any person under the age of 21 years or to any person who is obviously intoxicated at the time.
- g) It shall be unlawful for any person under the age of 21 year to purchase, attempt to purchase, possess, consume or to misrepresent his or her age for the purpose of purchasing or attempting to purchase such alcoholic beverages from any licensee as defined by SDCL title 35.

4-105

OPEN PACKAGE IN PUBLIC

It is unlawful for any person to have in his or her possession in any street, highway, public right-of-way or public place, an unsealed container which contains an alcoholic beverage, unless such alcoholic beverage is served and consumed in accordance with a permit granted through section 4-106, 7-111 and/or SDCL title 35.

4-106

SPECIAL ALCOHOLIC BEVERAGE LICENSES

Pursuant to SDCL title 35, the City of Bowdle regulates and restricts permits for special alcohol beverage licenses issued in conjunction with special events.

- a) Any license issued shall be issued for a period of time established within the sole discretion of the City Council, not to exceed three (03) consecutive days.
- b) No person or organization may be issued a permit more than three times in any one calendar year.
- c) The license must comply with the regulations set forth on the application and all applicable state laws set forth in SDCL title 35 and city ordinances concerning the consumption and sales of alcoholic beverages.
- d) Through this ordinance, the fee for a license issued shall be \$25.00 per day which must accompany the Special Alcoholic Beverage License application. The City Council of the City of Bowdle reserves the right and authority to review and adjust the aforementioned fee established by this ordinance through resolution of said City Council.

CHAPTER 5

PUBLIC OWNED UTILITIES

Revised Chapter 5, Sections 5-101 thru 5-222 were replaced with Sections 5-000 thru 5-208, Ordinance #2013-03, Adopted 05/06/13, Amended Section 5-207.1 (04/09/18); Amended Section 5-000, 5-002, 5-002.1, 5-003.2(b), 5-005, 5-109, 5-207, 5-207.1 & Removed Sections 5-207.2, 5-207.3, Ordinance #2022-01. Adopted 05/02/2022.

5-000

DEFINITIONS

The following words, terms and phrases are defined and shall be interpreted as such throughout this chapter and Chapters 11 and 15. Terms not herein defined shall have the meaning customarily assigned to them.

APPROVING AUTHORITY. The Public Works Director or his or her duly authorized deputy, agent, or representative.

BUILDING DRAIN. That part of the lowest horizontal piping of a drainage system, which receives the discharge from soil, waste, and other pipes inside the walls of the building and conveys it to the building sewer.

BUILDING SEWER, HOUSE CONNECTION AND SEWER SERVICE. The extension from the building drain to the public sewer or other place of disposal.

CESSPOOL. An open or covered holding containment or pit for receiving drainage or sewage.

CITY. The City of Bowdle, a municipal corporation of the State of South Dakota.

COMMERCIAL USER. A property solely used for a business.

CONTRACTOR. A licensed sewer and water contractor or licensed trenching contractor as defined in this section.

CROSS CONNECTION. A connection or potential connection between any part of a potable water system and any other environment containing other substances in a manner that, under certain circumstances, would allow such substances to enter or adversely affect the potable water system. Other substances may be gases, liquids, or solids, such as chemicals, waste products, steam, water from other sources (potable or non-potable), or any matter that may change the temperature, the color, the taste, or add odor to the water.

DISTRIBUTION SYSTEM. The network of pipes, valves and other appurtenances owned and/or operated by the City of Bowdle for the purpose of delivering potable water.

DIRECTOR. The Public Works Director or his or her duly authorized deputy, agent, or representative.

DOMESTIC WASTEWATER. Water-carried wastes from dwellings or wastewaters, which are similar in physical, biological, and chemical characteristics.

FLOATING OIL. Oil, fat or grease in a physical state can be separated by gravity from wastewater in an approved pretreatment facility.

GARBAGE. The putrescible animal and vegetable waste resulting from the handling, preparation, cooking and serving of foods.

GROUNDWATER. The water below the earth's surface occupies the pore spaces in the saturated zone of the geologic stratum.

LANDLORD. An owner of a property that leases the property to a **TENANT OR RENTER**.

MAY. Is permissive.

OWNER. Any natural person, partnership, corporation, business entity, trustee, heir, successors, assigns, administrators or executors which have the right to possess and use any property to the exclusion of others and who is legally responsible for the payment of water, sewer and/or garbage service charges made against the **PREMISES**.

PERSON. Any individual, firm, company, association, governmental agency, society, corporation, group, or political subdivision.

PREMISES. Any real or personal property served or capable of being served by any city service, including but not limited to houses, buildings, mobile homes and trailers.

PROJECT TYPES

- 1) **EXPANSION/ECONOMIC DEVELOPMENT.** A project, which extends sewer and/or water infrastructure to provide service for new developments.
- 2) **IMPROVEMENT.** A project, which provides for increased capacity, or improved efficiency to existing systems. This type of project is located within the existing City service area, or corporate limits.
- 3) **REPLACEMENT.** A project, which replaces or repairs existing infrastructure with similar components having more or less the same capacity as the original.

PUBLIC SEWER OR PUBLIC WATER. A sewer or water main located in publicly owned land, public rights of way or easements and controlled by the City of Bowdle.

PUBLICLY OWNED TREATMENT WORKS OR POTW. A treatment works as defined by Section 212 of the Clean Water Act, which is owned by a state or municipality (as defined by Section 502(a) of the Clean Water Act). This definition includes any devices and systems used in the storage, treatment, recycling and reclamation of municipal sewage or industrial wastes of a liquid nature. It also includes sewers, pipes, and other conveyances only if they convey wastewater to a POTW pretreatment plant. The term also means the municipality as defined in Section 502(4) of the Clean Water Act, which has jurisdiction over the indirect discharges to and the discharges from such treatment works.

RESIDENTIAL USERS. Single-family homes, duplexes, townhouses, apartments, and mobile home parks without a master meter.

SANITARY SEWER or SEWER. A sewer, which carries domestic wastewater, and to which storm, surface and ground waters are not intentionally admitted.

SEPTAGE. A mixture of liquids and solid materials removed from a septic tank, portable toilet, recreational vehicle holding tank, Type III marine sanitation device, or similar system. The contents of vault privies and substances such as grease trap residues, interceptor residues, and grit and screenings are not included in this definition of **SEPTAGE**.

SEPTIC TANK. A watertight, accessible, covered receptacle which receives wastewater from a building or facility sewer that allows solids to settle from the liquid, provides digestion for organic solids, stores digested solids through a period of retention, and allows a clarified liquid to discharge to additional treatment works for final treatment and dispersal.

SERVICE AREA. The geographic area in which the city currently provides an actual service. This contrasts with a planning service area in which the city may provide service in the future.

SERVICE LINE. The line from the city main to within five feet of the building and are further defined as follows:

- 1) **DOMESTIC SEWER SERVICE LINE.** Pipe and appurtenances collecting wastewater from the premises and delivering it to the city sewer collection system. DOMESTIC SERVICE LINES may be located on private property or in public rights of way and are owned, operated, and maintained by the owner of the premises being served.
- 2) **DOMESTIC WATER SERVICE LINE.** Pipe and appurtenances delivering water from the city water distribution system to a meter. DOMESTIC SERVICE LINES may be located on private property or in public rights of way and are owned, operated, and maintained by the owner of the premises being served.

SEWER INSTALLATION AND WATER INSTALLATION. The new construction, alteration, repair or improvement of water service lines and appurtenances; sewer mains and appurtenances, sanitary sewer services, sewer treatment plant piping and equipment; and storm sewers, and the placement of sewer and water pipe into a building sufficient distance to allow connection to the building plumbing. Sewer and Water Installation does not include the minor adjustment of manhole castings, valve boxes and curb boxes to finish grade for street construction or reconstruction.

SEWER MAIN or WATER MAIN. A pipe or conduit for carrying wastewater or water.

SHALL. Is mandatory.

STORM DRAIN (see STORM SEWER). A sewer system, which carries storm or surface waters and drainage, but which excludes wastewater and industrial wastes other than uncontaminated cooling water.

STORM SEWER. All pipes, culverts, catch basins, inlets, detention pond inlet and outlet piping, and storm sewer appurtenances which will become an integral part of the public storm sewer systems, whether located in public rights of way or drainage easements, except parking lot drainage pipes and appurtenances are not considered STORM SEWERS for purposes of this chapter.

SUPERINTENDENT. The superintendent of the wastewater treatment works or his or her authorized representatives.

SURCHARGE. An additional and/or segregated utility charge

SURFACE WATER. Water on the surface of the earth as distinguished from groundwater. Some examples are lakes, ponds, rivers, and streams.

TENANT or RENTER. A person(s) that rents and occupies a property from the property owner or their agent.

TOURIST PAY CAMP. Any land used to provide temporary accommodation for the public, or members of an organization, in tents, cabins, camper trailers or other recreational vehicles. Also known as a campground or camper court.

UNIT. An independent, self-contained dwelling in a building, or a separate dwelling located on the same property.

USER. A user is any location supplied with utility service from the city which falls into one of the following classifications:

COMMERCIAL / INDUSTRIAL USER. Any person, family, association of persons, partnership, limited liability company, corporation, office, or entity that occupies or uses seventy-five (75) percent or more of a structure (s) for any business purpose. Tourist Pay Camps shall also be included in the definition of a commercial / industrial user and sewer rates shall apply when occupied.

RESIDENTIAL USER. Any person, family, or association of persons who occupy a structure for use as a dwelling, house, apartments, or residence including mobile home parks, and the use of that structure is not included within the definition of a commercial / industrial user. The main place of worship for an organized and recognized religion shall also be included in the definition of a residential user.

WATER ONLY USER. A water only user is any user, regardless of classification, located outside of the city limits of the City of Bowdle that are connected to the municipal water system, but not the municipal sewer system.

VAULT PRIVY. A structure which allows for disposal of human excreta into a watertight vault, provides privacy and shelter, and prevents access to the excreta by flies, rodents, and other animals. Also referred to as Privy Vault and Outdoor Water Closet.

WASTEWATER. The spent water of the community. From the standpoint of source, it may be a combination of the liquid and water-carried chemical or solid waste from residences, commercial buildings, industrial plants, and institutions together with any groundwater, surface water and storm water that may be present. Also referred to as sewer or sewage.

WASTEWATER FACILITIES or WASTEWATER SYSTEM. All facilities for collecting, pumping, transporting, treating and disposing of wastewater and wastewater sludge.

WASTEWATER TREATMENT WORKS. The facilities provided by the city to treat wastewater as necessary to meet national pollutant discharge elimination system permit conditions and to comply with other environmental laws, rules, and regulations.

WATER FACILITIES or WATER SYSTEM. All facilities for distributing, pumping, transporting, treating, and storing potable water.

WATER TREATMENT WORKS. The facilities provided by the city to treat source water as necessary to meet federal, state, and local drinking water regulations and to comply with other environmental laws, rules and regulations.

WATERCOURSE. A natural or artificial channel for the passage of surface water either continuously or intermittently.

5-001

UTILITY SERVICE - APPLICATION REQUIRED

a) Any person desiring any utility service furnished by the city shall make an application to the City Finance Office by and through the following. All criteria must be met prior to any utility services being connected and/or reconnected.

- 1) Completing a "City of Bowdle Utility Account Application" form as approved by the City Council. Application information shall include, but is not limited to, the applicant's name, mailing address, service address, phone number, and/or email address.

- 2) Provide proof of identification with a government issued photo ID.
- 3) Pay a customer deposit as set forth in Ord. 5-002.
- 4) Pay a reconnect fee as established by resolution when applicable.

A separate application shall be made for each premise to be served with city utilities.

Applicants shall abide by the rules and regulations established by the city relative to utility service in effect at the time of application and as they may be revised from time to time in addition to conditions and agreements as the City Council shall deem advisable.

- b) A landlord is subject to the application process for each rental property as outlined in section “a”.

A landlord who elects to pass the responsibility for payment of utility service onto the renter/tenant(s) and they meet the requirements in section “a” above, will negate the landlord from placing a customer deposit with the application. Said exemption for the customer deposit is only applicable when the landlord has made written acknowledgement of their responsibilities for the property in accordance with City Ordinance #5-007.

A landlord shall abide by the rules and regulations as established by the city relative to utility service in effect at the time of application and as they may be revised from time to time.

5-002 CUSTOMER DEPOSITS

Any applicant for the city utility service shall make a deposit and shall not be entitled to the use of such utility service until such deposit is made. The amount of the deposit is contained within the Rates and Fee Schedule, which is set and amended by resolution. The deposit is also an indemnity against, theft, misplacement, or injury to city property. The city does not accept letters of credit from previous utilities.

Existing utility customers with a history of timely payments within the last twelve (12) months are not required to pay a deposit when adding or changing service locations.

5-002.1 CUSTOMER DEPOSIT REFUNDS

A customer deposit is held by the City of Bowdle until at least one of the following is met by the utility account holder.

- a) The utility service is disconnected per Ordinance 5-004. Deposit shall be applied to the final bill, and any remaining deposit balance will be refunded to the customer.
- b) Customer has established a timely payment history with the City of Bowdle for twelve (12) consecutive months without any late fees. Deposit shall be credited to a customer account in July of each year.

5-003 UTILITY BILLING - MONTHLY

Bills for utility services are based on services provided to customers per city ordinance. The city does not pro-rate monthly utility services.

Bills are mailed around the last working day of the month and are due and payable **in the City Finance Office** by 5:00 p.m. on the fifteenth (15th) of each month. If the 15th falls on a weekend or federally observed holiday, payment must be received by 5:00 p.m. on the following business day.

5-003.1 PAYMENT REQUIRED FOR UTILITIES AND SERVICES FOR TEMPORARILY OR PERMANENTLY VACATED PREMISES

The owner or tenant of any real property having municipal utility service and responsible for payment of the monthly charges for water, sewer, garbage and other municipal utilities and services shall pay the monthly charges for all municipal utilities and services without regard to whether the property is vacant for any period of time. The owner or tenant may avoid the obligation to pay the monthly charge for municipal utilities and services for any period of vacancy by having the city turn off the water service at the curb stop and paying the disconnect fee. An additional reconnection fee shall be charged by the city when utility service is restored to the property. Such fees shall be periodically set by resolution.

5-003.2 SLEEP/VACATION UTILITY RATE

- a) Requirements include a minimum of five (05) months' absence from the household.
- b) Payment for this service will be required in advance and will consist of a monthly minimum water and sewer charge. The monthly minimum charges are contained within the Rates and Fee Schedule, which is set and amended by resolution.
- c) Garbage services and fees will be suspended during this time.
- d) The water department will continue to read the meter monthly, and any water consumed over the 2,000 gal. minimum will be charged to the customer's account.
- e) During this time, the city is not liable for any broken water meters, frozen water lines or water breaks from the curb stop to the residence. Refer to Ordinances 5-107 (k) and (l).
- f) The customer is held responsible to notify the City Finance Office of their return in order to have garbage services and fees resumed. Refer to Ordinance 5-302(e).
- g) Refund of prepayment is not applicable.

5-004 NOTICE OF DISCONTINUANCE REQUIRED

- a) Owners or consumers desiring to discontinue the use of the city utility services shall be required to give notice thereof to the City Finance Office, and regular rates shall be charged and billed until such notice is given. Upon notice and direction from the owner and/or tenant, the water meter will be readout by the city.
- b) Owners and/or landlords of rental properties must give notice of change of tenants if the utilities are being billed to the tenant.
- c) A disconnection and reconnection is required between tenants and/or owners in order to secure the required application as set forth in Ord. 5-001 and ensure all accounts are paid in full. Readout of the water meter may suffice between owners and/or tenants if the new owner and/or tenant have complied with Ord. 5-001.
- d) A disconnect and/or reconnect fee, as established by resolution, will be charged each time the city is required to turn off or on utility services.
- e) If the City of Bowdle becomes aware of the change in occupancy before proper notification is given to the Finance Office, the city reserves the right to immediately disconnect city utility services provided to the place of business and/or residency being serviced.

5-005 DELINQUENT ACCOUNTS

- a) Any utility payment received after the payment deadline as established in Ord. 5-003, is considered delinquent and will be assessed as a late fee. Late fees are contained

within the Rates and Fee Schedule, which is set and amended by resolution. The Finance Office will send a delinquency notice stating the total amount due and the date by which to pay the utility bill or the utility service will be disconnected. The customer may contact the Finance Office and appeal the bill. If the Finance Office deems it appropriate, agreements can be made to schedule payments for the delinquent and current billings. If a customer is not satisfied with the decision, said customer may appeal to the water committee and/or the full City Council. (Referenced in Ord. 5-108)

- b) If the water service is terminated (disconnected) due to non-payment, the city will restore the water service only after all past due and current account charges including a reconnection fee and any other applicable fees are paid in full to the Finance Office.

5-006 ACCOUNT MUST BE PAID BEFORE WATER TURNED ON

No person shall be permitted connection to the water system until all past utility accounts for the property are fully paid.

5-007 LANDLORDS RESPONSIBILITIES FOR CITY UTILITIES

An owner of rental property, whether commercial or residential, is hereby held responsible for payment of any delinquent water, sewer or garbage charges that are not promptly paid by the owner's tenant or tenants in accordance with Ord. 5-005.

This Ordinance applies to all rental property, whether commercial, single family residential, apartment complexes, mobile home courts, or other rental property. The owner shall be furnished with a copy of the notice of delinquency that is served upon the tenant, and the owner shall have all the rights afforded by Ord. 5-005.

5-008 LIABILITY OF CITY

The City of Bowdle shall not be liable for any damages to the property of any customer of any utility service furnished by the city due to backflow of sewage system, failure of water supply, interruption of service or any cause outside the direct control of the city.

5-100 WATER DEPARTMENT: SUPERVISION AND DUTIES

The Water Departments shall be under the supervision of the Public Works Director who shall be responsible to the water and sewer committee.

The Public Works Director shall be responsible for the management and operation of the water and wells of the City of Bowdle as well as supervision and control over such persons employed by the City and assigned to his department. The Public Works Director shall read or supervise the reading of meters, connecting and disconnecting water service, and shall perform such other duties as may be assigned to him by the City Council.

The Public Works Director shall make a written report to the water and sewer committees as may be required or requested by the Mayor or the City Council, and the Public Works Directors shall make such recommendations as are proper for the efficient operation of the water and sewer systems and improvements thereof.

5-101 AUTHORITY OF WATER DEPARTMENT

The Public Works Director or any employee of the Water Department shall be permitted at all reasonable hours, and with due notification to resident, to enter the premises or building of consumers for the purpose of reading meters, examining water pipes and fixtures, and set or remove a meter or change its location whenever necessary.

5-102 PLAT OF WATER MAINS, ETC.

The Water Department shall keep and maintain a plat on which shall be shown a complete diagram of all city mains, all taps and service pipes, the size of mains, and such other information as shall be deemed advisable by said department.

5-103 CITY WATER LINE AND USES

Except as otherwise provided in these ordinances, no person shall connect, disconnect, or do any work on any pipes or connections in any way connected to the city water supply and pipe systems connected thereto.

5-104 EXTENSION OF WATER PIPES

Plumbers must not extend water pipes from one premise to another without the permission of the City Council or its duly authorized agent.

5-105 EMERGENCY WATER LIMITATIONS

The City of Bowdle hereby reserves the right to at any time restrict or prevent the use of any utility service furnished by the city during periods of emergency or circumstances demanding such restriction or prevention of use.

5-106 WATER SERVICE - TAP AND CONNECTION CHARGES

Connections for water service furnished by the city shall be made only by the city and paid for by the customer served.

Where there is no existing tap to the city water mains, or an additional or different tap is to be made, application shall be made in writing to the City Finance Officer by the owner or agent of the property to be served.

The application shall designate the legal description of the property, what kind and size of tap to be made, the nature of the water use and if residential use, specify the number of families or residences to be served thereby, and shall be accompanied by the fee, as set forth by resolution, to be retained by the city if such application be allowed.

5-107 WATER DEPARTMENT REGULATIONS

- a) STANDARD SERVICE PIPE CONNECTION - The standard connection with the mains shall be "k" copper pipes unless otherwise approved by the city.
- b) DEPTH OF SERVICE PIPES –Within the limits of the street, service pipe shall be laid not less than five (5) feet below the lowest part of the gutter.
- c) COPPER PIPES SUBSTITUTED - When non-copper service pipes in the city leak, copper pipes shall be used to replace existing lines rather than repairing old pipe.
- d) STOPS REQUIRED - All persons having connections with the city water mains must have a curb stop outside the property line and a shutoff either outside the house or in the basement for shutting off water in case of leaks and repairs.
- e) GENERAL – No claim shall be made against the city by reason of the breaking of any service lines or apparatus or from any other damage that may result from shutting off water for any reason. The city may make exceptions to this subsection if construction-related activities cause the service line to leak. Upon notification of the property owner that a water service line is leaking, the owner shall promptly cause the service to be repaired by a licensed contractor. Delay by the owner in repairing the service line shall be cause for the service to be shut off until the repair is made. If the service line is shut off or repaired by the city, the owner shall reimburse the city for all associated costs.

- f) **USE OF WATER** – No consumer shall permit the owner or occupant of other premises to use water from his or her service except by special permission from the water department.
- g) **ONE CUSTOMER TO EACH SERVICE** - Two or more premises with separate owners shall not be supplied from the same service pipe unless each has its own curb box at the sidewalk. Owners who lease or subdivide shall be responsible for water used in said premises. If more than one meter is placed on a service pipe, the meters shall be set so that none of them shall measure water which has passed through another meter.
- h) **INSPECTION** – No pipes installed underground shall be covered until they have been inspected for leakage under system pressure. If the service line is covered before being inspected, the inspector may require the contractor to expose the line for inspection or may require a pressure or flow test at the contractor's expense.
- i) **SEPARATE TRENCH** – Water lines may be laid in the same trench as a sewer line but must be laid above the sewer line. In instances where it is not permissible to lay the water line above the sewer line, the water line may be laid below the sewer line, but it must be incased in a protective barrier and approved by the Public Works Director. All water lines installed with a sewer line in the same trench shall be separated by at least one foot (1') of horizontal distance. All services shall be placed on stable existing material or select and approved backfill material.
- j) **CONSTRUCTION OVER WATER LINES** – No person shall construct or erect any building or structure upon any lateral or trunk city water main unless he shall have written permission of the Public Works Director. The Public Works Director, upon granting such permission, shall specify what provisions shall be made in the construction thereof to protect the water line, and to provide for the purpose of maintenance and repairs.
- k) **OWNER RESPONSIBILITY FOR PIPES AND FIXTURES** – The city service line includes the curb stop and water supply pipe extending from the city main to the curb stop and will be maintained by the city. The customer service line includes the water supply pipe and all fixtures extending from the curb stop to the premises served. All owners must, at their own expense, keep the customer service line in good working order and properly protected from frost and other hazards. The initial installation of the city service line, the customer service line and any applicable repair costs to the city streets during the installation will be at the owner's expense.
- l) **WATER METERS** – All dwellings or places supplied with water from the city system shall be metered by the city. They are used for the measurement of water and sewer utility services furnished by the city and shall be approved and installed by, and remain the property of, the city. All water registered on the meter is the responsibility of the customer. A suitable place for meters, safe from frost or other damage and accessible for examination, must be provided by and at the expense of the owner or occupant. In cases where meters fail to register the amount of water used, charges shall be based upon the average used during two or more preceding periods of similar length and during a similar time of year. If meters are damaged by freezing or neglect, the owner or occupant of the premises must pay for such damage. In any case where the neglect, refusal to repair, or refusal to pay said expenses thereof, the water supply may be disconnected and not reconnected until such costs and said fees are paid.

- m) METER VAULTS/PITS – All meters located outside of basements or locations that are not protected from freezing shall be placed in meter vaults/pits designed and constructed as approved by the water department.
- n) SEALING ABANDONED WATER LINES - It shall be the duty of any landowner who shall abandon any water service line to cause the water service line to be securely and permanently capped and sealed, notwithstanding that the water service is shut off at the curb stop or to remove the water service line to the curb stop. Removal, demolition or other destruction of the residences or other improvements upon the real property shall be prima facie evidence that the water service line has been abandoned. This section shall not apply to mobile home parks and camping grounds, unless the mobile home park or campground is, in fact, no longer operating as a business. All capping and sealing shall be approved by the city.
- o) PORTABLE METER, SPECIAL WATER USERS, PERMIT - The Public Works Director shall provide one or more portable water meters for any special temporary use where water is taken from a service pipe. Said request shall be made through the customer application process outlined in Ord. 5-001 along with providing the specifications for the place in which the water is to be taken, the quantity to be taken, and the purpose for which such water will be used, and any fees for the portable meter connection shall be paid. Upon providing the above requirements, a portable meter shall be attached to the tap from which water is taken, the regular water rate shall be charged or such rate as may be fixed by the Public Works Director, with the City Council's approval, plus a non-refundable advance fee in an amount determined from time to time by the City Council. Such meter shall be read when other meters are read or sooner if the use of such water is discontinued.
- p) FROZEN WATER LINES – The city shall bear the cost of thawing water lines from the main to the curb box. The owner of the property shall bear the cost of thawing water lines from the residence or building to the curb box.
- q) CROSS CONNECTIONS - No faucet connection, valve, or like appliance so constructed as to form a cross connection, directly or indirectly, between a safe drinking water supply and an unsafe or questionable water supply, shall be permitted. No licensed plumber or any other person shall make any cross connection to the water system, supply from a well, cistern or any other source whatsoever, nor from the city water system to any drain pipe, sewer pipe or septic tank.
- r) SURFACE WATER WELLS – New surface water wells are prohibited within the City of Bowdle. (Cross Reference Ord. 11-201(a)(10))
- s) PRIVY VAULTS AND OUTDOOR WATER CLOSETS – Privy vaults and outdoor water closets are prohibited within the City of Bowdle. (Cross Reference Ord. 11-201(a)(11))

5-108

JOINT WATER USERS LIABLE

In case two or more users are supplied with water from the same service pipe, if any of the parties fail to pay the water charge when due, or to comply with any rule of the city, the city reserves the right to disconnect water from the whole service until such charge is paid, or the rules strictly complied with, and it is expressly stipulated that no claim for damage or otherwise may be made against the city by any user whose water charge has been paid, or who has complied with the rules of said city, because of such disconnection, it being expressly stipulated that the necessity for such shut off shall be deemed to be the joint act of all served through such service.

5-109

WATER RATES

Rates and charges for all users of the water system are contained within the Rates and Fee Schedule, which is set and amended by resolution.

Out of city users shall be charged two times the minimum rate of in city users.

Rates shall be applied to tourist pay camps monthly unless notified by the owner that said camp is unoccupied.

5-110

ANNUAL REVIEW OF COST OF WATER OPERATION

The city shall annually conduct a review of the costs of operation and maintenance of the city water system. The city shall also annually review and revise as necessary the water consumption rates to ensure rate equity among the various users and to further insure the availability of sufficient funds to adequately operate and maintain the water system of the city.

5-200

SEWER DEPARTMENT: SUPERVISION AND DUTIES

The Sewer Department shall be under the supervision of the Public Works Director who shall be responsible to the water and sewer committee.

The Public Works Director shall be responsible for the sewage system and lagoons of the City of Bowdle, as well as supervision and control over all persons employed by the city and assigned to his department. The Public Works Director shall make or supervise all taps of public sewers in addition to such other duties as shall be prescribed by the City Council or by the Ordinances of the City of Bowdle.

The Public Works Director shall make a written report to the water and sewer committees as may be required or requested by the Mayor or the City Council, and the Public Works Directors shall make such recommendations as are proper for the efficient operation of the water and sewer systems and improvements thereof.

5-201

CITY SEWER LINES AND USES

Except as otherwise provided in these ordinances, no person shall connect, disconnect, or do any work on any sewer pipes, connections, or equipment in any way connected to the city sewer system.

5-202

SEWER SERVICE - TAP AND CONNECTION CHARGES

Connections for sewer service furnished by the city shall be made only by the city and paid for by the customer served.

Where there is no existing tap to the city sewer mains, or an additional or different tap is to be made, application shall be made in writing to the City Finance Officer by the owner or agent of the property to be served.

The application shall designate the legal description of the property, what kind and size tap to be made, the nature of the sewerage use and if residential use, specify the number of families or residences to be served thereby, and shall be accompanied by the fee, as set forth by resolution, to be retained by the city if such application be allowed.

5-203

SEWER REPAIR

Whenever any sewer connecting a building with a common sewer or another drain, becomes obstructed, broken or out of order in any way, the person in charge of the premises drained by such sewer shall, within 48 hours after notice from the Public Works Director, reconstruct, repair, or cleanse such sewer. In case of neglect or refusal, the Public Works Director shall report the same to the water and sewage committee who shall cause

such sewer to be reconstructed, repaired, or cleansed at the expense of the person in charge who shall be charged in the same manner as for special assessment. (Cross-Reference: 11-1801)

5-204

SEWER DEPARTMENT REGULATIONS

- a) **SEWER CONNECTION REQUIRED** - Any person having charge of any structure which is near any street in which the common sewer is or may be laid, shall within fifteen days after written notice connect his dwelling or house with a common sewer main as named by the Public Works Director, if said structure shall accommodate humans. Said notice shall be signed by the Public Works Director, served by any Bowdle policeman, and any person disregarding such notice shall be guilty of a misdemeanor.
- b) **MATERIALS USED IN SEWER AND CONNECTIONS** - The main sanitary sewer soil pipe and its branches shall be of PVC or, upon approval by the Public Works Director, pipe having equivalent quality.
- c) **MINIMUM GRADE** - All sewers outside of buildings must be laid in the ground of sufficient solidity for a proper foundation and in a trench with a uniform grade of not less than one-eighth inch to the foot and one-fourth inch if practicable.
- d) **SEPARATE CONNECTIONS** - The main drain of each house or building shall be independently connected to the sanitary sewer where the sanitary sewer is in front of said building. Where it is necessary to construct a private sewer to connect with a sewer main in an adjacent street, such sewer plans shall be used as are reviewed and approved by the Public Works Director.
- e) **EXISTING CONNECTIONS** - Existing building sewers may be used in connection with new buildings only when they are found, on examination and test by the Public Works Director or Wastewater Superintendent, to meet all requirements of the sewer regulations.
- f) **CONNECTIONS NOT ALLOWED** - No connection from any cesspool or privy vault shall be made with any sanitary sewer or drainpipe.
- g) **CONSTRUCTION OVER SEWER LINES** - No person shall construct or erect any building or structure upon lateral or trunk city sewer lines or water mains unless he shall have written permission of the Public Works Director. The Public Works Director, upon granting such permission, shall specify what provisions shall be made in the construction thereof to protect the sewer line or water line, or both, and to provide for the purpose of maintenance and repairs.
- h) **INSPECTION** - No sewer trench shall be filled or sewer pipe covered, until the sewer service has first been inspected by the Public Works Director or his assistant. Persons making sewer connections shall give at least 48 hours' notice to the Public Works Director of the time when such sewer service shall be ready for inspection. The Public Works Director shall inspect the sewer within a reasonable time and if such sewer service is not properly laid or connected, the Public Works Director shall order the same taken out and re-laid. When such sewer service is completed, approved, and granted permission, the owner or person in charge shall be allowed to use the same. Cross Reference: 5-222 (Penalty)
- i) **FILLING** - The filling of the earth around and on top of all connecting pipes with lateral or main sewers shall be done in a manner to obtain the greatest compaction possible. The earth shall be laid and tamped in regular layers not exceeding nine inches

in depth up to the road surface or thoroughly soaked with water, and the street or alley shall be left in as good a condition, whether paved or unpaved, as it was prior to the laying of such pipe connection.

- j) **OWNER RESPONSIBILITY FOR PIPES AND FIXTURES** – The city service line includes the sewer main and will be maintained by the city. The customer service line includes the sewer connection at the main, the sewer pipe and all fixtures extending from the main to the premises served. All owners must, at their own expense, keep the customer service line in good working order and properly protected from frost and other hazards. The initial connection to the main and future repairs on the customer's service line will be at the owner's expense.
- k) **DIMENSIONS OF HOUSE AND BUILDING DRAIN** - All house and building drains connected to the sanitary sewer service shall be at least four inches in diameter.
- l) **DRAINS IN PUBLIC GARAGES AND WASH RACKS** – Every public garage or other public place having a wash rack used for washing vehicles shall install a standard garage drain approved by the Public Works Director. Such drains shall be constructed and operated so as to prevent mud, sand, and other debris from being washed into the city sewer system and shall be kept in proper working order. The provisions of this section shall apply only if the sewage is discharged into the city sewer system.
- m) **CESSPOOL DRAINAGE INTO STREETS AND GUTTERS PROHIBITED** - It shall be unlawful for any person to allow any cesspool or septic tank to drain into any of the streets and gutters of this city.
- n) **PROHIBITED CONNECTIONS WITH PUBLIC SANITARY SEWER** - No person, corporation, or other public or private entity shall make or cause to be made any connection of roof downspouts, foundation drains, area drains, or any other source of surface water or groundwater, either directly or indirectly, to the city sanitary sewer system, for any purpose, unless such connection is approved by the Public Works Director.
- o) **CROSS CONNECTIONS** - No faucet connection, valve, or like appliance so constructed as to form a cross connection, directly or indirectly, between a safe drinking water supply and an unsafe or questionable water supply, shall be permitted. No licensed plumber or any other person shall make any cross connection to the water system, supply from a well, cistern or any other source whatsoever, nor from the city water system to any drainpipe, sewer pipe or septic tank.
- p) **SEALING INTERMITTENTLY USED SEWER LINES**
 - 1. It shall be the duty of any landowner, who shall have located on his premises sewer service lines that are subject to periods of non-use, to provide for the temporary sealing of the service line when not in actual use for the disposal of sewage for any period of time. The method used to temporarily seal any unused sewer lines shall be designed and adequate to prevent any liquids or solid matter from entering the sewer lines. This section specifically applies to mobile home parks, campgrounds, and any other location where access to the city sewer system is available other than through the plumbing system of a permanent structure.
 - 2. This section shall also be applicable to any landowner upon whose property the improvements have been removed, demolished, or destroyed by any cause and upon which the landowner intends to rebuild the improvements.
 - 3. The landowner shall immediately notify the city when the temporary sealing or capping is completed, and the Public Works Director or Sewer Superintendent shall inspect the sewer inlets to assure compliance with this section and the

approved method of temporary sealing or capping of the sewer inlet. In the event a landowner increases the number of sewer service inlets, the landowner shall apply for a new permit for the additional inlets. In the event one or more of the sewer inlets are damaged and require repair to comply with this section; the landowner shall immediately repair the same and notify the City Finance Officer. Upon notification, the Public Works Director or Sewer Superintendent shall inspect the repairs to ensure the repairs are in compliance with this Ordinance.

- q) **SEALING ABANDONED SEWER LINES** - It shall be the duty of any landowner who shall abandon any sewer service line to cause the sewer service line to be securely and permanently capped and sealed, or to remove the sewer service line to the trunk sewer. Removal, demolition or other destruction of the residences or other improvements upon real property shall be prima facie evidence that the sewer service line has been abandoned. This section shall not apply to mobile home parks and camping grounds unless the mobile home park or campground is, in fact, no longer operating as a business concern. All capping and sealing shall be approved by the city.
- r) **SEPTIC TANKS AND CESSPOOLS** – The construction of cesspools and installation of septic tanks are prohibited within the City of Bowdle. An exception to this may be allowed when the City Sewage System is not available and upon approval of the Public Works Director and City Council. (Cross Reference Ord. 11-201(a)(11))

5-205

REFUSE PROHIBITED

No one shall discharge or permit to be discharged from any of the following described water, wastes or other materials to any public sewers:

- a) Any gasoline, benzene, naphtha, fuel, grease (including cooking grease), oil, or other flammable or explosive liquid, solid, or gas.
- b) 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 plant.
- c) Any water or waste having corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the wastewater works.
- d) Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the wastewater facilities such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshing, entrails, and paper dishes, cups, milk containers, etc. either whole or ground by garbage grinders.

Permitted to be discharged/deposited into any sewer line connected with a public sewer include the following: feces, urine, necessary closet paper, liquid house waste, and domestic garbage process by an approved disposal unit.

5-206

PENALTIES

- a) Notwithstanding any other provision of the revised Ordinances of the City of Bowdle, any person who violates Section 5-203(g), 5-203(p) or 5-205 shall be fined by the Court the sum of two hundred dollars (\$200.00) and Court costs. In addition, the Court may require the violator to reimburse the city for all costs incurred in cleaning or repairing any sewer lines affected as a result of a violation of this section. Costs incurred shall include any costs incurred by the city to accomplish remedial measures in the entire sewer system, including the wastewater lagoon, caused by a violation of this section.

- b) The city shall be, and hereby is, authorized and directed to institute legal action against any landowner violating this section to recover the costs of cleaning or repairing any sewer lines affected by a violation of this section. Costs incurred shall include any costs incurred by the city to accomplish remedial measures in the entire sewer system, including the wastewater lagoon, caused by a violation of this section.

5-207

SEWAGE RATES

Rates and charges for all users of the sanitary sewer system are contained within the Rates and Fee Schedule, which is set and amended by resolution.

Out of city users shall be charged two times the minimum rate of in city users.

Rates shall be applied to tourist pay camps monthly unless notified by the owner that said camp is unoccupied.

5-207.1

WASTEWATER SURCHARGE

The City of Bowdle designates the following as wastewater surcharges and shall be collected as part of the established sanitary sewer monthly minimum rates collected in accordance with Ord. 5-207 as captured and committed.

- a) Loan #C461205-05: The City of Bowdle designates \$6.40 of the established sanitary sewer monthly minimum rates collected in accordance with Ord. 5-207 as captured and committed. Said commitment is subject to adjustment from time to time as necessary to repay a \$750,000 Clean Water State Revolving Loan Fund (SRF) loan over a period of no more than thirty (30) years at an interest rate of three and one-quarter percent (3.25%), in accordance with the loan agreement to be entered into by the City of Bowdle and the SD Department of Environment and Natural Resources, the proceeds of which loan are to be used for the Wood and Walden Avenue Wastewater Improvements project. Such a surcharge shall be segregated from all other funds of the City of Bowdle, shall be and are hereby pledged to secure such a loan, and shall be used for no purposes other than for the repayment thereof. Said surcharge of \$8.80 was implemented and reflected with the May 01, 2012, utility billing; and, amended to \$6.40 to be implemented and reflected with the June 01, 2018, utility billing.
- b) Loan #C461205-07: The City of Bowdle designates \$5.80 of the established sanitary sewer monthly minimum rates collected in accordance with Ord. 5-207 as captured and committed. Said commitment is subject to adjustment from time to time as necessary to repay a \$605,000 Clean Water State Revolving Loan Fund (SRF) loan over a period of no more than thirty (30) years at an interest rate of two and one-half percent (2.5%), in accordance with the loan agreement to be entered into by the City of Bowdle and the SD Department of Environment and Natural Resources, the proceeds of which loan are to be used for the Southwest Bowdle Wastewater Improvements project. Such a surcharge shall be segregated from all other funds of the City of Bowdle, shall be and are hereby pledged to secure such a loan, and shall be used for no purposes other than for the repayment thereof. Said surcharge will be implemented and reflected with the June 01, 2018, utility billing; and amended to \$4.70 to be implemented and reflected with the June 01, 2022, utility billing.
- c) Loan #2013L-106: The City of Bowdle designates \$0.70 of the established sanitary sewer monthly minimum rates collected in accordance with Ord. 5-207 as captured and committed. Said commitment is subject to adjustment from time to time as necessary to repay a \$55,927 Consolidated Water Facilities Construction Program (CWFCP) loan over a period of no more than twenty (20) years at an interest rate of two percent (2%), in accordance with the loan agreement to be entered into by the City of Bowdle and the

SD Department of Agricultural and Natural Resources, the proceeds of which loan are to be used for the Northeast Wastewater System Improvements project. Such a surcharge shall be segregated from all other funds of the City of Bowdle, shall be and are hereby pledged to secure such a loan, and shall be used for no purposes other than for the repayment thereof. Said surcharge will be implemented and reflected with November 1, 2022, utility billing.

The City Council of the City of Bowdle reserves the right and authority to review and adjust the aforementioned sewer surcharge charges established by this ordinance through resolution of said City Council. (Amended 04/09/18 & 09/06/2022)

5-208 ANNUAL REVIEW OF COST OF SEWER OPERATION

The city shall annually conduct a review of the costs of operation and maintenance of the city sewer system. The city shall also annually review and revise as necessary the sewer use rates to ensure rate equity among the various users and to further ensure the availability of sufficient funds to adequately operate and maintain the sanitary sewer system of the city.

5-301 GARBAGE – DEFINITIONS

- a) Occupied Premises, defined: Any place of abode, dwelling, or any place of business or commercial activity, in operation, shall be prima facie evidence that garbage, trash, and refuse is being produced and accumulated on said premises and shall be the duty of the City of Bowdle, and its agents, officers, and employees, to inspect and supervise said premises and remove therefrom any and all garbage, trash, or refuse found thereon.
- b) Family Domestic Unit defined: A “family domestic unit”, for the purpose of this Ordinance, shall be deemed to be and mean any single independent family unit, irrespective of number of persons constituting such family.
Each independent family unit living in multiple dwelling residences, apartment houses, or any type of residence, including but not limited to trailer houses, shall each be deemed a family domestic unit for the purpose of this Ordinance. A rooming house that supplies lodging only for hire, and which does not serve meals to any lodger and does not permit cooking and eating on the premises, shall be deemed a one-family domestic unit for the purposes of this Ordinance.
- c) Commercial Units defined: A “commercial unit” for the purpose of this Ordinance, shall be deemed to be and mean any occupied premises other than family domestic unit.
- d) Commercial hauler defined: A “commercial hauler” for the purposes of this section shall be defined as any person who hauls or transports any garbage, trash, refuse, rubbish and waste material through or upon the streets or alleys of this City for a consideration or a fee, or as part of a business activity.

2001 Amended Ch.5, sect.a & b of original, Revised Ordinance #2001-13; 11/12/01.

5-302 REGULATION

- a) Accumulation of Garbage, Trash, or Refuse – Unlawful: Any accumulation of garbage, trash, or refuse on any premises, occupied or unoccupied in a manner other than that authorized by this Ordinance, within the limits of the City of Bowdle, is hereby declared to be a public nuisance and is prohibited.
- b) Unlawful Dumping: No garbage, trash, or refuse shall be stored or accumulated anywhere within the limits of the City of Bowdle in a manner other than authorized by this Ordinance or thrown or swept into any street, gutter, sewer, intake, alley, vacant lot, pond, or other property. Every occupied premises within the City of Bowdle shall

be responsible for the keeping of the sidewalks in front of any buildings or improvements located thereon, if any, free from any accumulation of all garbage, trash or refuse. Every property owner and occupant of every family, domestic unit or commercial unit shall, however, be authorized to keep and store garbage, trash and refuse in the manner defined by this Ordinance.

- c) Burning, unlawful: No garbage, trash, leaves or refuse of any kind shall be burned within the limits of the City of Bowdle, other than approved State regulated incinerators.
- d) Required Receptacles: To provide for the regular deposit of garbage, trash and refuse, as herein required, it shall be the duty of every owner, agent, lessee, renter, or purchaser of any occupied building, dwelling, or premises within the City of Bowdle, excepting commercial units, to provide forthwith, and maintain in good order, and in a clean and neat condition and state of repair, for the use of each such occupied premises, one or more, thirty (30) gallon garbage receptacles, with lids therefor.
 - 1. Trash and Refuse Requirements, Family Domestic Units: All garbage, trash and refuse shall be stored within the garbage receptacles until such time as it is collected. Any trash or refuse which is not hereafter specifically exempted but which is of such quantity or size that the trash receptacles will not contain shall be compressed, baled, or tied securely in bundles and stacked neatly beside the authorized trash receptacles for subsequent collection. Under no circumstances will loose or unbundled trash or refuse be collected.
 - 2. Commercial Units Requirements: To provide for the regular deposit of garbage, trash and refuse from commercial units, it shall be the duty of every owner, agent, lessee, renter, or purchaser of any occupied premises utilized as commercial unit to provide therewith and to maintain, in a good order, and in a neat and clean state of condition, for the exclusive use of each such commercial unit, not less than two (2) thirty (30) gallon fire proof garbage receptacles with lids therefor. In the event that the occupant of any commercial unit shall not provide the trash receptacles as provided hereinbefore, it shall be the responsibility of the owner of such premises to provide the required garbage receptacles. Provided further that in the event that a private contractor, as hereinafter provided, shall provide alternate receptacles, and in that event, the foregoing requirements for commercial units shall be inapplicable. All garbage, trash and refuse shall be stored within the authorized garbage receptacles, but in the event that certain trash or refuse is of such quantity or size so that it cannot be contained within the authorized garbage receptacles, it shall be baled, or securely tied in bundles and stored beside the authorized trash receptacles for subsequent collection. Under no circumstances will loose or unbundled trash or refuse be collected
 - 3. Location of Receptacles: All receptacles as hereinbefore required shall be located upon the premises of the family domestic unit or commercial unit, adjacent to public access. If said occupied premises are served by an alley or other public access other than a public street, said collection area and placement of garbage receptacles shall be within three feet (3') of the boundary line of said alley or public access way. Occupied premises having no alleys or access way other than a public street to the front thereof, shall temporarily place said garbage receptacles within three (3') feet of such street in front of said premises on such date and during such hours as set by the City Council of the City of Bowdle. Other than during such times, said receptacles shall be located to the rear of said

occupied premises within a screened area or otherwise hidden from a public view.

- e) Collections: Pursuant to South Dakota Codified Law and ARSD, the City of Bowdle shall regulate the manner of handling of garbage, trash, refuse, rubbish, and other waste material in the following manner:
2. Family Domestic Units: The City of Bowdle hereby specifically reserves unto itself the exclusive right to collect, remove and dispose of all garbage, trash, refuse and rubbish from all family domestic units within the corporate limits of said City; provided, however, nothing herein shall limit or prevent the City of Bowdle from making and entering into contracts with private persons licensed pursuant to 5-306 or other governmental subdivisions for the purpose of contracting for the collection, removal, and disposal of all garbage, or to obtain by contract, any and all services for which the City of Bowdle may be responsible by virtue of this Ordinance.
 3. Commercial Units: All commercial units shall make arrangements for disposal of their garbage, trash, refuse, rubbish, and waste material with a commercial hauler who has been licensed by the City of Bowdle pursuant 5-306.
2001 Revised Ordinance #2001-13, sect.e; 11/12/01.
- f) Private Contractors: The City of Bowdle shall be authorized upon the advertising and letting for bids, as provided for by law, to contract with private individuals, licensed pursuant to 5-306, for the removal of all or any specified part of any garbage, trash, or refuse, and upon such terms and for such periods as the City Council of Bowdle may obtain from the lowest and best possible bid or bidders therefore. Such contracts, however, shall not exceed a term of five (5) years.
2001 Revised Ordinance #2001-13, sect.f; 11/12/01.
- g) Public Contractors: Nothing herein shall be construed to, nor is the same intended to limit the right of the City Council of Bowdle, to make and enter into compacts, agreements, or contracts of any kind or character with other municipalities, compacts of other municipalities or other governmental sub-bodies for the purposes of fulfilling the function and duty, or to provide the services, the City of Bowdle is to provide pursuant to this Ordinance; the City Council of the City of Bowdle being authorized and empowered to enter into all such compacts, agreements or contracts with other municipalities or other political subdivisions, to contract for this purpose.
- All contracts or compacts entered into, however, with such other municipalities or other government subdivisions, shall require the resulting organization to otherwise comply with and conform its practices, services and operations to this Ordinance.
- h) Exceptions: The owners, lessees, renters, or purchasers, of any occupied premises within the limits of the City of Bowdle, in addition to the duties imposed by this Ordinance, shall be responsible for the removal, at their own sole cost and expense, to a Restricted Use Rubble Site or to such locations as may hereafter be designated by the City Council of the City of Bowdle, the following specified items of garbage, trash or refuse:
1. Discarded automobile parts, furniture, stoves, and appliances.
 2. Waste materials from slaughter packing houses, junk yards, tire shops, auto wrecking yards, and like waste materials.

3. Refuse from billboards and signs.
4. Christmas trees or tree waste.
5. Manure, other than light spread manure for application to lawns or gardens for fertilizing purposes; provided, however, manure is not being kept on any premises for any purpose or kept in piles for later use.
6. Building materials, all plaster, broken concrete, stone, wood, roofing material, wire or metal binding, sacks or loose and discarded or unused materials of all kinds resulting from the wrecking, construction, or reconstruction of any room, basement, wall, fence, sidewalk or building.
7. Dead animals, carcasses, or animal renderings.
8. Highly explosive or inflammable garbage, trash or refuse.
9. All other specific items of garbage, trash or refuse as may hereafter be designated as excepted wastes by the City Council of the City of Bowdle shall be, and hereby is authorized and empowered to permit persons subject to the foregoing exceptions to accumulate such wastes and to accumulate such wastes and to periodically dispose of the same, subject to reasonable terms and conditions as said City Council may, from time to time, impose.

Otherwise, such garbage, trash and refuse as hereinbefore specifically identified shall be removed by the owner, lessee, renter, purchaser or person in the possession and control thereof, within twenty-four (24) hours from the time such garbage, trash or refuse has come into being.

- i) Removal to Authorized Restricted Use Rubble Site; Except as otherwise provided in this Ordinance, the City of Bowdle, or such persons or subdivisions with whom it has contracted, is hereby required to dispose of all such garbage, trash or refuse at an authorized dump grounds and there to dispose of in the manner required by law. The deposit, dumping, collection, and other disposition of all garbage, trash and refuse within the limits of the City of Bowdle, at any other unauthorized area, is hereby declared unlawful.
- j) The City Council shall establish the days of the week and hours during which the Bowdle Municipal Rubble Site shall be open to the public for the disposal of lawful materials. At all other times, the Bowdle Municipal Rubble Site shall be locked to the public and it shall be unlawful to dispose of any materials at said rubble site other than the designated hours or to be on said premises at other than the designated hours.
- k) Property designated for the disposal of solid or liquid waste shall be in that fenced in portion of said grounds. It shall be unlawful for anyone to dispose of solid or liquid waste outside of said fence.
- l) Items accepted will be allowed according to State regulations for this type of facility.
- m) Persons violating this Ordinance shall be subject to a fine not to exceed two hundred dollars (\$200) or cost of removal or both.
- n) Ordinance shall be in effect and in force following its final adoption and publication in the official newspaper for the city.

5-303**CONDEMNATION**

Receptacles Which May Be Condemned: Every receptacle required under this Ordinance, which is not:

- a) So located as to conform to the requirements of this Ordinance.
- b) In conformity with easy access for the removal of refuse.
- c) Of tight construction as to exclude rodents and other animals and to prevent any contents thereof from being scattered by the wind or otherwise.
- d) So located as not to be obnoxious to occupants of adjacent buildings.

It is hereby declared to constitute a public nuisance, and as such shall, be condemned by the City Council of the City of Bowdle. Further, said City Council of the City of Bowdle is hereby authorized, upon three (3) days written notice, to order the demolition, replacement, or removal of condemned receptacles.

Other nuisances: Any violation of this Ordinance, or any subdivision thereof, is hereby declared to be contrary to the public welfare and a menace to the health and safety of the general public, and to that end, any violations of this ordinance is hereby declared to be a public nuisance.

5-304**SERVICE FEES AND COLLECTION THEREOF**

The City Council of the City of Bowdle is hereby authorized, empowered and directed, from time to time, to set by general resolution monthly service fees for the collection, hauling, and disposition of all garbage, trash and refuse; provided, however, separate fees shall be established for each of the following categories:

- a) Family domestic units.
- b) Commercial units.
- c) Restricted Use Rubble Site fees for the disposition of accepted garbage, trash, and refuse.

Collection – The monthly service fees, as determined by the City Council, shall be added to and collected as a part of all water bills sent out and utilized in the normal course of the operation of the City of Bowdle’s Water Department. Said service charge shall, however, be separately stated on such bills. Bills for charges pursuant to this Ordinance shall be due and payable each month at the same time as the water billing.

If such charge is not paid when due, the water service to the occupied premises may be terminated by the City of Bowdle in the same manner as provided for in the event of delinquent water and sewer charges, and such water service shall not be restored until the charge in question has been paid in full, together with any penalty otherwise provided for by this Ordinance.

Special Billing – In any situation wherein garbage service must be furnished to any person, who is not obtaining water service, said individuals shall be billed on a monthly basis or upon such other basis as the City Council may, by resolution, establish.

5-305**SEVERABILITY**

Severability – If any provision of this Ordinance is declared unconstitutional, or applicability thereof to any person or circumstance is held unconstitutional, the remainder of this Ordinance and the applicability thereof to other persons or circumstances shall not be affected.

5-306

LICENSE REQUIRED

It shall be unlawful for a commercial hauler to haul or transport any garbage, refuse, rubbish, trash, or waste material through or upon any street or alley of this City without first having obtained a license to perform such services from the City of Bowdle.

- a) Application for License: The application for a license required by the provisions of this chapter shall be filed at the office of the municipal Finance Officer.
- c) Amount of Fee: The annual fee of the license shall be determined by the City Council by the adoption of a resolution.
- c) Approval Required: Before any license shall be issued under the provisions of this chapter, the same shall first be approved by the City Council.
- d) Financial Assurance: Prior to issuance of said license, the commercial hauler shall provide financial assurance in the form of a bond, letter of credit, certificate of deposit or other assurance acceptable to the City of Bowdle in amount to be established by resolution of the City Council to assure performance in conformity with federal, state and local regulations.
- e) Proof of Insurance: Prior to the issuance of said license, the commercial hauler must provide proof of liability and workers' compensation insurance. Thereafter, proof of insurance shall be provided annually on or before December 31st of each year to the City Finance Officer.
- f) Indemnification: As part of the license agreement, the commercial hauler shall indemnify the City against and hold the City harmless from any expense, liability and claims of any kind or character arising out of either the commercial hauler's failure to follow all federal, state, city and landfill regulations or arising out of any injury or damage occurring during the course of his conducting his business.
- g) Landfill Contractor: Prior to issuance of said license, the commercial hauler shall provide proof of a contract to haul to a landfill certified by the state and authorized by the City.
- h) Transfer: No license issued under the provisions of this chapter shall be transferable.
- i) Expiration: Every license issued under the provisions of this chapter shall be reviewed for renewal or expiration on or before the thirty-first (31st) day of December following its date of issuance.
- j) Display of License: A copy of the license issued under this chapter shall be displayed on/in each vehicle licensed at all times.
- k) Licenses Generally: Licensed commercial haulers shall provide themselves with suitable vehicles which shall be watertight and shall be permanently covered on top so as to prevent the escape of odors or contents and so as to hide the garbage from the public view. Such vehicles shall be thoroughly washed at such times as may be directed by the City of Bowdle or as may be necessary to keep vehicles in proper sanitary condition. Such vehicles when conveying garbage shall be so loaded and

unloaded that the contents shall not fall or spill upon the ground. No article or item shall be carried on such a vehicle so as to drag upon the street. All vehicles used for the collection of garbage shall be equipped with an all-metal box, which shall otherwise comply with the requirements hereof. All metal boxes shall be equipped with metal doors, which shall be in a closed position when the truck is in motion.

- l) Loading of Vehicles: Vehicles used for transporting garbage, trash, rubbish, and waste material to sanitary landfill shall be so loaded that no material shall fall off or be blown off the vehicle while in transit.
- m) Revocation: Any license issued under the provisions of this chapter may be revoked by the City Council for the violation by the licensee of any applicable provision of state law or city ordinance, rule, or regulation.
- n) Frequency of garbage collection: Collections from family domestic units shall be at least once a week. Collections from commercial units shall be frequent enough so as to avoid unsanitary conditions.
- o) Reporting of weights: All licensed commercial haulers will report to the City Finance Officer, on a monthly basis, the total weight and/or tonnage of garbage, trash, rubbish, and waste materials collected within the City of Bowdle for every calendar month. Each hauler will provide certified scale weigh tickets, or other form of certified weight measures deemed acceptable by the City, for garbage collected within the City, on or before the 10th of every calendar month for the previous month's garbage collections.

2001 Revised Ordinance #2001-13, sect.f; 11/12/01.

CHAPTER 6

SALES AND GROSS RECEIPTS TAXES

Repeal of Chapter 6 adopted 1995
Revised Chapter 6, 09/22/03 – effective January 1, 2004
Ord #2012-09, Adopting Section 6-200, 08/06/12
Ord. #2020-04, Amending Section 6-200, 08/03/20

- 6-101 PURPOSE**
The purpose of this Ordinance is to provide additional needed revenue for the Municipality of Bowdle, Haakon County, South Dakota, by imposing a municipal retail sales and use tax pursuant to the powers granted to the municipality by the State of South Dakota, by SDCL 10-52 entitled Uniform Municipal Non-Ad Valorem Tax Law, and acts amendatory thereto.
- 6-102 EFFECTIVE DATE AND ENACTMENT OF TAX**
From and after the First day of January, 2004, there is hereby imposed as municipal retail occupational sales and service tax upon the privilege of engaging in business a tax measured by two percent (2%) on the gross receipts of all persons engaged in business within the jurisdiction of the Municipality of Bowdle, Haakon County, South Dakota, who are subject to the South Dakota Retail Occupational Sales and Service Tax, SDCL 10-45 and acts amendatory thereto. Tax will not be applied to items specifically exempt under SDCL 10-52-2.6, 10-52-11 and 10-52-12. Items exempted from municipal tax include Farm Machinery and Irrigation Equipment, Parts or Repairs for Farm Machinery, Agriculture Animal Health Products and Medicine, Transportation Service, Collection and Disposal of Solid Waste, Veterinarian and Animal Specialty Services and Air Transportation.
- 6-103 USE TAX**
In addition there is hereby imposed an excise tax on the privilege of use, storage and consumption within the jurisdiction of the municipality of tangible personal property or services purchased from and after the First of January, 2004, at the same rate as the municipal sales and service tax upon all transactions or use, storage and consumption which are subject to the South Dakota Use Tax Act, SDCL 10-46, and acts amendatory thereto.
- 6-104 COLLECTION**
Such tax is levied pursuant to authorization granted by SDCL 10-52 and acts amendatory thereto, and shall be collected by the South Dakota Department of Revenue and Regulation in accordance with the same rules and regulations applicable to the State Sales Tax and under such additional rules and regulations as the Secretary of Revenue and Regulation of the State of South Dakota shall lawfully prescribe.
- 6-105 INTERPRETATION**
It is declared to be the intention of this ordinance and the taxes levied hereunder that the same shall be interpreted and construed in the same manner as all sections of the South Dakota Retail Occupational Sales and Service Act, SDCL 10-45 and acts amendatory thereto and the South Dakota Use Tax, SDCL 10-46 and acts amendatory hereto, and that this shall be considered a similar tax except for the rate thereof to that tax.
- 6-106 USE OF REVENUE**
Fifty percent (50%) of the gross revenues generated from the tax increase received under this ordinance may be used for capital improvement as authorized under SDCL 10-52-2.
- 6-107 REPEAL OF EXEMPTIONS**
Effective January 1, 2006, items specifically exempt under SDCL 10-52-2.6, 10-52-11, 10-52-12 and 10-52-14 shall no longer be exempt and upon those previously exempted there is hereby imposed as a municipal retail occupational sales and service tax upon the privilege

of engaging in business a tax measured by two percent (2%) on the gross receipts of all persons engaged in business within the jurisdiction of the Municipality of Bowdle, Haakon County, South Dakota, who are subject to the South Dakota Retail Occupational Sales and Service Tax, SDCL 10-45 and acts amendatory thereto.

6-108 PENALTY

Any person failing or refusing to make reports or payments prescribed by the ordinance and the rules and regulations relating to the ascertainment and collection of the tax herein levied shall be guilty of a misdemeanor and upon conviction shall be fined not more than \$200 or imprisoned in the municipal jail for thirty (30) days or both such fine and imprisonment. In addition, all such collection remedies authorized by SDCL 10-45, and acts amendatory thereto and SDCL 10-46 and acts amendatory thereto are hereby authorized for the collection of these excise taxes by the Department of Revenue and Regulation.

6-109 SEPARABILITY

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

2003 Revised Ordinance #2003-08 Chapter 6, section 101-109, 09/22/03.

SECTION 6-200 DISCRETIONARY TAXATION OF REAL PROPERTY, DEFINITIONS AND FORMULA, NEW CONSTRUCTION, AND/OR RENOVATIONS

(Approved and adopted to be effective with the taxing period from November 01, 2011 through October 31, 2012 and be reflected with the taxes payable effective January 01, 2013 and each successive taxation year thereafter unless repealed by the City Council of the City of Bowdle, South Dakota. *Amended 8/3/2020, 8/2/2021 & 8/1/2022.)

6-200 DISCRETIONARY TAXATION OF REAL PROPERTY

The purpose of this Ordinance is to provide reduced taxation of the following identified properties pursuant to SDCL 10-6-137.

6-200.1 INDUSTRIAL STRUCTURES

Any new industrial structure, or any addition, renovation, or reconstruction to an existing structure, including a power generation facility, which new structure or addition has a true and full value of thirty thousand dollars (\$30,000) or more, added to real property shall qualify to be assessed pursuant to the discretionary formula described in Section 6-202. *((Pursuant to SDCL 10-6-137(2))*

6-200.2 COMMERCIAL STRUCTURES

Any new commercial structure, or any addition, renovation, or reconstruction to an existing structure, containing four or more units, if the new structure or addition has a true and full value of thirty thousand dollars (\$30,000) or more shall qualify to be assessed pursuant to the discretionary formula described in Section 6-202. *((Pursuant to SDCL 10-6-137(5))*

6-200.3 COMMERCIAL RESIDENTIAL STRUCTURES

Any new commercial residential structure, or addition to an existing structure, which new structure or addition has a true and full value of thirty thousand dollars (\$30,000) or more, added to real property located within the Corporate limits of the City of Bowdle, South Dakota, shall qualify to be assessed pursuant to the discretionary formula described in Section 6-202. For the purposes of this section, a commercial residential structure

shall

contain four or more units. *((Pursuant to SDCL 10-6-137(5))*

6-200.4 RESIDENTIAL STRUCTURES

Any new residential structure, or any addition to or renovation of an existing structure,

located within a redevelopment neighborhood, which new structure, addition, or renovation has a true and full value of twenty thousand dollars (\$20,000) or more, added to real property shall qualify to be assessed pursuant to the discretionary formula described in Section 6-202. *((Pursuant to SDCL 10-6-137(7))*

In order to improve the quality of housing, all real property located within the Corporate limits of the City of Bowdle, South Dakota shall qualify as property located in a redevelopment neighborhood. The redevelopment neighborhood is being established because the area includes buildings or improvements which, by reason of age, deterioration, obsolescence, and dilapidation injuriously affect the area to the detriment of public health, safety, morals or welfare; and, because the redevelopment of housing is being prevented by the predominance of defective or inadequate street layout, faulty lot layout in relation to size, adequacy, accessibility, or usefulness; the deterioration of site improvements, and obsolete platting. *(Pursuant to SDCL 10-6-141)*

6-200.5

SPECIAL CLASSIFICATIONS

more

All commercial, industrial, and non-residential agricultural property which increases

than ten thousand dollars (\$10,000) in true and full value as a result of reconstruction or renovation of structure shall qualify to be assessed pursuant to the discretionary formula described in Section 6-202. All real property qualifying under this section was completed on November 01, 2020, and thereafter, as determined by the Director of Equalization, is classified in the manner prescribed in this section. *((Pursuant to SDCL 10-6-137(8))*

6-201

VALUATION

Any real property located within the Corporate limits of the City of Bowdle, South Dakota, classified pursuant to the following, shall, following construction, initially be valued for taxation purposed in the usual manner, and that value shall be referred to as the "Pre-Adjustment Value." The assessed value to be used for tax purposes shall follow the discretionary formula described in section 6-202. Following the five- or seven-year period as provided in section 6-202, the property shall be assessed at the same percentage as is all other property for tax purposes.

Reconstruction and renovation as used in this chapter means only improvements that increase the true and full value of the structure and shall not include normal maintenance and repair.

The assessed value during any of the five or seven years provided in section 6-202 may not be less than the assessed value of the property in the year proceeding the first year of the tax years following construction.

Any structure that is partially constructed on the assessment date may be valued for tax purposes pursuant to this Ordinance and the valuation may not be less than the assessed valuation of the property in the year preceding the beginning of construction.

Property owners of any of the above-described property, may request the City Council not apply the discretionary formula, in which case the full assessment shall be made without application of the formula. In waiving the formula for the structure of one owner, the City Council is not prohibited from applying the formula for subsequent new structures by that owner.

6-202

DISCRETIONARY FORMULA

Any real property improvements qualifying for the discretionary formula pursuant to sections 6-200.1, 6-200.2 and 6-200.5 shall be assessed as follows:

First Year	20% of Pre-Adjustment Value
Second Year	40% of Pre-Adjustment Value
Third Year	60% of Pre-Adjustment Value
Fourth Year	80% of Pre-Adjustment Value
Fifth Year	100% of Pre-Adjustment Value

Any real property improvements qualifying for the discretionary formula pursuant to sections 6-200.3 and 6-200.4 shall be assessed as follows:

First Year	15% of Pre-Adjustment Value
Second Year	25% of Pre-Adjustment Value
Third Year	35% of Pre-Adjustment Value
Fourth Year	50% of Pre-Adjustment Value
Fifth Year	60% of Pre-Adjustment Value
Sixth Year	75% of Pre-Adjustment Value
Seventh Year	100% of Pre-Adjustment Value

6-203

EFFECTIVE DATE

This Ordinance is effective with the taxing period from July 01, 2021, through October 31, 2022, and shall be reflected with the taxes payable effective January 01, 2023, and each successive taxation year thereafter unless repealed by the City Council of the City of Bowdle, South Dakota.

Pursuit to SDCL 10-6-140, any real property receiving benefit from the previously adopted Discretionary Taxation Ordinance will continue to be assessed and taxed through the course of the said discretionary formula.

CHAPTER 7

STREETS AND SIDEWALKS

Revised Chapter 7, Ordinance #2008-01, Adopted 04/07/08
Sections of Chapter 7 Revised, Ordinance #2013-16, Adopted 12/02/13

7-101 DEFINITIONS

- a) Public Property or Area – All lands and real property owned by the City of Bowdle, South Dakota, including areas dedicated to the City for public use such as parks, streets, alleys, boulevards, etc.
- b) Boulevard – That area of public or publicly dedicated property included within the definition of “Public Property or Area” commonly found between the street and platted public right-of-way which in some instances is the inner edge of the sidewalk. In areas where there are curbs, it is defined as the platted public right-of-way from the back of the curb to the property line or the inner edge of the sidewalk. In areas without curbs, it is defined as the platted public right-of-way from the street to the property line or the inner edge of the sidewalk. (Refer to Ord. 7-101(d) for definition of edge.) When used herein, the term shall include all such property whether a sidewalk exists or not.
- c) Private Property – All property not constituting public property.
- d) Edge – The term “outer edge” shall be construed to be the edge nearest to the center of the street or alley, and the term “inner edge” shall be the edge furthest from the center of the street or alley.

7-102 OBSTRUCTING STREETS, SIDEWALKS, AND PUBLIC PLACES

No person shall obstruct any street, alley, sidewalk, or public place in the city in any manner, except as hereinafter provided.

7-103 RECEIVING GOODS OR MERCHANDISE

Any person receiving or delivering any goods or merchandise may place such merchandise on the edge of the sidewalk in front of his business for a period not to exceed three hours.

7-104 MATERIAL STORAGE - PERMITS

The Street Public Works Director may grant permission, in writing, to any person to deposit and keep materials for building along the edge of any public street adjacent to the building to be erected or repaired for a period of time not exceeding three months. Such material shall not obstruct or occupy more than one-third of the width of any sidewalk, street, or road and shall not impede the free flow of water in the gutter.

7-105 USE OF STREETS AND SIDEWALKS

No streets, alleyways, or sidewalks may be used in a fashion as to endanger or impede vehicular or pedestrian traffic.

7-105.1 CLEARANCE OF OVERHANGING PROJECTIONS OVER STREETS AND SIDEWALKS

Minimum clearance of overhanging projections over streets and sidewalks within the city shall be maintained. Sidewalk awnings and canopies shall have a minimum clearance of eight (08) feet. All signs shall have a clearance of ten (10) feet above the sidewalk and shall not extend beyond the outer edge of the sidewalk. For overhanging trees refer to Ordinance #3-303.2 (b). All other overhanging projections shall have a minimum clearance of ten (10) feet above the sidewalk and sixteen (16) feet above the streets.

- 7-105 PLANTING AND MAINTENANCE OF TREES, SHRUBS AND BUSHES**
The planting and maintenance of trees, shrubs, and/or bushes on any private property within the boundaries of the City of Bowdle, South Dakota shall meet the following requirements:
- 7-106.1 PLANTING**
- a) Trees, shrubs, and/or bushes must be planted at least three (03) feet from the property line on the side and rear yards when there is no street or alley abutting said property line. Refer to Ordinance #3-303 for planting regulations abutting public rights of way (streets, alleys, boulevards, etc.).
 - b) All trees, shrubs and/or bushes must be planted at least ten feet (10') from any fireplug or water hydrant.
 - c) No trees, shrubs and/or bushes shall be planted so that its natural growth will eventually interfere with any above ground utility wire.
 - d) No trees, shrubs and/or bushes shall be planted within five feet (5') of any underground water, sewer or other utility line.
- 7-106.2 MAINTENANCE**
- a) All trees, shrubs and/or bushes that have been identified as dead, diseased, broken, decaying or otherwise containing dangerous limbs and branches which pose a potential health hazard of danger to the public must be removed.
 - b) All trees, shrubs and/or bushes within the City limits of the City of Bowdle, South Dakota must be maintained at a height and in an area where such plants will not obstruct a clear vision of intersecting roadways or otherwise constitute a traffic hazard. (Cross reference 3-303.2)
- 7-106.3 PROPERTY OWNER AND/OR OCCUPANTS RESPONSIBILITIES**
- a) Every owner and/or occupant of property within the City of Bowdle, South Dakota, shall be responsible for the proper maintenance, care and pruning of all trees as defined in Ordinance #7-106.2 on their respective properties and when necessary, the removal of dead, diseased or otherwise dangerous trees or parts thereof.
 - b) The City and its representatives shall have the jurisdiction and authority to identify any trees, shrubs, and/or bushes in violation of any of the provisions of Ordinance #7-106.2 and notify the property owner in writing of said violation of ordinance. The property owner will be given a minimum of thirty (30) days to correct the violation by pruning, trimming, or removing the tree, shrub and/or bush. If the problem is not corrected within the thirty (30) daytime frame, the City will have the violation corrected at the property owner's expense. (Cross reference Ordinance 3-303.2)
- 7-107 RESERVED**
- 7-108 EAVES PIPES**
No person shall place or maintain any pipe, leading from the eaves of any building, in such a position that the water discharge thereby may flow upon or over any public sidewalk.
- 7-109 BURNING ON CITY STREETS**
It shall be unlawful for any person to burn leaves or other material on any city street.
- 7-110 REMOVAL**
Any obstruction or sign, which is placed in violation of these provisions, may, after ten days written notice, be removed by the city at the owner's expense.

7-111 PARADES, ASSEMBLIES AND SPECIAL EVENTS

7-111.1 DEFINITIONS

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

- a) Activity – A parade or public meeting or assembly or special event.
- b) Funeral Procession – A single direct movement from a funeral to the place of burial of a human body, under direction of an authorized funeral director.
- c) Parade – A march or procession of any kind.
- d) Public Meeting or Assembly – A planned or organized gathering of a group of persons, or any ceremony, show, exhibition or pageant which may reasonably be expected to result in the gathering of a group of more than ten (10) person, upon any public street, sidewalk, park or other public property.
- e) Special Event – A community activity or activities that involve the use of public facilities, buildings, streets, sidewalks, or property.
- f) Use – To construct, erect, or maintain in, on, over or under any street, right-of-way, park or other public place, any building, structure, sign, equipment or scaffolding, to paint, spray or write on the surface of a public right-of-way thereof, or to otherwise occupy in such a manner as to obstruct the normal public use of any public street, right-of-way, park or other public property within the city, including any use related to parade or special events.

7-111.2 PERMIT REQUIRED

It is unlawful for any person to hold, manage, conduct, aid, participate in, form, start or carry on any parade, public meeting, assembly or special event, as defined in this chapter, in or upon any public street, park or other public property in the city unless and until a permit to conduct such meeting, assembly, parade or special event has been obtained in compliance with the provisions of this chapter, except as herein provided.

7-111.3 EXCEPTIONS

This chapter shall not apply to any of the following:

- a) Funeral or wedding processions.
- b) A governmental agency acting within the scope of its functions.
- c) Students going to and from school classes or participating in educational activities, providing such activity is authorized by the school district and is under the immediate direction and supervision of the school authorities authorized by the school district to approve and supervise such activity.

7-111.4 APPLICATION

Application for permits must be in writing on a form obtained from the city finance office and shall be filed not less than forty-five (45) days prior to the proposed activity. Late applications may be accepted if filed sufficiently in advance of the date of the proposed activity to enable the city council adequate time to determine that the activity will meet the requirements set forth in Section 7-111.5.

Application shall set forth the following information:

- a) The name, address and telephone number of the person requesting the permit. If the activity is proposed to be conducted for, on behalf of, or by any organization, the name, address and telephone number of the organization's headquarters and leader shall be provided.

- b) The name, address, and telephone number of the person(s) who will be directly in charge of and responsible for the event or parade.
- c) The purpose of the event or parade.
- d) The date, time and location or route of the event or parade.
- e) The approximate number of persons who will participate; and the number of kinds of vehicles, equipment and animals which will be used.
- f) Plans for the assembly and dispersal of the event or parade, including times and locations thereof; and,
- g) Such other relevant information as the Mayor, City Council and/or Chief of Police may request for investigation of the application.

7-111.5 FINDINGS REQUIRED

The city council shall issue a permit as provided for hereunder when, from consideration of the application and from such other information as may otherwise be obtained:

- a) The conduct of such activity will not interrupt the safe and orderly movement of other traffic.
- b) The concentration of persons, animals and vehicles will not unduly interfere with proper fire and police protections of, or ambulance service to, areas where the activity will take place or areas contiguous to such areas.
- c) The conduct of such activity will not unduly interfere with the movement of firefighting equipment enroute to a fire, or the movement of other emergency equipment.
- d) The conduct of such activity is not likely to cause injury to a person or property.
- e) There will be adequacy of applicant supervision for the proposed activity.
- f) Such activity is not to be held for the sole purpose of advertising the goods, wares, or merchandise of a particular business establishment or vendor.

7-111.6 CONDITIONS TO PERMIT

The City Council shall have the authority to impose such conditions as are necessary to ensure that all of the findings mentioned in Section 7-111.3 exist during the continuation of the activity.

7-111.7 PRIOR APPLICATION

If a prior permit application shall have been made for an activity proposed to be held at the same time or place, the City Council may refuse approval of the later application. In case of such refusal, the applicant shall be provided a written notice that he or she may apply of an alternate time and place.

7-111.8 NOTICE OF ISSUANCE OR DENIAL – APPEAL

The City Council shall act upon the permit application at its next meeting following receipt of the notice contingent upon meeting the filing requirements in 7-111.4. If the permit is denied, the Finance Office shall mail to the applicant within three days of the Council's decision, a notice of the denial and the reasoning.

7-111.9 APPEAL PROCEDURE

The applicant shall have the right to appeal the denial of a permit to the City Council. A notice of the appeal shall be filed with the City Finance Office within seven days after the mailing of the notice of the denial. The City Council shall act upon the appeal at its next meeting following receipt of the notice of appeal.

7-111.10 CONTENTS OF PERMIT

Conditions to the issuance of any permit shall be set forth in the permit.

7-111.11 DUTY OF PERMITTEE

A permittee hereunder shall comply with all the terms and conditions of the permit and with all applicable laws and ordinances.

7-111.12 REVOCATION OF PERMIT

The Chief of Police, under the direction of the Mayor and City Council, may revoke any permit issued hereunder upon the failure of the permittee to comply with the terms and conditions of the permit or if the activity, because of the manner in which it is being conducted, or for any other reason, is jeopardizing those elements of the public safety or welfare set forth in Section 7-111.5.

7-111.13 PUBLIC CONDUCT DURING A PARADE, ASSEMBLY OR SPECIAL EVENT

- a) It is unlawful for any person to unreasonably obstruct, impede or interfere with any parade or public meeting or assembly or special event or with any person, vehicle or animal participating in such a parade, meeting, assembly or special event for which a permit has been granted in accordance with the herein provisions.
- b) The chief of police shall have the authority, when necessary, to prohibit or restrict the parking of vehicles along a highway or part thereof constituting part of the parade route. The chief of police shall post signs to such effect, and it is unlawful for any person to park or leave unattended any vehicle in violation thereof.

7-111.14 HOLD HARMLESS AND INSURANCE

Any permittee shall, with their application, acknowledge a hold harmless clause where the permittee using the public property agrees to hold the city harmless from loss. Any activity in this section where alcohol is permitted to be consumed, sold, and/or served shall also show proof of general liability insurance in the amount of not less than one million dollars (\$1,000,000).

7-201 PERMIT REQUIRED FOR EXCAVATIONS

- a) Any person, with the exception of utility companies (as defined in Subsection B), who shall make or cause to be made, any excavation within the City of Bowdle, must first obtain a building/excavation permit with the Public Works Director authorization and contact South Dakota One Call.
- b) Utility companies who shall make or cause to be made, any excavation within the City of Bowdle, must contact South Dakota One Call prior to any excavation. Utility companies include electric cooperatives, telephone companies, cable companies, propane companies, fuel oil companies, and the City of Bowdle.

7-201.1 EXCAVATION REPAIRS

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

7-202 EXCAVATION BARRIERS

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

No open trench shall be left open for any more time than considered absolutely necessary or reasonable.

7-203 BOND OR DEPOSIT REQUIRED

The Building Committee and/or Public Works Director may require, prior to approving a permit, a deposit of money or bond sufficient to cover the cost of refilling the excavation and putting the street, sidewalk, or public ground in the same condition as prior to the excavation.

7-204 DEPOSIT FORFEITED

If at any time within a year of permit issuance the Building Committee and/or Public Works Director determines that the work has not been properly refilled, he shall cause such work to be put in proper condition and charge the cost to the sum deposited or the sureties on the bond. The deposit shall be returned upon certification by the Public Works Director that all work required has been performed satisfactorily.

7-301 DISPOSAL OF ICE AND SNOW

It shall be the duty of the owner or person in possession of any property abutting on any sidewalk to keep such sidewalk free of ice and snow and to cause any accumulated snow to be removed within twenty-four (24) hours after the termination of any snowfall, or snow accumulation. When it is impossible to remove the ice from such walk, the occupant shall sprinkle some suitable material upon same to prevent the walk from becoming slippery and dangerous to travel.

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

7-302 CITY MAY REMOVE SNOW AT EXPENSE OF OWNER/OCCUPANT

In the event any owner or person in possession of any property shall neglect, fail to, or refuse to remove such snow or ice within the time provided, the Public Works Director may have such snow removed with the costs to be assessed against the abutting property owner. (SDCL 9-30-5)

7-401 PERMIT – DRIVEWAY, SIDEWALK, CURB & GUTTER CONSTRUCTION

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

7-402 DRIVEWAY APPROACHES

No driveway approaches shall protrude or extend into the streets beyond the curb line, unless otherwise authorized by the City Council. Concrete driveway approaches shall be four-inch Portland Cement Construction, with the slope gradual to accommodate modern

vehicles. On gravel thoroughfares, driveway approaches constructed shall permit flow of surface water without drainage interference and shall permit proper blading and maintaining of streets.

All private driveways shall be constructed at the owner's expense and equipped with a drainpipe of not less than twelve inches to carry off the water and shall be kept open by the owner or occupant of the premises. The City Council may direct driveway approaches be constructed and the cost assessed against any abutting property owner per SDCL.

7-403 SIDEWALKS

Sidewalk construction shall include base materials of at least two inches in thickness, of approved materials. Sidewalks shall be no less than four inches in thickness (the use of standard two-by-four form boards shall be acceptable), of Portland Cement Construction, and not less than five feet wide in residential areas, with slope toward street at one-fourth inch per foot. (Cross reference Ord. 7-406)

When considered necessary and advisable for the peace, welfare, safety of the people, and/or when curb and gutter is installed, the City Council may direct that a new sidewalk be constructed and assessed to any abutting property owner in accordance with SDCL.

7-403.1 SIDEWALKS FOR NEW RESIDENTIAL OR NEW COMMERCIAL CONSTRUCTION

Any owner of real estate, located within the corporate limits of the City of Bowdle, upon which is to be built new residential or new commercial construction, shall have constructed within twelve (12) months after the issuing of the building permit for such construction, sidewalks meeting the specifications contained Chapter 7 herein. This Ordinance shall not apply to construction projects limited to the addition of a garage or storage shed, or projects consisting of remodeling an existing structure or adding an addition to an existing structure, so long as said addition measures fewer square feet than the original structure.

7-403.2 REPAIRS

Every owner of a lot adjacent to a sidewalk shall keep such in repair and any owner who shall fail to keep the sidewalk in repair when notified shall be liable to the City for any damage caused by neglect.

7-403.3 FAILURE TO REBUILD OR REPAIR

Whenever the Council shall deem it necessary to repair or rebuild any sidewalk, they shall notify the owner of the adjacent lot to rebuild or repair the sidewalk at his own expense within the time designated.

If such sidewalk is not repaired or rebuilt in the manner and time designated, the Council by resolution may cause the same to be repaired and the costs thereof shall be assessed against the owner of the adjacent lot abutting such sidewalk.

7-404 CURB AND GUTTER

Curb and gutter shall be of Portland Cement Construction, not less than 3,000 PSI, with curb six inches in width, and extending six inches above the gutter. Gutter shall be of six and one-half inch in thickness, extending twenty-four inches into the street. The City Council may direct the curb and gutter be constructed at the cost assessed against any abutting property owner per SDCL. (Cross Reference Ord. 7-406)

7-405 BARRIER FREE CONSTRUCTION
Handicap accessibility curb ramps shall be installed at all crosswalks, in both business and residential areas, when making new installations of sidewalks, curbs or gutters, or improving or replacing existing sidewalks, curbs or gutters, so as to make the transition from street to sidewalk easily negotiable for handicapped persons in wheelchairs and for blind persons. All such ramps shall be constructed or installed in accordance with design specifications according to the most current American National Standards Institute or according to the Americans with Disability Act specifications. (SDCL 9-46)

7-406 CONFORMITY WITH EXISTING INSTALLATIONS
Where a sidewalk, curb or gutter has previously been installed, all additional sidewalks, curbs or gutters shall be constructed of concrete and shall conform to existing installations and shall be so constructed that the top surface thereof is on the same plane as existing installations.

7-406.1 NON-CONFORMING DRIVEWAY, SIDEWALK, CURB AND GUTTER
Every driveway, sidewalk, curb and gutter hereafter constructed, which does not conform to the provisions hereof, shall be rebuilt by the owner of the adjacent lot, at his own expense, within a time designated in the notice given by the City.

7-407 NARROW STREETS AND ALLEYS
Where a sidewalk, curb, or gutter is constructed in a street or in an alley less than one hundred feet in width, such sidewalk, curb or gutter shall be constructed as herein provided, except that the distance from the center of such street or alley shall be prescribed by resolution of the Council upon application made for a permit.

7-501 DESIGNATION OF ADDRESS
Following generally accepted rules of address assignment, the City of Bowdle, South Dakota shall assign official street and road names and shall issue physical addresses to every dwelling unit, place of business or other locations, as deemed necessary within the corporate limits of the City of Bowdle, South Dakota.

7-502 POSTING OF DESIGNATED ADDRESSES

- a) The owner or person in charge of any dwelling, building or business to which a physical address has been assigned, as well as the occupant of the same, will be notified by the City of Bowdle, South Dakota of the address assigned.
- b) Within fourteen (14) days after the receipt of such notification, the owner or person in charge of the structure to which an address has been assigned, or the occupant must affix the assigned building number (address) to the structure, if the structure is visible from the named roadway, or to a sign post if the structure is not visible from the named roadway. In this case, the assigned address must be posted where the driveway leading to the addressed structure intersects with the named road. In either case, the assigned address must be clearly visible from the named roadway. The property owner, occupant or person in charge of the structure shall pay for costs and installation of the numbers.
- c) It shall be the duty of such owner, occupant, or person in charge thereof, upon affixing the new number; to remove any different number(s) which might be mistaken for, or confused with, the number assigned to said structure.

- d) Each principle building shall display the assigned address to the frontage on which the front entrance is located. In case a principal building is occupied by more than one (01) business or family dwelling unit, each separate dwelling or unit must display a separate address.
- e) Numbers shall read horizontally from left to right or vertically from top to bottom, shall be in plain, block vertical (not slanted), and of good proportion. Numbers indicating the official address of each principle building or each front address to such building shall be posted in a manner as to be legible and distinguishable from the roadway on which the property is located. The numbers shall be boldly contrasting in color to the building to which they are attached and shall be of a height not less than four (4"). If a building or dwelling is situated in such a way that the address cannot be easily seen from the roadway in front of said structure, then a sign or address post must be placed at the entrance of the primary driveway. Said sign or address post shall be placed in such a way that it can easily be seen from the roadway, in addition to the numbers attached to the building. The numbers on the sign or address post shall be boldly contrasting in color to the background to which attached, shall read horizontally from left to right or vertically from top to bottom, shall be in plain, block vertical (not slanted), of good proportion, and shall be of a height not less than four inches (4").
- c) The owner or occupant or person in charge of any house or building, shall continually maintain the assigned numbers/letters in such a manner and location so the assigned numbers/letters are legible and distinguishable from the roadway on which the property is located.

7-503

PENALTIES

A fine, not to exceed \$50.00, shall be imposed in the event that the owner, occupant, or person in charge of any house or building refuses to comply with the terms of this ordinance by:

- a) Failing to affix the address assigned within fourteen (14) days after notification, or
- b) Failing to remove any old numbers affixed to such structure or primary driveway or elsewhere, which may be confused with the address assigned thereto within fourteen (14) days after notification, or
- c) Failing to maintain the assigned numbers in a manner so the assigned numbers are legible and distinguishable from the roadway on which the property is located.

Each day in violation constitutes a separate offense.

7-600

PRIVATE STRUCTURES PROHIBITED IN THE PUBLIC RIGHTS-OF-WAY

- c) It is unlawful for any person to erect, build, construct, deposit, or place on or in any street, or any place where the public has the right of passage, in the public right-of-way, any building, structure, mailbox, or obstruction of any kind whatsoever.
- d) That any building, structure, or mailbox placed in the right-of-way in violation of this Ordinance is hereby declared to be a public nuisance.
- e) That violation of this Ordinance shall be a Class 2 misdemeanor.
- f) That this Ordinance does not apply to any traffic control device or traffic sign.

CHAPTER 8

TRAFFIC REGULATIONS – GENERAL PROVISIONS

8-101 DEFINITIONS

- a) *"Vehicle"*: every 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; including bicycles and ridden animals per current South Dakota Codified Law.
- b) *"Motorcycle"*: every motor vehicle designed to travel on not more than three wheels in contact with the ground, except any such vehicle as may be included within the term "tractor" as herein defined by current South Dakota Codified Law.
- c) *"Motor vehicle"*: every vehicle, as herein defined, which is self-propelled; per current South Dakota Codified Law.

8-102 TRAFFIC CONTROL AND TRAFFIC CONTROL DEVICE LOCATION PROCEDURE

- a) Pedestrians and drivers of vehicles shall comply at all times with any direction by voice, hand, whistle or other signaling device from any member of the police department or other law enforcement officer in reference to regulation of the traffic upon the city streets and shall also comply with any official traffic control device as that term is defined in current SDCL cite.
- b) The Chief of Police and the Street Public Works Director, together with such other responsible persons as the City Council may direct, shall review the location of and necessity for traffic control devices as that term is defined by South Dakota Codified Law city, but specifically including stop signs, yield signs, and traffic control lights. The persons herein designated shall make specific findings of the need for traffic control and report those findings to the City Council along with recommendations for the location of traffic control devices. The City Council shall, by appropriate resolution, determine the location of any traffic control devices within its jurisdiction.

1992 Revised Ordinance 92, sec. 15; 12/30/92

8-103 CROSSWALKS, SAFETY ZONES, AND TRAFFIC LANES

The Street Public Works Director, Chief of Police and/or Public Works Director may designate marks or lines upon the surface of the roadway, crosswalks at intersections, and at such other places as it may deem necessary. The Street Public Works Director may establish safety zones as they may deem necessary for the protection of pedestrians and may have lines marked for traffic on street pavements at such places as it may deem advisable.

8-104 SIGNALS

The driver of a vehicle shall give timely warning by signaling with the hand or other manner plainly discernible from the rear of such vehicle, indicating his intention to slow, turn or stop.

8-105 BACKING

No vehicle shall be backed around the corner of any intersection. When backing, care must be exercised not to injure persons or vehicles or to block traffic.

- 8-106 YIELDING – IN GENERAL AND FOR EMERGENCY VEHICLES**
Ambulances, fire, and police department vehicles shall have the right of way when responding to an emergency. The driver of every vehicle, after receiving an audible signal, shall drive his vehicle near to the right-hand curb of the street and stop and remain in such position until the emergency vehicle shall have passed. A standing vehicle about to start shall give moving vehicles the right-of-way.
- 8-107 RIGHT TURNS**
The driver of a vehicle intending to turn to the right shall make the turn as near the right-hand curb as practicable. If there is a traffic signal, a right turn may be made when the light is red unless by resolution the Council prohibits such turns and, in such event, a visible sign shall be placed to the public with the words thereon “NO RIGHT TURN ON RED LIGHT”.
- 8-108 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 in that portion of the intersection to the left of the center of the intersection.
- 8-109 “U” TURNS AND TRAVELING ON LEFT SIDE**
No vehicle shall cross over from the right side to the left side of the street or make a complete turnaround or turn 180 degrees upon any street except at the intersection of one street with another. Any vehicle turning to the left for the purpose of making a complete turn or turn 180 degrees shall before turning pass beyond the center of the intersecting street. No vehicle shall be permitted to make a complete turn or a turn of 180 degrees on any intersection posted with a sign “NO U TURN”.
- 8-110 TRAVELING ON RIGHT**
The driver of any vehicle shall drive upon the right half of the street and as near as practicable to the right-hand curb.
- 8-111 OVERTAKING AND PASSING**
Excluding U.S. Highway 14 and S.D. Highway 73 where state law shall control, no vehicle may pass or overtake another moving vehicle proceeding in the same direction on any streets or alleyways in the City of Bowdle.
- 8-112 SLOW DRIVING**
No person shall drive any vehicle at an unreasonably slow rate of speed so as to hinder and retard the normal movement of traffic.
- 8-113 RESTRICTIONS AS TO SPEED**
Twenty (20) miles per hour shall be the maximum speed for any vehicle on any street or any park within the city unless otherwise zoned or posted in accordance with state law. Fifteen (15) miles per hour shall be the maximum speed in any alley, hospital zone, or school zone during recess and opening and closing hours, unless otherwise posted.

8-114 EMERGENCY VEHICLES

The speed limits provided herein shall not apply to authorized emergency vehicles when responding to emergency calls provided the driver sounds a horn or siren and displays two red lights. This provision shall not relieve the driver of such vehicle from the duty to drive with regard for the safety of others, nor shall it protect the driver from the consequences of a reckless disregard of the safety of others.

8-201 NO PARKING AREAS

The City Council may by resolution establish and designate no parking areas along street curbs. No vehicle shall be parked at any time, except to load and unload passengers or merchandise, in such places so designated and marked.

8-202 SPACES RESERVED FOR BUSES, POLICE CARS, HANDICAPPED, ETC.

The City Council may by resolution establish and designate space along street curbs for the exclusive use of police cars, buses, handicapped and other vehicles as may be entitled to such privileges. No other vehicle shall park within such space except momentarily to take on or let off passengers.

8-203 LIMITED PARKING

The City Council may by resolution establish and designate streets where vehicles may be parked for limited periods only.

8-204 DOUBLE PARKING

No vehicle shall be double-parked unless said vehicle is in charge of some person able to drive the same. Upon the request of a police officer or other person whose vehicle is blocked, it shall be the duty of the driver to move such vehicle.

8-205 BACKING TO CURB

No vehicle shall be backed to the curb except where necessary in order to load or unload merchandise.

8-206 PARKING ON CROSSWALKS

No vehicle shall be parked or left standing on any crosswalk, except momentarily for the purpose of taking on or letting off passengers.

8-207 PARKING IN ALLEYS - REMOVAL

No person shall park a vehicle in an alleyway of the City of Bowdle in such a fashion so that it obstructs traffic. The City Police Department or other appropriate city employee may cause such improperly parked vehicle to be towed away and stored in a safe place until such time as the owner makes payment for towing and storing charges.

8-208 PARKING – SNOW REMOVAL/STREET CLEANING

In order that the Street Department may efficiently clean the streets and avenues in the City of Bowdle, the Police Department, or the person in charge of the cleaning of the streets, is hereby authorized to place signs in any block or blocks within the city. In which case, it shall be unlawful to park any motor vehicle upon any streets or avenues upon which said signs have been placed between the hours as designated upon said sign. Said signs shall be placed at the end of each of said blocks to be cleaned.

8-209 PARKING – GENERAL PROVISIONS

All vehicles parking in the business district shall park diagonally. For purposes of this Ordinance, the business district shall be defined as follows: Pine Street, from Larimer Avenue to Wood Avenue; north side of Oak Street from Larimer Avenue to Wood Avenue; south side of Oak Street from Howard Avenue to Larimer Avenue; and, all of Center Avenue. Parking in the remainder of the City of Bowdle shall be parallel. (Amended 01/07/19)

8-210 PARKING – AFTER SNOW FALL

“Main thoroughfares” applies to the following streets and avenues, or portions of such streets and avenues, within the City:

- 1) Pine Street, from S.D. Highway 14 to Wray Ave.
- 2) Wray Ave., from Pine Street to S.D. Highway 14

A snow removal emergency exists whenever there is a snow accumulation on public property as defined in Ord. #7-101(a) of four inches (4”) or more of falling or drifting snow. No person shall park or allow any motor vehicle or trailer to remain on the above name thoroughfares for 48 hours or until such time as the street has been cleared of snow. The Public Works Director (or designated representative) will declare a SNOW REMOVAL ALERT. At that time, parking restrictions will go into effect.

Violators will be ticketed a parking fine as established in Resolution #2001-03 by the City Council. Any vehicle or trailer parked in violation is declared a nuisance and shall be towed at the owner’s expense if not removed within twenty-four (24) hours of being ticketed.

(Refer to Ordinance #8-208 for the downtown area.)
Ord. #2010-01, Adopted 04/05/10

8-301 WEIGHT AND SIZE OF VEHICLE AND LOAD LIMITS

No person shall operate any vehicle upon any city street the gross weight of which does not comply with the requirements of the state law governing such vehicle.

8-302 BRAKES AND SIGNALING DEVICE

Every motor vehicle shall be provided with adequate brakes in good working order and a device for signaling.

8-303 LIGHTS

A motor vehicle in motion, during the period from half an hour after sundown to half an hour before sunrise, shall display at least two lighted lamps on the front and two on the rear of such vehicle in compliance with state law. A motorcycle shall be required to display one light lamp in front and one in back with such lamps to conform to state law.

8-401 PROHIBITED ACTS – HEADLIGHTS DIMMED

No person shall use headlights upon any vehicle on any street unless the same are dimmed so as to prevent the light being dazzling or blinding to persons using the street.

- 8-402 SPOTLIGHTS**
No person shall use a spotlight on the streets, unless in an emergency, and then so as not to blind or inconvenient persons using the street.
- 8-403 LICENSED DRIVER**
No person shall operate a motor vehicle without a valid license as an operator under the provisions of SDCL Chapter 32-12.
- 8-404 OVERDRIVING ROAD CONDITIONS (CONTROL OF VEHICLE)**
The driver of any vehicle shall keep such vehicle under his control and drive in a careful and prudent manner with due regard for the safety of other vehicles and pedestrians.
- 8-405 CLINGING TO MOVING VEHICLE**
No person shall cling to or attach himself or his vehicle to any other moving vehicle upon any street.
- 8-406 RIDING ON OUTSIDE OF VEHICLE**
No person shall ride upon the fenders or outside of any motor vehicle in motion and no person driving a motor vehicle shall allow any person to ride outside any such vehicle he is driving.
- 8-407 BOARDING AND ALIGHTING FROM VEHICLE IN MOTION**
No person shall board or alight from any moving vehicle.
- 8-408 PARADES AND PROCESSIONS**
No parade or procession other than a funeral procession shall be held or participated in upon the streets except with prior consent of the Chief of Police.
- 8-409 INTERFERING WITH PROCESSION**
No driver of any vehicle shall drive through or otherwise interfere with any authorized procession on any city streets.
- 8-410 INTERFERING WITH TRAFFIC**
No vehicle shall be parked or left standing on any street so as to interfere with or interrupt traffic.
- 8-411 EXHIBITION DRIVING**
Any person who drives any motor vehicle within the city in such a manner that creates unnecessary engine noise, tire noise, skid or slide upon acceleration or deceleration, simulates a temporary race or causes the vehicle to turn abruptly or sway shall be guilty of exhibition driving.
- 8-412 CARELESS DRIVING**
Any person who drives any vehicle within the city or upon the city property carelessly and without due caution, at a speed or in a manner so as to endanger any person or property, not amounting to reckless driving as defined by SDCL, is guilty of careless driving.
- 8-501 DUTIES - ACCIDENT**
The driver of any vehicle involved in an 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 to the driver or occupants of any vehicle collided with. The driver shall render to any person injured in such an accident reasonable assistance. These duties are applicable only to accidents occurring on public property.

8-502 DUTY TO REPORT ACCIDENT

The driver of any motor vehicle involved in an accident resulting in death or bodily injury to any person or property damage to the apparent extent of one thousand dollars (\$1000.00) or more to any one person's property or two thousand (\$2,000.00) per accident shall immediately, by the quickest means of communication, give notice to the nearest available peace officer who has jurisdiction. These duties are applicable only to accidents occurring on public property.

8-503 GARAGE KEEPER TO REPORT DAMAGED VEHICLES

The person in charge of any garage or repair shop shall not commence repair on any motor vehicle which shows evidence of having been involved in a reportable accident or struck by a bullet unless the vehicle bears the notice provided for in SDCL 32-34-10.

8-504 DUTY UPON STRIKING ANIMAL

The driver of any vehicle, which collides with any animal causing injury thereto, shall stop and attempt to notify the owner and if the owner cannot be notified at once, the driver shall report the accident to the police.

8-505 DUTY UPON STRIKING UNATTENDED VEHICLE OR PROPERTY

The driver of any vehicle which collides with an unattended vehicle or other property shall immediately stop and notify the owner or leave in a conspicuous place a written notice giving the driver's name and address and the name and address of the owner and the license number of the vehicle he is driving. The driver shall also notify the police department. Said duty is applicable to accidents occurring on either public or private property.

8-601 PARKING NEAR FIRE HYDRANT/FIRESTATION – PROHIBITED

No person shall stop or park any vehicle within 15 feet of a fire hydrant or within 20 feet of the driveway entrance to a fire station.

8-602 PRIVATE DRIVEWAY

No person shall stop or park a vehicle so as to block any private driveway.

8-603 VEHICLES WITH LUGS PROHIBITED

No person shall operate any vehicle equipped with mud lugs, ice spurs or spikes upon any street with any hard surfacing material without first laying planks at least two inches thick on the street to protect the surface from any damage.

8-604 PEDESTRIAN'S RIGHT OF WAY

The operator of any vehicle shall yield the right of way to any person at a crosswalk except at intersections where traffic is regulated by traffic control signals or police officers.

8-605 PEDESTRIAN'S RIGHTS AND DUTIES AT CONTROLLED INTERSECTIONS

At intersections where traffic is controlled, a pedestrian shall yield the right of way to vehicles lawfully proceeding on a green light and the driver of a vehicle making a right turn shall yield the right of way to pedestrians proceeding to cross the street on a green light. No person shall cross the street when the traffic signal is red.

8-606 OBEDIENCE TO TRAFFIC SIGNALS AND MARKINGS

No person shall violate any regulation or traffic sign established in accordance with this provision unless otherwise directed by a police officer.

8-607 OBEDIENCE TO POLICE

No person shall flee or attempt to elude, refuse, or otherwise fail to comply with any lawful order, signal, or direction of any law enforcement officer, or refuse to submit to any lawful inspection when requested by any law enforcement officer.

A violation of this ordinance shall be punishable by a fine not to exceed two hundred dollars for each violation, or by imprisonment for a period not to exceed thirty (30) days for each violation, or by both the fine and imprisonment, a court appearance shall be required.

When a driver of a motor vehicle, who flees or eludes any law enforcement officer is known/unknown, the vehicle will be subject to a civil penalty up to the maximum provided by SDCL 32-33-21.

The City Council of the City of Bowdle reserves the right and authority to review and adjust the aforementioned penalties established by this ordinance through resolution of said City Council.

2001, Revised Ordinance Chapter 8, section 607, 10/21/01.

8-608 POLICE DIRECT TRAFFIC

Police officers shall direct all traffic in conformance with traffic laws provided that in the event of emergency or to expedite traffic or safeguard pedestrians, officers of the police or fire department may direct traffic as conditions may require.

8-701 SNOWMOBILES

Definitions as used in this chapter, unless the context otherwise requires:

- a) "Snowmobiles" means any vehicle propelled by mechanical power that is primarily designed to travel over ice or snow, supported by in whole or in part by skis, belts or cleats.
- b) "Operator" means any person who operates or is in actual control of a snowmobile.
- c) "Street" means every highway, street, and alley within the corporate limits of the City of Bowdle.

8-702 REGULATIONS

- a) No person shall operate a snowmobile within or on any city street, except under road and weather conditions as declared by the Chief of Police or the Director of Civil Defense, to constitute emergency travel conditions authorizing use of a snowmobile or when such vehicle is necessary as an emergency vehicle to protect the health, safety and welfare of any individual.
- b) No person shall operate a snowmobile on private property of another without express permission to do so by the owner or occupant of said property.

- c) No person shall operate a snowmobile on public school grounds, park property, playgrounds, recreation area(s) or golf course without the express permission to do so by the proper authority.
- d) No person shall operate a snowmobile in any manner so as to create loud, unnecessary, or unusual noise so as to disturb or interfere with the peace and quiet of other persons.
- e) No person shall operate a snowmobile in a careless, reckless, or negligent manner so as to endanger the safety of any person or property of any other person.
- f) No owner or other person having charge or control of a snowmobile shall knowingly authorize or permit any person to operate such snowmobile who is incapable thereof, by reason of age, physical or mental disability, or who is under the influence of intoxicating liquor, narcotics, or other drugs and is prohibited from driving a motor vehicle under the provisions of this chapter.
- g) No person shall operate a snowmobile on any city street as an emergency vehicle or otherwise unless the operator shall have a valid driver's license on his person.

8-703 EQUIPMENT REQUIRED

All snowmobiles operated within the city shall have the following equipment:

- a) Mufflers which are properly attached, and which reduce the noise of operation of the vehicle to the minimum noise necessary for operating the vehicle and no person shall use a muffler cutout, bypass, or similar device on said vehicle.
- b) Adequate brakes in good working condition.
- c) A safety or so called "dead man" throttle in operating condition; a safety or dead man throttle is defined as a device which when pressure is removed from the accelerator, the throttle causes the motor to disengage from the driving track.

8-704 UNATTENDED SNOWMOBILES

It shall be unlawful for the owner or operator of a snowmobile to leave or allow the snowmobile to be or remain unattended on public property while the motor is running or when the keys for starting the vehicle are left in the ignition.

8-705 RESTRICTION OF OPERATION

The City Council may by resolution prohibit the operation of snowmobiles within the right of way of the public roads or streets or other city property within the city when the public safety and welfare so requires.

8-706 TRAFFIC REGULATIONS

Every person operating a snowmobile shall strictly observe all traffic signs and signals and all other traffic rules and regulations applicable to motor vehicles as set forth in Title 10 and shall obey the orders and directions of any police officer of the city authorized to direct traffic.

8-707 PUNISHMENT FOR OTHER VIOLATIONS – SNOWMOBILES

The operator of a snowmobile shall be deemed the driver or operator of a motor vehicle within the meaning of this chapter and is subject to all the provisions of this chapter relating to driving while under the influence of intoxicating liquors, drugs or otherwise therein provided and is punishable thereunder for any violation of those provisions.

8-801 TRUCK TRAFFIC PROHIBITED EXCEPT ON DESIGNATED TRUCK ROUTE – EXCEPTION - PENALTY

- a) Truck traffic is defined as a motor vehicle having a gross vehicular weight in excess of 12,000 pounds; and a motor vehicle trailer combination having a gross vehicular weight in excess of 24,000 pounds.
- b) Truck traffic as defined in section “a” above is prohibited on all city streets except the following: South Dakota Highway 73; U.S. Highway 14; Wray Avenue from U.S. Highway 14 to East Pleasant Street; East Pleasant Street east from the intersection of Wray Avenue; and Cherry Street.
- c) The roadways set forth in subsections “b” above are hereby designated as truck routes and shall be appropriately signed.
- d) Truck traffic exceeding the gross vehicular weight set forth in subsection “a” above may travel upon the other roadways of the City of Bowdle only for the purpose of bona fide local pickup and deliveries. Said traffic is restricted to a speed limit of no more than ten (10) miles per hour; and shall use the nearest point of departure to the truck route as outlined in subsection “b” above.
- e) The weight limitation provided for in this section shall not apply to emergency vehicles, public utility service provider vehicles, contracted mail route carrier vehicles, contractor vehicles accessing property with a valid permit issued by the city, city vehicles; or, city contractors performing maintenance, repair or road construction to city roadways. (Amended #2021-17, 12/29/2021)
- f) The Mayor is hereby authorized to temporarily prohibit all vehicles exceeding 12,000 pounds gross vehicular weight from any city roadway to protect such roadway from excessive damage.
- g) The fine for violating any provision of this ordinance shall be established by resolution of the City Council.

1993 Revised Ordinance 93, sec. 8; 11/10/93; Amended 06/01/15

8-901 BICYCLE – EXTRA PASSENGER

No person operating a bicycle shall carry another person in front of him on said bicycle.

8-902 LIGHTS OR REFLECTORS

No bicycle shall be operated on any street, alley, or in any public place, within the period from a half hour after sunset, until a half hour before sunrise, without having a headlight or white or yellow reflectors attached to the front of the bicycle, nor without having a red light or reflector attached to the rear of the bicycle.

8-903 OPERATING ON SIDEWALKS

Bicycles may be operated in single file only, on sidewalks, in public parks and residential districts. The rider shall at all times yield the right of way to pedestrians using the sidewalk, and due and proper care shall at all times be exercised by the rider for pedestrians. No bicycle shall be operated on any sidewalk in the business district of the city.

CHAPTER 9

PUBLIC SAFETY/PUBLIC OFFENSES

9-101 FIRE DEPARTMENT ESTABLISHED

The Bowdle City Volunteer Fire Department shall be subject to the provisions of this Ordinance, ordinances and regulations hereafter adopted by resolution of the City Council, and the conditions of the bylaws of said Fire Department. The Fire Department shall have the control of fire apparatus and equipment of the City of Bowdle and the right to establish regulations as are necessary to the control of the Fire Department and the furnishing of adequate fire protection for the persons and property within the corporate limits of the City of Bowdle.

9-102 FIRE EQUIPMENT

All trucks, fire equipment and fire apparatus purchased by the City of Bowdle shall be the property of the City of Bowdle and the same shall be under the control of the Fire Department. The Fire Department shall, at all times, keep a complete inventory of all fire equipment and fire apparatus, listing all property owned by the City of Bowdle separately, from that owned by the Volunteer Fire Department.

9-103 FINANCES OF DEPARTMENT

The City of Bowdle may appropriate monies for the maintenance of the Fire Department and provide said department with necessary firefighting equipment and supplies. The amount so appropriated may be paid directly to the department or be used in the payment for equipment and supplies, and for reasonable maintenance and costs upon proper vouchers presented to the City Finance Officer.

9-104 HOUSING

The City of Bowdle may provide adequate housing and storage space for all fire trucks, fire apparatus, equipment, and supplies.

9-105 POLICING POWERS

The officers and members of the Fire Department shall, while in performance of their duties, have reasonable policing powers.

9-106 OBSTRUCTING FIRE HYDRANT

No person shall erect or place any obstruction, nor pile any goods or other things within 15 feet of any fireplug or hydrant.

9-107 DRIVING OVER FIRE HOSE

No vehicle shall be driven over any hose nor against any fire apparatus. No member of the Fire Department shall run any fire truck over any hose or against any apparatus in service unless same is necessary in the performance of duty.

9-108 DEFINITION OF FIRE APPARATUS

Fire apparatus as used in this Ordinance shall include fire trucks, hose carts, ladder wagon or ladder trucks and vehicles carrying members of the Fire Department, which vehicles must display the insignia or sound the bell or siren of the Bowdle City Fire Department. No driver of any vehicle carrying such bell or siren shall permit such bell or siren to be sounded within the City of Bowdle except when responding to fire alarms.

- 9-109 FOLLOWING FIRE APPARATUS**
No driver of a vehicle, including bicycles, except drivers of other fire apparatus, shall follow any fire apparatus.
- 9-110 ALARMS**
It shall be unlawful for any person to deface, injure, or tamper with any fire alarm, telegraph box, police telephone box or wire, or any apparatus used or connected therewith, or in any manner to open or give any fire alarm except in case of fire.
- 9-111 HYDRANTS**
It shall be unlawful for any person to unscrew or remove any cap of any water hydrant, or in any way interfere with such hydrant, except authorized personnel in the course of their duties.
- 9-112 CONSENT NECESSARY TO WORK ON ALARMS**
It shall be unlawful for any person to loosen or in any way change or remove any installation belonging to, used or connected with a fire alarm without having first obtained consent from the Chief of the Fire Department for that purpose.
- 9-113 OPERATION OF FIRE EQUIPMENT**
All fire apparatus shall be operated with reasonable regard for the person and property of others.
- 9-201 FIREWORKS – TIME SALES ALLOWED**
Fireworks shall only be sold and discharged from June 27th of each year up to and including the 5th of July of each year, except that toy cap pistols and toy caps may be sold at any time.
- 9-202 PUBLIC DISPLAY OF FIREWORKS**
Nothing in this section shall prohibit the use of a public display of fireworks provided that any individual, firm or partnership prior to making such public display of fireworks shall first secure written permit to do so from the governing board of the city.
- 9-202.1 DISCHARGE OF FIRE WORKS IN FIRE LIMITS**
It shall be unlawful for any person to discharge or cause to be discharged any fireworks within the fire limits of this City as those limits are set forth in 11-1601 of this Code.
- 9-203 JOBBERS, WHOLESALEERS OR DISTRIBUTORS**
This section does not prohibit any jobber, wholesaler, or distributor from offering for sale merchandise to be sold and shipped out of the city.
- 9-204 DISCHARGE OF FIREWORKS ABOUT THE BODY**
It shall be unlawful for any person to discharge or cause to be discharged, any fireworks about the body of any person in a manner that would cause injury or apprehension of injury to such person.
- 9-301 STORING EXPLOSIVES**
No person shall keep in store any gun or blasting powder, nitroglycerin, dynamite or like substance, except in such place as shall have been approved by the City Council and the Fire Chief for that purpose. A reasonable amount of small arms ammunition may be stored. Both State and Federal laws regarding licensing and regulation shall be applicable.

- 9-302 TRANSPORTING EXPLOSIVE SUBSTANCES**
No person shall transport on the streets or in public places any quantity of explosive substances or blasting powder so as to endanger the safety of the public.
- 9-303 STORING PETROLEUM PRODUCTS, ETC.**
It shall be unlawful for any person, company or corporation to keep or store in the city, any petroleum products or linseed oil in any quantity exceeding one barrel, unless the same shall be kept in a fireproof warehouse or fireproof tank conformed with the published standards of the National Board of Fire Underwriters.
- Written application for such storage, endorsed by the Fire Chief, shall be made to the City Council, with plans and specifications for the proposed storage, and shall be filed with the City Finance Officer. If the Council is satisfied that such storage will not cause a fire hazard, they shall grant a permit therefore. Upon completion of the installation of tanks or other storage facilities, the Fire Chief shall inspect said facilities and approve them before any such products are stored therein.
- State statutes regulating the storing of petroleum products shall be observed at all times.
- 9-401 REGULATION OF DANCES**
All dances held within the confines of the exterior boundaries of the City Limits of Bowdle are hereby subject to the following rules and regulations:
- a) All dances shall conclude and the members of the public in attendance be dispersed by the hour of 2:00 o'clock A.M.
 - b) The City may require security as determined by police department or City directive.
- 9-501 BARBED WIRE AND ELECTRICAL FENCES PROHIBITED**
Barbed wire and electrically charged fences are hereby declared to be a public nuisance and shall not be constructed or maintained on any property within the exterior boundaries of the City of Bowdle.
- 9-601 ACTS AND OFFENSES**
It shall be unlawful for any person, firm or corporation to commit, allow or to engage in any act which offends the public morals, health or safety of others including any violation of these ordinances and the following specific acts.
- 9-602 DISORDERLY CONDUCT**
Any person who intentionally causes serious public inconvenience, annoyance or alarm to any person or creates a risk thereof by:
- a) engaging in fighting or in violent or threatening behavior.
 - b) making unreasonable noise.
 - c) disturbing any lawful assembly or meeting of persons without lawful authority.
 - d) obstructing vehicular or pedestrian traffic.
 - e) public indecency: a person commits a crime of disorderly conduct if the person exposes his or her bare buttocks or urinates in a public place where another is present or may have access, and who may be offended or alarmed by the person's act.

- 9-603 CARRYING CONCEALED WEAPON**
It shall be unlawful for any person, not a law enforcement officer as defined in SDCL in the execution of his duty, to carry about his person, any firearm, sling shot, sheath or dirk knife, brass knuckles or any other device, instrument or material or substance, whether animate or inanimate, which is calculated or designed to inflict death or serious bodily harm, or by the manner in which it is used is likely to inflict death or bodily harm. This Ordinance shall not prohibit a person from carrying any weapons pursuant to a permit issued under SDCL
- 9-604 WEAPONS PROHIBITED IN LIQUOR/BEER ESTABLISHMENTS**
No person, excluding a law enforcement officer in the performance of his duty, may carry any weapon as heretofore defined in any business establishment licensed to sell alcohol beverages. This Ordinance shall prohibit any person who has a permit issued under SDCL to carry a concealed weapon, to carry such weapon into any alcoholic beverage establishment. If a violation of this ordinance occurs and an arrest is made State Statute SDCL must be used.
- 9-605 DISCHARGING WEAPONS**
Every person who willfully discharges any species of firearm, air gun, BB-gun, arrow, including target arrows, or other weapon, projecting lead or other missiles, or throws any missile in any public place, or in any place where there is any person to be endangered thereby, except in a regularly established shooting gallery at the National Guard Armory, although no injury to any person shall ensue, shall be deemed guilty of misdemeanor and punishable in accordance with a schedule of fines and penalties as promulgated from time to time by the City Council. This section shall not be construed to prohibit a law enforcement officer from discharging a firearm in the performance of his duty.
- 9-606 DRAWING DEADLY WEAPONS**
It shall be unlawful for any person, not an officer of the law in the execution of his duty, to draw a pistol, revolver, knife, or other deadly weapon upon another person.
- 9-701 FALSE ALARM OF FIRE**
It shall be unlawful for any person or persons to create a false alarm of fire knowingly or unlawfully.
- 9-801 CRUELTY TO ANIMALS**
It shall be unlawful for any person to cruelly or immoderately beat any horse, mule, cow, dog or other animal, or wantonly or maliciously torture or injure any animal or leave standing on the streets any horse, mule or team unprotected for any unreasonable time or to over load or overwork or overdrive any horse or other working animal.
- 9-901 FAILING TO OBTAIN LICENSE WHEN REQUIRED**
It shall be unlawful for any person or persons, firm, corporation or association of individuals to run, operate, maintain, or engage in any business, act or conduct of any kind for which a license is required under the provisions of the ordinances of this city, without first having obtained such a license therefor.
- 9-902 DISPLAYING LICENSE UNLAWFULLY**
No person shall carry or display any city license or permit which has been terminated or revoked or which has not been lawfully procured and issued.

9-1001 OBSTRUCTING PUBLIC PLACES, STREETS OR BUILDINGS

It shall be unlawful for any person or persons to, without having legal privilege so to do, obstruct any public street, alley, sidewalk, park, place, or building, whether alone or with others, and who after been warned by a police officer, persists so in obstructing the same. To “obstruct” means to render impassable without reasonable inconvenience or hazard.

A person in a gathering commits a violation if he refuses to obey a reasonable request or order by a police officer to move to prevent obstruction of a public street, alley or sidewalk, public way, place or building or to maintain public safety by dispersing those gathered in a dangerous proximity to a fire or hazard. “Public” for the purposes of this section means affecting or likely to affect persons in a place to which the public or a substantial group has access, among said places are included public streets, alleys, parks, places, public buildings, and places of business or amusement while said building, place of business or amusement are open to the public.

9-1101 TRESPASS AND UNAUTHORIZED USE OF PROPERTY

It shall be unlawful for any person to knowingly lodge, use or occupy any barn, garage, shed, shop, house or other building or structure, or any automobile, truck, railroad car or other vehicles without the permission of the owner or person entitled to possession. It shall be unlawful for any person to knowingly lodge in any public way, park or place. In addition, it shall be unlawful for any person to enter upon any privately or publicly owned real property, which is not open to the use of the public, unless he has first obtained the consent of the owner or person in possession or control thereof. 1992 Revised Ordinance 92, sec. 18; 12/30/92

9-1201 DRINKING OUTSIDE OF LICENSED PREMISES

It shall be unlawful for any person to drink or consume any alcoholic beverage as defined in SDCL in any public place, automobile, street, alley, sidewalk, public place except in those places duly licensed as an “on-sale” dealer.

9-1301 AUTHORITY OF POLICE

All police officers shall have jurisdiction to enforce city ordinances and all federal and state laws within the City of Bowdle, or within one mile of the exterior boundaries of the City of Bowdle, and within the exterior boundaries of the City Airport, Water Treatment Plant, City Parks, Lake Waggoner and any other public property owned or controlled by the City of Bowdle, in order to promote the health, safety and general wellbeing of the community and protect public property.

1992 Revised Ordinance 92, sec. 10; 12/30/92

9-1401 MINORS, LOITERING PROHIBITED

It shall be unlawful for any minor under the age of sixteen (16) years to loiter, idle, wander, stroll, play or ride or be in any motor vehicle in or on the public streets, highways, roads, alleys, parks, public buildings, places of amusement and entertainment, vacant lots, or other unsupervised school function or returning directly home or to place of lodging from such school entertainment between the hours of 10:00 P.M. and 5:00 A.M. of the following day, Sunday through Thursday, inclusive, and 11:00 P.M. on Fridays and Saturdays to 5:00 A.M. the following day, official city time.

Provided, however, that the provisions of this section do not apply to a minor accompanied by his or her parents, guardian or other adult person having care or custody of the minor,

and provided further that this section does not apply to a minor after he or she shall have passed his or her sixteenth birthday.

9-1402 MINORS, RESPONSIBILITY OF PARENTS

It shall be unlawful for the parent or guardian or other adult person having the care or custody of a minor under the age of sixteen to knowingly permit such minor to loiter, idle, wander, stroll, play or ride in any motor vehicle upon the public streets, highways, roads, alleys, playgrounds, public places or buildings, places of amusement, vacant lots or other unsupervised places, or to remain in any dance hall, restaurant, café, theatre or other public place, except supervised school functions as noted in section 9-1401, between the hours of 10:00 P.M. and 5:00 A.M. the following day, from Sunday through Thursday, inclusive, and between the hours of 11:00 P.M. on Fridays and Saturdays and 5:00 A.M. the following day, official city time, provided further that the provisions of this section do not apply when the minor is accompanied by his or her parents.

9-1403 RESPONSIBILITY OF OTHERS

It shall be unlawful for any person, firm, or corporation operating places of amusement and entertainment, restaurant, cafes, theatres or other public places to permit minors under the age of sixteen to enter or remain in such places of amusement and entertainment, restaurant, café, theatre, or other public place during the hours prohibited under this chapter, or owner or operator of any motor vehicle to permit or allow any minor to be in or ride in such motor vehicle during the hours prohibited by this chapter; provided, however, that the provisions of this chapter do not apply when the minor is accompanied by his or her parent, guardian or other adult person having the care and custody of the minor.

9-1404 WILLFUL INJURY TO PROPERTY

It shall be unlawful for any person to willfully remove, injure, damage, deface, break, tamper with or otherwise harm any property, public or private, real, or personal not his own.

9-1405 SMOKING AND VAPING OF CANNABIS IN PUBLIC PLACES PROHIBITED

- a) It is unlawful for any person to smoke and/or vape cannabis in any public place including parks, sidewalks, streets, alleys, rights-of-way, sports complexes, publicly owned property, or in any place that is open to the public.
 1. A place open to the public is a place to which the public is invited, including in, on, or around any place of business, parking lot, or place of amusement or entertainment, whether or not a charge of admission or entry thereto is required and includes the elevator, lobby, halls, corridors, and areas open to the public of any store, office, or multifamily residential building even if such place charges an admission or limits the number of admittees.
- b) A violation of this section is subject to the general penalty provision in Sec. 13-101.

(Approved 10/4/2021 – Ordinance #2021-12)

CHAPTER 10 LICENSES

(Chapter Amended & Established 11/01/2021 – Ordinance #2021-14)

10-101 APPLICATION FOR LICENSE

Except as otherwise provided, an applicant for a license shall first make and file with the City Office application in writing therefor. The application shall contain such information as required by the license authority and must show that the applicant is eligible for the license for which is made.

10-102 ACTION ON APPLICATION

The City Office shall upon the filing of an application for a license present such an application to the proper licensing authority for approval. Except as otherwise provided, all applications for licenses must be approved by the City Council. The decision of the licensing authority, approving or disapproving of an application for license, shall be determined by such licensing authority.

10-103 PAYMENT OF LICENSE FEE

Except as otherwise provided all applicants for licenses shall pay the fee therefore to the City Office and receive proper receipt.

10-104 CITY OFFICE TO ISSUE LICENSES

Except as otherwise provided, it shall be the duty of the City Office to issue licenses.

10-105 CITY OFFICE TO KEEP LICENSE FILE

The City Office shall make out all licenses provided for under the ordinances of this city in duplicate and keep a copy thereof on file. Any application presented to the City Office, on which a license is issued, shall be retained by the City Office, and filed with the copy of the license issued thereon.

10-106 REVOCATIONS

Any license authorized in this section, or which may be granted by the City Council, is granted with the understanding that the Council may at any time revoke the same with or without cause. Whenever any license shall be granted and money accepted therefor by the city, and said license shall be revoked, the money paid to and held by the City of Bowdle for the unexpired term of said license, shall be refunded to the licensee, except in those cases where license shall be forfeited as a punishment for a violation of any ordinance of this city. Any license granted by the City of Bowdle, its Mayor, and the City Council, is granted subject to the provisions of this section and said licensee is bound by these provisions. The City of Bowdle shall issue no license of any character exempt from the provisions of this section.

10-200 PEDDLERS

10-201 DEFINITION

The word “peddler” as used herein shall mean any person, whether a resident of this city or not, locating upon any public property or travelling from place to place, from house to house, or from street to street, by foot or by any vehicle for the purpose of selling anything including goods, wares, merchandise or services, and who does not maintain a regular stock of said items in the city for at least six (6) months during the year in which he/she is selling.

Said definition shall include the terms “solicitor,” “transient or itinerant merchant or vendor,” or “transient or itinerant photographer.”

10-202 EXCEPTIONS

The provisions of this section shall not apply to solicitations, sales or distributions made by charitable, educational, or religious organizations which have their principal place of activity in the city.

10-203 SALES FROM VEHICLES

No person shall sell or offer for sale any goods or merchandise from a car, wagon, automobile, truck, or other vehicle in the thoroughfares of the City of Bowdle. This section does not apply to the delivery of farm or garden products ordered in advance, drayage or to the delivery of goods sold in the regular course of an established business.

10-204 PROHIBITING DISTRIBUTION OR SALE OF OFFENSIVE ARTICLES

No person shall distribute or sell any publication, paper or article which may tend to invite a riot, advocate disloyalty to the government of the United States, urge unlawful conduct, cause a breach of the public peace or which is offensive to the public decency or which contains blasphemous, offensive, libelous or scurrilous language.

10-205 ENTRANCE TO PREMISES RESTRICTED

It shall be unlawful for any peddler to enter upon a private premises when the same are posed with a sign stating, “No Peddlers Allowed,” “No Solicitors Allowed,” or the like.

10-206 REFUSING TO LEAVE

Any peddler who enters upon premises owned or leased by another and willfully refuses to leave the premises having been notified by the owner or possessor of the premises, or his/her agent to leave the same, shall be deemed guilty of a misdemeanor.

10-207 MISREPRESENTATION

It shall be unlawful for any peddler to make false or fraudulent statements concerning the quality or nature of goods, wares, merchandise, or services for the purpose of inducing another to purchase the same.

10-208 HOURS OF OPERATION

It shall be unlawful for any peddler to engage in business of peddling between the hours of 8:00 p.m. to 8:00 a.m. the following morning, or at any time on Sundays, except by specific appointment with an invitation from the prospective customer.

10-209 LICENSE REQUIRED

It shall be unlawful for any person to engage in business as a peddler within the city without first obtaining a license and paying the license fee. No two or more persons shall operate under the same license for any reason. The license fee for a peddler shall be set from time to time by the City Council.

10-210 INFORMATION REQUIRED

The applicant shall apply for a license on forms provided by the City Office which shall state:

- 1) The applicant and business information including permanent addresses.
- 2) The type of goods, wares, merchandise, or services the applicant wishes to engage in such business within the city.

- 3) Whether the applicant, upon any sale or order, shall demand, accept, or receive payment or deposit of money in advance of final delivery.
- 4) The period of time the applicant wishes to engage in business within the city.
- 5) Such other relevant information as the city may require for investigation of the applicant

A license application shall be accompanied by a governmental identification card issued to the applicant; business's tax license; and fee in the form of cash, check, or money order.

10-211 LICENSE FEE

Any person engaged in the business of peddling as defined in Section 10-201, shall pay a license fee as set from time to time by resolution of the City Council.

10-212 ISSUANCE

No license shall be issued by the City Office under the provisions of this section until the applicant shall have complied with all the provisions and requirements of this chapter.

No license shall be issued to a corporation, partnership, or other impersonal legal entity, but each individual person engaging in the business of peddling within the city shall be required to have a permit whether acting for himself/herself or as an agent or representative of another.

10-213 CONTENTS OF THE LICENSE

Each license issued under the provisions of this section shall be signed by City Office staff, shall be dated as the date of its issuance, and shall state the duration or term of such license on the face thereof. Any license not dated and signed as herein provided, or which was issued in violation of this section shall be void.

10-214 DURATION

Every license issued under the provisions of this article shall be valid for the period of time stated therein, but in no event shall any such permit be issued for a period of time in excess of twelve (12) months.

10-215 DISPLAY

Every peddler having a license issued under the provisions of this section and doing business within the city shall display the license upon the request of any person; and failure to do so shall be deemed a misdemeanor.

10-216 REVOCATION

Any license issued under the provisions of this section may be revoked for the violation by the permittees of any provision of this Code, state law or city ordinance. Upon such revocation such a permit shall immediately be surrendered to the City Office or Police Department, and failure to do so shall be a misdemeanor.

10-217 SALES OF GOODS AND MERCHANDISE ON CITY PROPERTY PROHIBITED: EXCEPTIONS.

No person shall sell or offer any goods or merchandise for sale within the streets, sidewalks, thoroughfares, municipal parks, or any property owned by the city. This section does not apply to:

- 1) Individuals that possess a valid mobile food and beverage license.

- 2) The delivery of farm and garden products where the orders have been placed in advance.
- 3) The delivery of goods sold in the regular course of an established business in the city; or,
- 4) Stands, carnivals, concessions and other businesses of a temporary nature or days of public celebration when authorized by the City Council.

10-300 MOBILE FOOD AND BEVERAGE VENDING

10-301 DEFINITIONS

Food Truck - For the purposes of this section, the term “food truck” shall be defined as a licensed motor vehicle that has equipment for cooking, preparing, or selling food or beverages. This definition shall not include deliveries of prepared food or beverages by passenger vehicles, vans, or trucks having only devising installed for securing food or beverages during transport and is not equipped with any equipment for food or beverage preparation.

Food Cart - For the purpose of this section, the term “food cart” shall be defined as any type of mobile carrier designed to facilitate the sale and marketing of food or beverages and is not defined as a food truck.

Mobile Food and Beverage Vending/Vendor(s) – For the purpose of this section, the term “mobile food and beverage vending/vendors(s) shall be defined as an activity whereby prepared food or beverages are sold to the general public from a food truck or food cart. This definition shall not include food and beverage delivery services.

10-302 LICENSE REQUIRED

It shall be unlawful to operate a food truck or foot cart in the City of Bowdle without first having obtained a license as described herein.

10-303 FEES AND LICENSING PROCEDURES

The operator of all food trucks and food carts shall apply for a license on forms provided by the City Office.

The annual license fee shall be set from time to time by the resolution of the City Council.

The annual license and fee shall not apply in the following instances:

- 1) Mobile food and beverage vendors operating where a city approved special event permit has been issued, and with authorization from the special event sponsor, and if the vendor does not operate from any public street, sidewalk, or city park at any other time.
- 2) Mobile food and beverage vendors that operate on public or private property for a one-time event lasting three calendar days per year or less.
- 3) Caterers and food delivery services where food or beverage is prepared in a place other than the delivery vehicle.

10-304 PERMITTED LOCATIONS

Mobile food and beverage vending shall be permitted at the following locations:

- 1) On private property zoned commercial or industrial.
- 2) Parked lawfully on a public street except where prohibited.

- 3) Any parking lot that serves a City of Bowdle park, and the parking lot is owned by the City of Bowdle.
- 4) On public sidewalks, only food carts are permitted. A clear space of four feet in any direction around the food cart must be provided on the public sidewalk.

10-305 LOCATIONS AND TIMES PROHIBITED

- 1) Mobile food and beverage vending is prohibited where vending activity blocks access to a public street, alley, bike path, sidewalk, or access to an adjacent property.
- 2) Mobile food and beverage vending is prohibited between the hours of 9:00 p.m. and 6:00 a.m. the following morning.
- 3) The above prohibited times do not apply to vendors operating where a city approved special event permit has been issued, and with authorization from the special event sponsor.

10-306 HEALTH, SAFETY AND SANITATION

Mobile food and beverage vendors shall:

- 1) Operate according to the minimum public health and food safety requirements determined by the South Dakota Department of Health.
- 2) Comply with the licensing requirements of the State of South Dakota including food, sales tax, and mobile food and beverage vending.
- 3) Provide a trash bin for public use and remove all garbage within twenty-five feet of any food truck or food cart.
- 4) Not broadcast loud noise that results in a nuisance to the surrounding properties.

10-307 SIGNAGE

No signage shall be permitted except for what appears on the mobile food and beverage truck or cart.

10-308 ALCOHOL

Mobile food and beverage vendors shall not sell or distribute alcoholic beverages.

10-309 LIABILITY AND INSURANCE

Mobile food and beverage vendors operating from public streets and sidewalks or other City-owned property shall maintain commercial general liability insurance with a limit of not less than one million dollars per occurrence and two million dollars general aggregate naming the City of Bowdle as an additional insured. A copy of the certificate of coverage shall be provided to the City of Bowdle at all times when the license is in effect and notice to the City Office shall be provided when coverage is terminated.

10-310 VIOLATIONS AND REVOCATION OF LICENSE

Licenses shall be subject to revocation by the City Council for violation of any provisions of the State Law and City Ordinance according to the following procedure:

- 1) The vendor shall be provided with written notice that describes the nature of the violation and a timeline for correction.
- 2) If correction is not completed within the time specified, the City Council may revoke the license at a regularly scheduled City Council meeting.

10-400 VIDEO LOTTERY MACHINES

10-401 VIDEO LOTTERY MACHINE FEES

- a) There is hereby imposed upon any person, firm, or corporation operating video lottery machines within the City limits of the City of Bowdle, an annual license fee of fifty dollars (\$50.00) per video lottery machine per year.
- b) The fee imposed hereby shall be due and payable at the time of application for issuance or renewal of an alcoholic beverage license. In the event any licensee shall increase the number of video lottery machines during the period an alcoholic beverage license is in force, the licensee shall immediately apply for, and pay the annual fee for, a license for each additional video lottery machine. The fee provided for herein shall not be prorated for a partial year.

10-500 CANNABIS LICENSES

The City Council of the City of Bowdle enacts the following section in order to ensure that a cannabis establishments within the municipal boundaries of the city operate in a manner which complies with state laws and regulations, protects the health, safety, and welfare of the general public, prevents potential conflicts and issues arising from ownership and employees, recognizes certain safety and security considerations, and minimizes risk of unauthorized use or access of cannabis by the general public.

10-501 DEFINITIONS AND GENERAL PROVISIONS

Unless an alternative definition is explicitly stated in this section, this chapter utilizes the definitions for cannabis related terms which are defined by SDCL 34-20G-1.

Cannabis (or Marijuana) - All parts of any plant of the genus cannabis, whether growing or not, in its natural and unaltered state, except for drying or curing and crushing or crumbling. The term includes an altered state of marijuana absorbed into the human body. The term does not include fiber produced from the mature stalks of such plant, or oil or cake made from the seeds of such plant. The term does not include the plant Cannabis sativa L. (hemp) and any part of that plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than three-tenths of one percent on a dry weight basis.

Cannabis Cultivation Facility - In addition to the definition in SDCL 34-20G-1, this term is further defined as a legally licensed entity that acquires, possesses, cultivates, delivers, transfers, transports, supplies, or sells cannabis and related supplies to a cannabis establishment.

Cannabis Dispensary - In addition to the definition in SDCL 34-20G-1, this term is further defined as a legally licensed entity that acquires, possesses, stores, delivers, transfers, transports, sells, supplies, or dispenses cannabis, cannabis products, paraphernalia, or related supplies and educational materials.

Cannabis Establishment - Cannabis cultivation facility, a cannabis testing facility, a cannabis product manufacturing facility, or a cannabis dispensary.

Cannabis Product Manufacturing Facility - In addition to the definition in SDCL 34-20G-1, this term is further defined as a legally licensed entity that acquires, possesses, manufactures, delivers, transfers, transports, supplies, or sells cannabis products to a cannabis dispensary.

Cannabis Products - Any concentrated cannabis, cannabis extracts, and products that are infused with cannabis or an extract thereof and are intended for use or consumption by humans. The term includes edible cannabis products, beverages, topical products, ointments, oils, and tinctures

Cannabis Testing Facility - In addition to the definition in SDCL 34-20G-1, this term is further defined as a legally licensed entity legally authorized to analyze the safety and potency of cannabis.

Church – A building used for public worship.

Department – The South Dakota Department of Health.

License Holder - A cannabis establishment that possesses a license under this article to operate the cannabis establishment for which the license was issued.

Public or Private School - Any preschool, elementary school, middle school, secondary school, or high school. The term also includes any daycare or childcare center.

Unlicensed Cannabis Establishment - An entity that would otherwise meet the definition of a cannabis establishment, but which is not legally licensed by the City of Bowdle and does not have a current and valid registration certificate issued by the Department.

10-502 PROHIBITED USES

No person shall produce, transport, store or sell any cannabis products except as authorized by SDCL title 34.

No cannabis cultivation facility, cannabis product manufacturing facility and cannabis testing facility may operate and/or be licensed in the city.

10-503 LICENSE REQUIRED

No cannabis dispensary may be operated in the city without the appropriate valid and current cannabis dispensary license issued by the city pursuant to this article. A violation of this provision is subject to a penalty of \$500. Each day of the violation constitutes a separate offense.

No cannabis dispensary may be operated in the city without the appropriate valid and current cannabis dispensary registration certificate issued by the Department pursuant to rules promulgated under SDCL 34-20G. A violation of this provision is subject to a penalty of \$500. Each day of the violation constitutes a separate offense.

10-504 LICENSE APPLICATION

An application for a cannabis dispensary license must be made on a form provided by the city. No other application form will be considered.

The applicant must submit the following:

- (1) Application fee of \$5,000. The city will reimburse 80% of the application fee to applicants who fail to obtain a registration certificate from the Department. The City Council of the City of Bowdle reserves the right and authority to review and adjust the application fee through resolution of the said City Council.

- (2) An application that will include, but is not limited to, the following:
 - a) The legal name of the prospective cannabis dispensary.
 - b) The physical address of the prospective cannabis dispensary.
 - c) The name and birth date of each principal officer, owner, and board member of the proposed cannabis establishment.
 - d) A sworn statement that no principal officer, owner, and board member has been convicted of a felony offense in the previous ten (10) years in any jurisdiction.
 - e) Any additional information requested by the city.
- (3) Proof of a valid and current registration certificate issued by the Department.

Each principal officer, owner, and board member of the cannabis dispensary must meet the qualifications of a license holder.

The city may be a license holder. The city's application for a cannabis dispensary license will be given preference over any other application.

10-505 ISSUANCE OF LICENSE

Once an application is filed, the application will be referred to the appropriate city departments for an investigation into the applicant's eligibility for a license. If the applicant meets the requirements in 10-503, the City Council shall hold a public hearing to consider the application.

- (a) Public hearing shall be scheduled along with a notice of said hearing published once in the official newspaper of the City not less than seven (7) days prior to the hearing date. Public hearings are required for new and renewal licenses.
- (b) The City Council may issue a license unless:
 - (1) The applicant has made a false statement on the application or submits false records or documentation; or
 - (2) Any owner, principal officer, or board member of the applicant is under the age of twenty-one (21) years; or
 - (3) Any owner, principal officer, or board member of the applicant has been convicted of a felony offense in the previous ten (10) years in any jurisdiction; or
 - (4) The proposed location of the dispensary is within two hundred feet (200') of any city building and park, school, church, or residential property existing before the date of the application; or
 - (5) The proposed location does not share premises with or permit access directly from another medical cannabis establishment, business that sells alcohol or tobacco products.
 - (6) The proposed location does not meet all location requirements under SDCL 34-20G and the administrative rules promulgated thereunder; or
 - (7) The license is to be used for a business prohibited by state or local law, statute, rule, ordinance, or regulation; or
 - (8) Any owner, principal officer or board member of the applicant has had a cannabis dispensary license revoked by the city or a registration certificate revoked by the state; or
 - (9) An applicant, or any owner, principal officer, or board member thereof, is overdue in payment to the city of taxes, fees, fines, or penalties assessed against or imposed upon the applicant in relation to any cannabis establishment; or

- (10) The applicant will not be operating the business for which the license would be issued.
- (c) The city will reject any application if the limit on the number of cannabis dispensaries has been reached.
- (d) The license must be posted in a conspicuous place at or near the entrance to the cannabis dispensary so that it may be easily read at any time.
- (e) If the applicant requests the City Council hold a special meeting to consider the application for new license or the transfer thereof regulated through this Section, the applicant requesting said meeting shall pay all costs associated with the meeting.

10-506 CITY NEUTRALITY AS TO APPLICANTS

Upon request from the Department as to the City's preference of dispensary license applicants, the City will neither support nor oppose any registration certificate application under consideration by the Department. Likewise, if an inquiry is made by the Department, the city will abstain from endorsing any dispensary license application as beneficial to the community.

10-507 NUMBER OF LICENSES

No more than one (1) cannabis dispensary shall be allowed to operate in the City at any given time.

10-508 HOURS OF OPERATION

- (a) Cannabis dispensaries are allowed to operate between the hours of 7:00 a.m. and 7:00 pm on Monday through Saturday.
- (b) Cannabis dispensaries are not allowed to be open on Sundays, New Years Day, Martin Luther King Day, Presidents Day, Memorial Day, Independence Day, Labor Day, Native American Day or Columbus Day, Veterans Day, Thanksgiving Day and Christmas Day, and other holidays as designated by the City Council.

10-509 EXPIRATION OF LICENSE AND RENEWAL

- (a) Each license shall be for a calendar year and may be renewed only by making application as provided in section 10-503 and 10-504. Application for renewal must be submitted at least sixty (60) days before the expiration date. The license holder must continue to meet the license requirements to be eligible for renewal.
- (b) The renewal fee is \$5,000. The city will reimburse 80% to applicants who fail to obtain renewal of their registration certificate from the Department. The City Council of the City of Bowdle reserves the right and authority to review and adjust the renewal fee through resolution of the said City Council.
- (c) Failure to renew a license in accordance with this section may result in additional fees. Upon expiration of the license, the city may order closure of the cannabis establishment.
- (d) If a license holder has not operated a cannabis dispensary for which it holds a license in the preceding twelve (12) months, the license will not be renewed.

10-510 SUSPENSION

- (a) A license may be suspended if the license holder or an employee or agent of the license holder:
 - (1) Violates or is otherwise not in compliance with any section of this article.
 - (2) Consumes or smokes or allows any person to consume or smoke cannabis on the premises of the cannabis dispensary.
 - (3) Knowingly dispenses or provides cannabis or cannabis products to an individual or business to whom it is unlawful to provide cannabis or cannabis products.
- (b) A license may be suspended if the license holder has its registration certificate issued by the Department suspended, revoked, or not renewed by the Department or if the registration certificate is expired.
- (c) A license may be suspended if the license holder creates or allows to be created a public nuisance on the premises of the cannabis dispensary.

10-511 REVOCATION

- (a) A license may be revoked if the license is suspended under Section 10-508 and the cause for the suspension is not remedied.
- (b) A license may be revoked if the license is subject to suspension under Section 10-508 because of a violation outlined in that section and the license has been previously suspended in the preceding 12 months.
- (c) A license is subject to revocation if a license holder or employee of a license holder:
 - (1) Gave false or misleading information in the material submitted during the application process;
 - (2) Knowingly allowed possession, use, or sale of non-cannabis-controlled substances on the premises.
 - (3) Operated the cannabis dispensary for which a license is required under this article while the license was suspended.
 - (4) Repeated violations of Section 10-508(a)(3).
 - (5) Operated a function of the cannabis dispensary for which the license holder was not licensed (e.g., a licensed cannabis dispensary conducting cannabis testing functions without a cannabis testing establishment license).
 - (6) A license holder, or an owner, principal officer, or board member thereof, is delinquent in payment to the city, county, or state for any taxes or fees related to the cannabis dispensary.
 - (7) A license holder, or an owner, principal officer, or board member thereof, has been convicted of or continues to employ an employee who has been convicted of a disqualifying felony offense as defined by SDCL 34-20G.
 - (8) The license holder has its Department-issued registration suspended, revoked, or not renewed or the registration certificate is expired; or
 - (9) The license holder allows a public nuisance to continue after notice from the city.

10-512 SUSPENSION AND REVOCATION PROCESS

- (a) The license holder will receive a notice of intent to suspend or notice of intent to revoke informing the license holder of the violation and the city's intention to suspend or revoke the license. The notice will be hand delivered to the license holder or an employee or agent of the license holder or sent by certified mail, return receipt requested to the physical address of the cannabis dispensary.

- (b) If the license holder disputes the suspension or revocation, the license holder has ten (10) days from the postmark date on the notice or the date the notice was hand delivered to request a hearing before a hearing panel, which will consist of the Mayor, Police Committee, City Administrator and Chief of Police.
- (c) A suspension will be for thirty (30) days and begins ten (10) days after the postmark date on the notice or the date the notice is hand delivered unless the license holder exercises its rights to process and appeal, in which case the suspension takes effect upon the final determination of suspension.
- (d) A revocation will be for one (1) year and begins ten (10) days after the postmark date on the notice or the date the notice is hand delivered unless the license holder appeals the revocation, in which case the revocation takes effect upon the final determination of revocation.
- (e) The license holder who has had the license revoked may not be issued a cannabis dispensary license for one year from the date the revocation became effective.

10-513 APPEAL

An applicant or license holder who has been denied a license or renewal of a license or who has had a license suspended or revoked under this article may appeal to the City Council by submitting a written appeal within ten (10) days of the postmark on the notice of denial, nonrenewal, suspension, or revocation. The written appeal must be submitted to the City Administrator's Office. The appeal will be considered by the City Council at a regularly scheduled meeting within one month of receipt of the appeal.

10-514 LICENSES NOT TRANSFERABLE

No cannabis dispensary license holder may transfer the license to any other person or entity either with or without consideration, nor may a license holder operate a cannabis dispensary at any place other than the address designated in the application.

10-515 LIABILITY FOR VIOLATIONS

Notwithstanding anything to the contrary, for the purposes of this article, an act by an employee or agent of a cannabis dispensary that constitutes grounds for suspension or revocation will be imputed to the cannabis dispensary license holder for purposes of finding a violation of this article, or for purposes of license denial, suspension, or revocation, only if an officer, director or general partner or a person who managed, supervised or controlled the operation of the cannabis dispensary, knowingly allowed such act to occur on the premises.

10-516 PENALTIES

Any person who operates or causes to be operated a cannabis establishment without a valid license or in violation of this article is subject to a suit for injunction as well as prosecution for ordinance violations. Such violations are punishable by a maximum fine of five hundred dollars (\$500.00). Each day a cannabis establishment so operates is a separate offense or violation.

10-600 SHORT TERM RENTALS (Adopted 07/05/2022)

10-601 DEFINITIONS

Unless an alternative definition is explicitly stated in this section, this chapter utilizes the definitions for lodging related terms which are defined by SDCL 34-18-1.

Bed and Breakfast Facility - A small lodging establishment that offers overnight accommodation and breakfast.

Department – The South Dakota Department of Health.

License Holder – The property owner of a short-term rental property that possesses a license under this article to operate the short-term rental for which the license was issued.

Property Owner - The individual, individuals or company that has proprietors' rights to the property.

Short Term Rental - Bed and breakfast facilities and vacation home rentals that are available for rental to the same guest(s) for a period not exceeding thirty consecutive days. A short-term rental does not include a bed and breakfast facility or a vacation home rental that is available for rent for fourteen or fewer days in a calendar year. Any short-term rental which may be used occasionally as a bed and breakfast facility and at other times be used as a vacation home rental shall be reviewed as a vacation home rental.

Transfer - The grant or conveyance of an ownership interest in the short-term rental property from an entity, trust, person, or combination thereof to another entity, trust, person, or combination thereof. The grant or conveyance of an ownership interest in the short-term rental property from one spouse to his or her respective spouse by lawful marriage shall not be considered a transfer.

Vacation Home Rental (VHR) - A short-term rental in which a private dwelling is rented, leased, or furnished in its entirety to the public on a daily or weekly basis for a charge, and where the dwelling is also not occupied by an owner or manager during the time of rental.

10-602 GENERAL PROVISIONS

- (a) Occupancy of recreational vehicles (RVs), camper trailers and tents shall not be allowed as a VHR. Cross reference ordinance 11.1901.1.
- (b) The minimum age allowed for the principal renter of a VHR is 21 years of age.
- (c) The use of open fires, fire pits, fireworks, charcoal burning grills, gas fired grills, or other devices (as applicable) shall not be allowed without permission from the owner, property manager or local contact. The owner, property manager or local contact must comply with all federal, state and/or local laws, ordinances, or rules regarding open burning, burn barrels, fire pits, fireworks, fireplace, or the burning of any flammable material.

10-603 LICENSE REQUIRED

No short-term rental may be operated in the city without the appropriate valid and current license issued by the city pursuant to this article. A violation of this provision is subject to a penalty of \$500. Each day of the violation constitutes a separate offense.

No short-term rental may be operated in the city without the appropriate valid and current license issued by the Department pursuant to rules promulgated under SDCL 34-18. A violation of this provision is subject to a penalty of \$500. Each day of the violation

constitutes a separate offense.

10-604 LICENSE APPLICATION

An application for a short-term rental license must be made on a form provided by the city. No other application form will be considered.

The applicant must submit the following:

- (1) Application fee as contained within the Rates and Fee Schedule, which is set and amended by resolution.
- (2) An application that will include, but is not limited to, the following:
 - a) Each property owner's name, permanent address, and phone number.
 - b) The legal description and physical address of the property to be used as a short-term rental.
 - c) A description of the proposed use (including any outdoor use), the maximum number of rooms and occupancy available, and the anticipated dates, the short-term rental will be available for overnight accommodations.
 - d) Contact information for the property manager or local contact individual to comply with the requirements of this Section, and to be contacted in case of complaint or emergency.
 - e) Any additional information requested by the city.
- (3) A copy of the Lodging License issued by the Department.
- (4) A copy of the owner's South Dakota Sales Tax License issued by the South Dakota Department of Revenue.
- (5) A copy of the property's insurance coverage reflecting the endorsement for the short-term rental.

10-605 ISSUANCE OF LICENSE

Once an application is filed, the application will be referred to the appropriate city departments for an investigation into the applicant's eligibility for a license. If an applicant meets the requirements in 10-604, the City Council shall consider the application.

- (a) The City Council may issue a license unless:
 - (1) The owner has made a false statement on the application or submits false records or documentation; or
 - (2) The property is not in compliance with the Department.
 - (3) The license is to be used for a business prohibited by state or local law, statute, rule, ordinance, or regulation; or
 - (4) Any applicant or property owner has had a short-term rental license revoked by the city or a lodging license revoked by the state; or
 - (5) Any property owner of the property is overdue in payment to the city of taxes, fees, fines, or penalties assessed against or imposed upon the applicant in relation to any short rental property; or
 - (6) The applicant will not be operating the business for which the license would be issued.
- (b) The city will reject any application if the limit on the number of short-term rentals has been reached.
- (c) If applicant requests the City Council hold a special meeting to consider the application

for new license, the applicant requesting said meeting shall pay all costs associated with the meeting.

10-606 NUMBER OF LICENSES

No more than one (1) bed and breakfast facility; and, no more than four (4) vacation home rentals shall be allowed to operate in the City at any given time.

The two (2) vacation home rentals already existing on Airbnb at the time of the passage of this ordinance shall be considered grandfathered in if fully compliant within sixty of passage of this ordinance, including annual renewal.

10-607 EXPIRATION OF LICENSE AND RENEWAL

- (a) Each license shall be for a calendar year. A license holder must renew the license on an annual basis in order to continue the short-term rental operation. Renewal applications shall include the following:
 - (1) The annual application fee as contained within the Rates and Fee Schedule, which is set and amended by resolution.
 - (2) A copy of the current Lodging License issued by the Department.
 - (3) A copy of the property's insurance coverage reflecting the endorsement for the short-term rental.
 - (4) Contact information for the property manager or local contact individual to comply with the requirements of this Section, and to be contacted in case of complaint or emergency.
- (b) It may be renewed within thirty (30) days of its expiration, but if a license holder fails to renew the permit within thirty (30) days of expirations, he or she must submit a new license application. The license holder must continue to meet the license requirements to be eligible for renewal.
- (c) Failure to renew a license in accordance with this section may result in additional fees. Upon expiration of the license, the city may order closure of the short-term rental.
- (d) If a license holder has not operated a short-term rental for which it holds a license in the preceding twelve (12) months, the license will not be renewed.

10-608 SUSPENSION OR REVOCATION OF LICENSE

The City may suspend or revoke any short-term rental license, or refuse to issue a license, for any of the following grounds:

- (a) Failure to adhere to applicable regulations or laws.
- (b) Concerns expressed to the City about the operation of the short-term rental, including nuisance issues, noise complaints, safety concerns, calls for service to the Police department, or similar complaints.
- (c) Commission of fraud or willful misrepresentation in the application for or in obtaining a license.
- (d) Commission, or permitting, aiding, or abetting in the commission of any unlawful act in the short-term rental.
- (e) Conduct or practices that are detrimental public health, safety, or welfare.
- (f) Any property owner is delinquent in payment to the city, county, or state for any taxes or fees related to the short-term rental.

- (g) The Department issued registration is suspended, revoked, or not renewed or the registration certificate is expired.

10-610 SUSPENSION AND REVOCATION PROCESS

- (a) The license holder will be issued a notice of intent to suspend or revoke a short-term rental license and the reasons for the suspension or revocation by first class mail to the license holder's address on record.
- (b) If the license holder disputes the suspension or revocation, the owner has ten (10) days from the postmark date on the notice to request a hearing before a hearing panel, which will consist of the Mayor, Building Committee, and City Administrator.
- (c) A suspension will be for thirty (30) days and begins ten (10) days after the postmark date on the notice or the date the notice is hand delivered unless the license holder exercises its rights to process and appeal, in which case the suspension takes effect upon the final determination of suspension.
- (d) A revocation will be for one (1) year and begins ten (10) days after the postmark date on the notice or the date the notice is hand delivered unless the owner appeals the revocation, in which case the revocation takes effect upon the final determination of revocation.
- (e) Any property owner who has had a license revoked may not be issued a short-term rental license for one year from the date the revocation became effective.

10-611 APPEAL

A property owner who has been denied a license or renewal of a license or who has had a license suspended or revoked under this article may appeal to the City Council by submitting a written appeal within ten (10) days of the postmark on the notice of denial, nonrenewal, suspension, or revocation. The written appeal must be submitted to the City Administrator's Office. The appeal will be considered by the City Council at a regularly scheduled meeting within one month of receipt of the appeal.

10-612 LICENSES NOT TRANSFERABLE

A short-term rental license may not be transferred to a different location or to a different property owner.

10-613 LIABILITY FOR VIOLATIONS

Notwithstanding anything to the contrary, for the purposes of this article, an act by any property owner, manager or local contact of a short term rental that constitutes grounds for suspension or revocation will be imputed to the short term rental property owner for purposes of finding a violation of this article, or for purposes of license denial, suspension, or revocation, only if a property owner or a person who managed, supervised or controlled the operation of the short term rental, knowingly allowed such act to occur on the premises.

10-614 PENALTIES

Any person who operates or causes to be operated a short-term rental without a valid license or in violation of this article is subject to a suit for injunction as well as prosecution for ordinance violations. Such violations are punishable by a maximum fine of five hundred dollars (\$500.00). Each day a short-term rental so operates is a separate offense or violation.

CHAPTER 11

BUILDING REGULATION

11-000 PLANNING AND ZONING COMMISSION ESTABLISHED.

There is hereby established a Planning and Zoning Commission for the City of Bowdle, South Dakota and for land within its corporate city limits.

11-001 MEMBERSHIP

The membership of the Planning and Zoning Commission shall consist of the Mayor and City Council. The members of the Planning and Zoning Commission shall be resident electors of Bowdle, South Dakota qualified by knowledge or experience to act in matters pertaining to the development and administration of the Comprehensive Land Use Plan. The Mayor may appoint administrative officials of the City as ex-officio members of the Commission.

11-002 TERMS OF MEMBERS

Elected Members: The term of each member of the Planning and Zoning Commission shall coincide with the respective terms of office held by the Mayor and City Council.

11-003 DUTIES OF PLANNING AND ZONING COMMISSION

It shall be the function and duty of the Planning and Zoning Commission to propose a plan for the physical development of the City, within its planning jurisdiction which, in the commission's judgment, bears relation to the planning of the municipality. It shall also be a function and duty of the Planning and Zoning Commission to develop and adopt a zoning ordinance for the regulation of the height, area, bulk, location, and use of private and public structures and premises, and of population density as may be provided by law may be included as an adjunct to the comprehensive plan. It is also the function and duty of the Planning and Zoning Commission to adopt regulations governing the subdivision of land within its jurisdiction. The Planning and Zoning Commission may from time to time propose amendments, extensions, or additions to the comprehensive plan, zoning ordinance, and subdivision regulations. It shall also be the function and duty of the Planning and Zoning Commission to act as the Board of Adjustment. Said board of adjustment may, in appropriate cases and subject to appropriate conditions and safeguards, make special exceptions, conditional uses permits or grant variances to the terms of the ordinance with general or specific rules therein contained.

11-004 COMPENSATION

All members of the Planning and Zoning Commission shall serve as such without compensation.

11-005 ORGANIZATION, RULES, STAFF AND FINANCES.

The City Council shall elect its chairman from its membership for a term of one year with eligibility for re-election and may fill such other offices as it may create in a manner prescribed by the rules of such Commission. The Commission shall meet during the regular City Council meetings and/or as needed. During said meetings, they shall adopt rules for transaction of its business and keep a record of its resolutions, transactions, and findings and determinations which shall be a public record as recorded and maintained within the City Council proceedings. The Planning and Zoning Commission may contract with planners, engineers, architects, and other consultants for such services as it may require. The expenditures of the Commission, exclusive of those made from funds by gift, shall be within

the amount appropriated for the purpose by the City Council which shall provide funds, equipment, and accommodations necessary for the Commission's work.

Resolution #2009-15, Adopting a Comprehensive Plan for the City of Bowdle, Haakon County, South Dakota, as provided for in SDCL 11-6 is inclusive with said Ordinance and a copy of the Comprehensive Plan shall be attached.

All ordinances and parts of ordinances in conflict herewith are hereby repealed as far as the conflicting portions thereof are concerned.

Ord. #2009-16, adopted 12/29/09, sections 11-000 to 11-005

11-101 DEFINITIONS

For the purposes of this Ordinance certain terms are defined as follows:

Words used in the present tense include the future; words in the singular include the plural number; and words in the plural include the singular number; the word “building” includes the word “structure”; and the word “shall” is mandatory and not directory. Any words not herein defined in the “Building Code” or “Ordinance” of the City of Bowdle, South Dakota, now in effect or which may be hereafter adopted.

Accessory Building – An accessory building is a subordinate building, or a portion of the main building the use of which is incidental to that of the main building, or to the use of the premises.

Alley – An Alley is a public thoroughfare typically twenty feet in width.

Apartment House – An apartment house is a multiple dwelling.

Boardinghouse – A boardinghouse is any dwelling other than a hotel where meals or lodging are furnished and served for compensation.

Building – A building is any structure for the shelter, support or enclosure of persons, animals, chattels or moveable property of any kind; and when separated by party walls without openings, each portion of such building, so separated shall be deemed a separate building.

Building Depth or Buildable Depth – The buildable width or buildable depth of a lots is the width or depth of that part of the lot not included within the open spaces required by provisions of this Ordinance under yards or setbacks.

Dwelling – A dwelling is any house or building or portion thereof which is occupied in whole or in part as a home, residence or sleeping place of one or more human beings either permanently or transiently.

Dwelling, Class of – For the purpose of this Ordinance, dwelling is divided into the following classes:

- a) Private dwellings
- b) Two family dwellings
- c) Multiple dwellings

Dwellings, Private – A private dwelling is a detached or semi-detached dwelling occupied by one family.

Dwellings, Two-family – A two-family dwelling is a detached or semi-detached dwelling occupied by two (2) families.

Dwellings, Multiple – A multiple dwelling is a dwelling occupied otherwise than a private dwelling or two-family dwelling.

Family – A family is any number of individuals occupying a single housekeeping unit not herein defined as a boardinghouse, apartment hotel, rooming house, hotel, or tourist pay camp.

Garage, Private – A private garage is a garage with the capacity of not more than four (4) power driven vehicles for storage only. A private garage may exceed the four (4) vehicle capacity provided the area of the lot whereon such garage is to be located shall not contain less than twelve hundred (1200) square feet for each vehicle stored.

Garage, Public – A public garage is any premises except those described as a private garage, used for the housing or care of power-driven vehicles or where any such vehicles are equipped for operation, repaired or kept for remuneration, hire or sale.

Grade – The finished grade of a premises improved by a building is the finished grade of the ground adjoining the building. The established grade of the premises, whether vacant or improved, is the grade of the sidewalk as fixed or to be fixed by ordinance of the city, and as shown on the official grade profiles of the City Engineer's office. Where the finished grade is below the level of the established grade the established grade shall be used for all purposes of this Ordinance.

Hotel – A hotel is every building or other structure kept, used, maintained, advertised or held out to the public to be a place where food and or sleeping accommodations are offered for pay to transient guests and having one or more dining rooms or cafes, where meals or lunches are served to such transient guests, such sleeping accommodations and dining room being conducted in the same building in connection therewith shall, for the purposes of this Ordinance, be deemed a hotel.

Rooming house – A rooming house is every building or other structure kept, used or maintained as a place where sleeping accommodations are furnished for pay for public guests, including as such guests, transients, tourists, old-age recipients and county poor farm recipients, which said building or structure does not maintain therein dining rooms or cafes under the same management, and in which the accommodation of such persons are solicited or where such accommodations are advertised and/or held out to the public for such use, shall for the purpose of this ordinance deemed a rooming house. Nothing in this Ordinance shall be construed to prevent the use of any name the proprietor of such rooming house may desire to apply, including the word "hotel."

Tourist Pay Camp – Every building or group of buildings or other structure or group of structures kept, used, maintained or advertised, or held out to the public to be a place where sleeping accommodations are offered for pay to transient guests, not otherwise classified as a hotel or rooming house, and offering more than one cabin for accommodation of such guests shall for the purpose of this Ordinance be deemed a tourist pay camp. For the

purpose of this Ordinance the words “tourist pay camp” shall be construed to include the words “motor court,” “cabin camp,” “motor lodge,” “tourist camp,” “motor hotel” and “tourist park.”

Lot – A lot for the purpose of this Ordinance is a parcel of land or premises occupied, or which it is contemplated shall be occupied by one building with its usual auxiliary buildings or uses customarily incident to it, and shall be of a size not less than 6000 square feet.

Lot, Corner – A corner lot is a lot of which at least two (2) adjacent sides abut for their full length upon a street.

Lot Area – The lot area is the land area in square feet within the lot lines.

Lot, Interior – An interior lot is a lot other than a corner lot.

Through lot – A through lot is an interior lot having frontage on two (2) streets.

Lot depth – The depth of a lot is the mean or average length, measured from the front to the back or rear line, in the general direction of the longest sides of same.

Lot lines – The lot lines are the lines bounding a lot as defined herein.

Mixed uses – Where a building is occupied or used for more than one purpose, one of which is the use defined as a residence or dwelling, that portion of such building so used as a residence shall be deemed a residence for the purpose of this Ordinance.

Nonconforming use – A nonconforming use is the use of a building or premises that does not conform with the regulations of the use district in which it is situated.

Office Building – an office building is any building, structure or edifice designed for offices, where service is rendered or business is transacted and is used for management, record keeping, consultation and clerical work of an establishment. Retail businesses and outlets are specifically excluded.

Public Space – A park or public square shall be deemed the only public space existing under this ordinance, and then only when the same are under the control of the park board or the City Council of the City.

Setback or Building Line – The setback or building line is the minimum horizontal distance between the street line and the front wall of the building, or any projection thereof, other than steps, terraces and unenclosed porches; provided however, that an entrance vestibule, porch or window bay may project beyond the building line or wall not more than three and one-half (3 ½) feet, if the same has not more than thirty (30) feet area.

Street – A street is a public thoroughfare used for foot and vehicle traffic or a roadway other than an alley as herein defined. The street lines are the lines dividing the street from the lot, and the front lines shall be deemed to be the street line.

Story – A story is that portion of a building included between the surface of any floor and the surface of the floor above it; or in case there be no floor above it, then the space between such floor and the ceiling or roof next above it.

Structural Alteration – A structural alteration is any change in the supporting members of a building, such as bearing walls, columns, beams or girders, not including otherwise permitted openings in bearing walls, except those changes or alterations required by law to insure the safety of the building for the lawful use hereof.

Tenement House – A tenement house is a multiple dwelling.

Rear Yard – A rear yard is an open, unoccupied space on the same lot with the building, situated between the rear wall of the building and the rear line of the lot produced, and unoccupied except by accessory buildings.

Front Yard – A front yard is an open, unoccupied space on the same lot with the building, situated between the street wall of the building and the front line of the line produced.

Side Yard – A side yard is an open, unoccupied space on the same lot with a building, situated between the building and the sideline of the lot and extending through the front yard to the rear yard of a lot. Any lot line, not a rear or a front line, shall be deemed a sideline.

11-102 CONSTRUCTION STANDARDS

(Amended & Adopted 2021 Building Codes, Ord. 2023-07, Approved 06/05/2023)

11-102.1 BUILDING CODE ADOPTED

The common council hereby adopts the 2021 International Residential Code for One- and Two-Family Dwellings, Chapters 1-10 and 12-24 and 44 and the 2021 International Building Code as published by the International Code Council. A copy of the code shall be on file in the City Office.

11-102.1.1 AMENDMENTS TO THE INTERNATIONAL RESIDENTIAL CODE (IRC)

The following amendments to the International Residential Code for One- and Two-Family Dwellings adopted by section 6-26 are made and incorporated into the code:

CLIMATIC AND GEOGRAPHIC DESIGN CRITERIA City of Bowdle, SD

Ground Snow Load	40
Wind Speed (mph)	115
Seismic Design Category	A
Subject to Damage From:	
Weathering	Severe
Frost Line Depth	42"
Termite	None to Slight
Decay	None to Slight
Winter Design Temperature (f)	- 7

Ice Shield Under-underlayment Required	Yes
Flood Hazards	NFIP
Air Freezing Index	3000
Mean Annual Temperature	42

IRC Chapter 1, Section R105 Permits.

1. IRC Chapter 1, Section 105.1 Required is hereby amended to read as follows: Any owner or owner's authorized agent who intends to construct, enlarge, move, or change the occupancy of a building or structure shall first make application to the city of Bowdle and obtain the required permit.

2. *IRC Chapter 1, Section R105.2 Work exempt from building permit* is hereby amended to read as follows: Building Permits shall not be required for the following. Exemption from the permit requirements of this code shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of this code or any other laws or ordinances of this jurisdiction.
 1. One-story detached accessory structures provided the floor area does not exceed two hundred (200) square feet. Setback requirements from zoning are still required to be met.
 2. Fences not over seven (7) feet high.
 3. Retaining walls that are not over four (4) feet in height measured from grade on the exposed side to the top of the wall, unless supporting a surcharge.
 4. Water tanks are supported directly upon grade if the capacity does not exceed 5,000 gallons and the ratio of height to diameter or width does not exceed 2 to one 1.
 5. Sidewalks and driveways.
 6. Painting, papering, tiling carpeting, cabinets, countertops, and similar finish work.
 7. Above ground prefabricated swimming pools.
 8. Swings and other playground equipment.
 9. Window awnings supported by an exterior wall which do not project more than 54 inches from the exterior wall and do not require additional support.
 10. Replacement of similar siding materials.
 11. Replacement of similar roofing materials.
 12. Gutters, downspouts, and storm windows.
 13. Window replacement where the rough opening is not altered.
 14. Structures or work performed on properties of the government of the United States of America or the State of South Dakota.
 15. Decks that are not more than 30 inches above grade at any point.
 16. Interior remodeling.

3. *IRC Chapter 3, Section R302.5.1 Opening protection.* Openings from a private garage directly into a room used for sleeping purposes shall not be permitted. Other openings between the garage and residence shall be equipped with solid wood doors not less than 1 3/8 inches in thickness, solid or honeycomb-core steel doors not less than 1 3/8 inches thick, or 20-minute fire-rated doors. Doors shall be equipped with a self-closing device.

4. *IRC Chapter 3, Section R302.13 Fire protection of floors* is hereby deleted.

5. *IRC Chapter 3, Section 313 Automatic fire sprinkler systems* is hereby deleted. *IRC Chapter 3, Section R313.2.1 Design and installation* is hereby amended. When installed an Automatic residential fire sprinkler system shall be designed and installed in accordance with Section P2904 or NFPA 13D.
6. *IRC Chapter 4, Section 403.1.4.1 exception 1*. Frost Protection of freestanding accessory structures with an area of 1,024 square feet or less, of light-framed construction, with an eve height of ten (10) feet or less, shall not be required.
7. *Chapter 11 Energy Efficiency*. Chapter 11 is hereby deleted and not adopted by the city.

11.102.1.2 2021 INTERNATIONAL BUILDING CODE (IBC)

The following amendments to the International Building Code hereby adopted and incorporated into the code:

1. Section 105 Permits.

(1) *IBC Chapter 1, Section A105.1 Required* is hereby amended to read as follows:

Any owner or owner's authorized agent who intends to construct, enlarge, move, or change the occupancy of a building or structure shall first make application to the city and obtain the required permit.

(2) *IBC Chapter 1, Section R105.2 Work exempt from permit* is hereby amended to read as follows: Permits shall not be required for the following. Exemption from the permit requirements of this code shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of this code or any other laws or ordinances of this jurisdiction.

- a. One-story detached accessory structures provided the floor area does not exceed one hundred twenty (200) square feet.
- b. Fences are not over seven (7) feet high.
- c. Retaining walls that are not over four (4) feet in height measured from grade on the exposed side to the top of the wall, unless supporting a surcharge.
- d. Water tanks are supported directly upon grade if the capacity does not exceed 5,000 gallons and the ratio of height to diameter or width does not exceed 2 to one 1.
- e. Sidewalks and driveways.
- f. Painting, papering, tiling, carpeting, cabinets, counter tops and similar finish work.
- g. Above ground prefabricated swimming pools.
- h. Swings and other playground equipment.
- i. Window awnings supported by an exterior wall which do not project more than 54 inches from the exterior wall and do not require additional support.
- j. Gutters, downspouts, and storm windows.
- k. Window replacement where the rough opening is not altered.
- l. Replacement of similar siding materials.
- m. Replacement of similar roofing materials.
- o. Structures or work performed on properties of the government of the United States of America or the State of South Dakota.
- p. Interior remodeling and repairs.

(3) *IBC Chapter 1, Section 113 Board of Appeals* is hereby amended to read as follows: The board of adjustment shall be the Board of Appeals.

11-102.2 DEFINITIONS IN CODE

(a) Whenever the word "jurisdiction" is used in the code adopted by section 11-102.1, it shall be held to mean the City of Bowdle, South Dakota.

(b) Whenever the term "corporate counsel" is used in the code, it shall be held to mean the city attorney.

11-102.3 CONFLICTS

In the event of any conflict between the provisions of the code adopted in section 11-102.1 and applicable provisions of this Code of Ordinances, state law or city ordinance, the provisions of this Code of Ordinances, state law, or city ordinance shall prevail and be controlling.

11-102.4 INTERNATIONAL EXISTING BUILDING CODE ADOPTED

The common council hereby adopts the 2021 International Existing Building Code published by the International Code Council.

11-102-5 INTERNATIONAL FIRE CODE ADOPTED

The common council hereby adopts the 2021 International Fire Code published by the International Code Council.

11-103 CONFLICTS

In the event of any conflict between the provisions of the Code adopted by this article and applicable provisions of this code of Ordinances, State Law or City Ordinance, rule or regulations shall prevail and be controlling.

11-104 DEFINITIONS

Whenever the word "municipality" is used in the code adopted by this article, it shall be held to mean the City of Bowdle, South Dakota.

11-201 USE DISTRICT REGULATIONS

In order to regulate the location and use of buildings erected or altered for specified purposes, the City of Bowdle is hereby divided into use districts, of which there shall be five (5) classifications known as follows:

- a) Residence District
- b) Multiple Dwelling District
- c) Commercial District
- d) Industrial District
- e) No Use District

The City of Bowdle, South Dakota, is hereby divided into the five (5) districts aforesaid and the boundaries of such districts are shown upon the map attached hereto and made a part of this ordinance, being designated as the "Use District Map", and said map and all the notations, references and other things shown thereon shall be as much a part of this Ordinance as if the matters and things set forth by said map were fully described herein. Except as hereinafter provided, no building shall be erected or structurally altered, nor shall

any building or premises be used for any purpose other than is permitted in the use district in which each building or premises is located.

a) CLASS “A” RESIDENCE DISTRICT

In the residence district, unless otherwise provided in this Ordinance, no building or premises shall be used, and no building shall hereafter be erected or structurally altered except for one or more of the following uses:

1. Private dwellings.
2. Two-family dwelling.
3. Multiple dwellings, in residence districts.
4. Churches or school accessory thereto, including nameplates and bulletin boards relative thereto.
5. Libraries, museums, schools, colleges, parks, playgrounds, public fire stations and necessary public utility buildings, recreational and community buildings owned and controlled by the municipality, telephone exchange or other necessary public utility stations or substations, bus line passenger and truck freight stations and right-of-way.
6. Truck gardening.
7. Nurseries and greenhouses for the propagating and cultivation of plants only, provided however, that at the time the permit is issued, there shall be on file in the office of the Building Inspector the written consent of the owners of at least sixty (60) percent of the area of all real estate within one hundred and fifty (150) feet of any part of the premises, excluding streets and alleys.
8. Accessory buildings include one private garage located not less than twenty-five (25) feet from the front line, nor less than five (5) feet from any other lot line, or a private garage constructed as a part of the main building. Provided, however, that the City Council or Board of Adjustment may at its discretion prohibit the erection of other structures, if in its judgement the same may become a nuisance or offensive or affect the value of adjoining property.
9. Uses customarily incident to any of the above uses, including home occupation when located on the same lot and not involving the conduct of a business. Also the office of a physician, surgeon, dentist, musician or artist, beauty shop or barbershop or such other profession as may be permitted at the discretion of the Board of Adjustments, when situated in the same building, provided no nameplate, exceeding one (1) square foot in area, no bulletin boards or signs exceeding three (3) square feet in area appertaining to the lease, hire or sale of a building or premises nor advertising signs of any other character shall be permitted in any residence district.
10. Reserved.

11. The construction of cesspools are prohibited within the City of Bowdle, except where the City Sewage System is not available; then a permit may be issued for the construction of cesspools upon proper application to the Zoning Board of Adjustment or the City Council. Outdoor water closets or privy vaults are prohibited within the City limits of the City of Bowdle, and it shall be unlawful for any person, firm, or corporation to construct, keep, or maintain any outdoor water closet or privy vault.
12. No permit shall be issued to move any building or residence structure which may be located within or without the limits of the City of Bowdle into any class of residence district within the City of Bowdle unless the same has an actual value of the residential class in which said building is to be placed.

b) CLASS "B" MULTIPLE DWELLING DISTRICT

In the multiple dwelling district, no building or premises shall be used, and no building shall

be hereafter erected or structurally altered unless otherwise provided in this Ordinance, except for one or more of the following uses:

1. Any use permitted in the residence district, under "A".
2. Multiple dwellings.
3. Hotels and apartment hotels.
4. Private clubs and lodges, apart from those, the chief activity of which is a service carried on as a business.
5. Boarding houses.
6. Hospitals and clinics.
7. Institutions of an educational, philanthropic, or eleemosynary nature.
8. Accessory buildings customarily incident to any of the above uses, including garages for storage only, when located on the same lot and not less than twenty-five (25) feet from the front line and not less than five (5) feet from any side street line, and not involving the conduct of a business.
9. Public garages for storage purposes only, when not an accessory building and and where neither repair facilities nor salesrooms are maintained.
10. Uses customarily incident to any of the above uses where located on the same lot and not involving the conduct of a business, except wherein the same building to which the use may be accessory, there shall be allowed concession and service, access to such uses to be only from within such building.
11. A nameplate for each tenant, or sign appertaining to the use, lease, hire or sale of the building or premises, provided no such sign shall be more than three (3) square feet. No advertising sign or display or any other character shall be permitted in the multiple dwelling district.

12. Rules governing the erection or structurally altering of single, double or multiple-dwelling residences in the multiple dwelling district, shall be the same as given in paragraph nine (9) under residence districts. Before a building of any nature can be erected or structurally altered, the owner thereof must, in addition to submitting plans and specifications as provided in paragraph nine (9) under residence district, also not only secure the written approval of the Building Inspector of the City, but must also secure the written consent of the Board of Adjustment.
13. No private dwelling or two-family dwelling shall be erected hereafter in multiple-dwelling districts which do not conform in every respect to residences permitted to be erected in class “A” residence districts.
14. Any multiple dwelling erected in the multiple dwelling district shall be of a character to conform structurally and architecturally with other buildings in the district.

Permitted uses of office buildings:

1. Medical, optical, dental offices.
2. Law, insurance, real estate, account offices.
3. Corporate Offices.
4. Government Offices.
5. Uses customarily incident to any of the above uses and not involving the conduct of a retail business.
6. Other uses allowed in the Class “B” multiple dwelling district.
7. Off street parking facilities for any of the above uses.

No signs relating to office buildings intended to be read from off the premises shall be permitted except:

1. No intermittent flashing type signs are allowed.
2. One temporary on-site sign, non-illuminated, no greater than twelve (12) square feet in area and advertising the lease, rent or sale of property.
3. Signs incorporated as part of the building façade, or signs attached to buildings in buildings in a manner deemed adequate for the protection of public health or safety.
4. Signs for individual establishments shall not exceed twelve (12) square feet in feet in size, except that one sign may be erected to advertise the presence of the district, which shall not exceed a size of thirty – two (32) square feet.

5. All spaces between buildings, parking, loading, access, and service area shall be adequately illuminated at night. All lighting, including sign lighting, shall be arranged so as to protect the streets and adjoining property from direct glare or hazardous interference of any kind.

c) CLASS “C” COMMERCIAL DISTRICT

In the commercial district all buildings and premises, except as otherwise provided in this Ordinance, may be used for any use permitted in the multiple-dwelling district and residence district, or for any other use except the following:

Bakery (strictly wholesale); blacksmith or horseshoeing shops; building material storage yard; machinery storage yard; coal, coke or woodyard; livery stable; lumber yard (except those in which 50% or more of the premises are housed in substantial buildings); machine shop; wholesale milk distributing station; all uses excluded from manufacturing district; any kind of manufacture or treatment of products clearly incidental to the conduct of a retail business conducted on the premises; slaughterhouses or poultry dressing establishments; oil refineries; planing mills, but not prohibiting carpenter or cabinet shops; all other occupations or businesses of such a nature as to become offensive or obnoxious to the occupants of adjoining property by reason of the emission of odors, fumes, gases, dust smoke, noise or vibrations.

The erecting, altering, or enlarging of buildings in the commercial district shall be governed by building ordinances now in effect or to be put into effect hereafter.

All house trailer court and mobile home parks within the City of Bowdle shall be included in the district map as a commercial district designated as class “C” commercial residence district, and the values thereof shall be determined by the City Assessor, to be approved by the Board of Adjustment.

d) CLASS “D” INDUSTRIAL DISTRICT

In the industrial district, such industries and factories shall be permitted as are not obnoxious or offensive by reason of emission of odor, dust, smoke, gas or noise; nor unsightly. Prohibited industries shall include:

Abattoirs; asphalt manufacture or refining; brick, tile, or terra-cotta manufacture; crematory; distillation of bones, coal or wood; dyestuff manufacture; exterminator and insect poison manufacture; fertilizer manufacture; incinerator; reduction or dumping of garbage, dead animals, offal or refuse; refining of petroleum products and explosive derived therefrom; commercial sauerkraut manufacture; soap manufacture; slaughtering of animal; storage or bailing of scrap iron, bottles, paper, rags, or junk; tanning, curing, or storage of rawhides; canning factory; cider mills.

e) CLASS “NU” NO USE DISTRICT

General Description – This status is applicable to certain lands in which the construction of permanent structures is prohibited pending study and survey of the lands by the governing body. Status is a temporary designation for the purpose of permitting proper investigation and study of land uses of lands composing this status.

This status shall be applied to all newly annexed land areas, and it shall be applied to any lands rezoned to business purposes in which no business development has occurred within two (2) years after rezoning.

Newly Annexed Lands – All lands annexed by the City shall, upon annexation, be placed in a “NU” No Use District status until the governing body has completed an investigation and study of the proposed land use of the area. In the event that such investigation and study have been made prior to the annexation, these lands may be rezoned to their proper use after thirty (30) days. Otherwise, upon the written request of the owners of annexed land, the governing body shall investigate and determine the proper zoning of such land, and such rezoning shall take place within one hundred and twenty (120) days from the date of the written request. In no event shall lands newly annexed to the city be retained in a “NU” No Use status for a period in excess of one year from the effective date of annexation.

Land Remaining Undeveloped for Two Years After Rezoning to Business Use – Land rezoned for business use after the effective date thereof shall revert to “NU” No Use status in the event that within two (2) years from the effective date of such zoning: (1) such land is not devoted to the permitted use; or (2) the construction of improvements for a permitted use has not been commenced, as evidenced by issuance of a building permit and construction pursuant thereto. In the event that at this time a valid building permit has been issued but construction has not begun, the land shall remain zoned for business unless such building permit expires without construction. In this case, such land shall revert to “NU” status upon expiration of the building permit.

Procedure on Reversion – As land reverts to “NU” status, the governing body shall make an investigation and study of proper land use thereon and shall initiate action within sixty (60) days. In no event shall lands reverting to “NU” status be retained in this status for a period in excess of one hundred and eighty (180) days.

11-301 NON-CONFORMING USES

The lawful use of any building, structure or land existing at the time of the enactment of this Ordinance may be continued, although such use does not conform with the provisions of this Ordinance, provided the following conditions are met:

- a) Unsafe Structures. Nothing in this Ordinance shall prevent the strengthening or restoring to a safe condition any portion of a building or structure declared unsafe by a proper authority.
- b) Alterations. A non-conforming building or structure may be altered, improved or reconstructed, provided such work is not to an extent exceeding in aggregate cost thirty (30) percent of the assessed value of the building or structure, unless the building or structure is changed to a conforming use.
- c) Extension. A non-conforming use shall not be extended, but extension of a lawful use to any portion of a non-conforming building or structure, which existed prior to the enactment of this Ordinance, shall not be deemed the extension of such non-conforming use.
- d) Changes. No non-conforming building, structure or use shall be changed to another non-conforming use.
- e) Construction Approved Prior to Ordinance. Nothing herein contained shall require any change in plans, construction or designated use of a building or structure for which a building permit has been issued and the construction of which shall have been diligently prosecuted within six (6) months of the date of such permit, and the

ground story framework of which, including the second tier of beams shall have been completed within ninety (90) days of the date of the permit, and which entire building shall be completed according to such plans as filed within six (6) months from date of this Ordinance.

- f) Restoration. Nothing in this Ordinance shall prevent the reconstruction, repairing, rebuilding and continued use of any non-conforming building or structure damaged by fire, collapse, explosion or acts of God, subsequent to the date of this Ordinance, wherein the expense of such work does not exceed one hundred (100%) percent of the value of the building or structure at the time such damage occurs.
- g) Wear and Tear. Nothing in this Ordinance shall prevent the reconstruction, repairing or rebuilding of a non-conforming building, structure or part thereof existing at the effective date of this Ordinance, rendered necessary by wear and tear, deterioration or depreciation; provided that cost of such work shall not exceed thirty (30) percent of the assessed value of such building or structure at the time such work is done.
- h) A non-conforming use of a building or premises which has been abandoned shall not thereafter be returned to such a non-conforming use. A non-conforming use shall be considered abandoned:
 - 1. When the intent of the owner to discontinue the use is apparent, or
 - 2. When the characteristic equipment and the furnishings of the non-conforming use have been removed from the premises and have not been replaced by similar equipment within one year, unless other facts show intention to resume the non-conforming use, or
 - 3. When it has been replaced by a conforming use, or
 - 4. When it has been changed to another use under permit issued from the zoning board of adjustment.
- i) Displacement. No non-conforming use shall be extended to displace conforming use.
- j) Cessation, Junk and Wrecking Yards. No junk or automobile wrecking yard not within an enclosed masonry building and not within a heavy industrial or unrestricted industrial district shall be operated or maintained for more than six (6) months after a zoning change to a use district within such years is not permitted except that in a light industrial district, where the board of appeals determined that is impractical to roof over a large area containing junk material or an automobile wrecking yard, the board may permit the construction around such area of an eight (8) foot high masonry wall or substantial, slightly tight or semi-tight fence, whichever in its opinion is the more appropriate in the surroundings of the property and may then permit, for a specific time, the continued use of such property for such purposes.
- k) Unlawful Use Not Authorized. Nothing in this Ordinance shall be interpreted as authorization for or approval of the continuance of the use of a structure or premises in violation of zoning regulations in effect at the time of the effective date of this Ordinance.

- l) Certificate of Non-conforming Use. Upon the effective date of this Ordinance the secretary of said Zoning Board shall issue a “certificate of non-conforming use”, to all owners of property, the use of which does not conform to the provisions of the use zone in which the property is located.
 1. In accordance with the provisions of the section no use of land, buildings or structures shall be made other than specified on the “certificate of non-conforming use”, unless said use shall be in conformity with the provisions of the use zone in which the property is located.
 2. A copy of each “certificate of non-conforming use”, shall be filed with the office of the City Finance Officer. No permit or license shall be issued to any property for which a “certificate of non-conforming use” has been issued until said permit or license has been approved by the Planning Commission.
- m) District Changes. Whenever the boundaries of a district shall be changed so as to transfer an area from one district to another district of a different classification, the foregoing provisions shall also apply to any non-conforming uses existing therein.

11-401

FRONT YARDS

- a) Except as otherwise provided, no building shall be so erected or altered in any residence district as to place its front wall or setback less than twenty-five (25) feet from the street line, and no building shall be erected or altered, in any multiple-dwelling residence district as to place its front wall or setback less than fifteen (15) feet from the street line.
- b) In any residence district or multiple-residence district, where two (2) or more lots in any block frontage are occupied by buildings which existed at the time of the passage of this Ordinance, the average of the distances that the street walls of such building are from the street line shall be the established building line for such block frontage.
- c) In any residence or multiple-residence district, where a building shall be erected or altered between two (2) existing buildings on immediately adjacent lots, the required depth of the front yards shall not exceed the depth of the front yard of that one of the existing buildings farthest from the street.
- d) In any residence or multiple-residence districts, on any corner lot, no street wall of a principle building other than its front wall, shall be required to be further from the corresponding street line than one-half (1/2) of the distance that would be required by the provisions of this section were such street line the front lot line.
- e) In any residence or multiple-residence district, no building shall be so erected or altered on any through lot as to be nearer to the rear lot than would be permitted were such lot line, a front lot line.
- f) In any residence or multiple-residence district, where a lot adjoins a commercial district or industrial district the front yard of any such lot, for a distance of not more than fifty (50) feet from the district boundary line shall not be required to have a depth of more than one-half (1/2) the depth required by this section for the residence portion of the same block frontage.

11-501 REAR YARDS

- a) In any residence or multiple-residence district, a rear yard not less than twenty-five (25) feet in depth is required on each interior lot, and not less than twenty (20) feet in depth on any corner lot; provided that where a lot is more than one hundred (100) feet in depth, one-half (1/2) of the additional depth shall be added to the required depth of the rear yard and where a lot is less than one hundred (100) feet in depth at the time of the passage of this Ordinance, one-half (1/2) of such deficiency in depth shall be subtracted from the required depth of the rear yard; provided that no rear yard shall be less than ten feet in depth.
- b) In any commercial district, any single-family or two-family dwelling, or any apartment house, shall have a rear yard as required in residence districts. A building not used as a dwelling and abutting on a rear alley shall not require a rear yard; where there is no such alley, such building shall have a rear yard not less than ten (10) feet in depth; where a portion of a building is used for a dwelling on an interior lot, such portion shall be provided with a rear yard not less than fifteen (15) feet in depth. No hotel shall require a rear yard.

11-601 SIDE YARDS

- a) In all residence districts and multiple-residence districts there shall be a side yard on each side of each principle building of not less than five (5) feet.
- b) One (1) side yard may be omitted entirely where two (2) semi-detached houses are built with a common party wall on one (1) side or more lots at one time, provided that the side of each house opposite the common party wall, have a side yard of at least fifty (50) percent in excess of the minimum width specified in this paragraph.
- c) In any commercial or industrial district, no side yards are required.
- d) In the case of a church, school, library, museum, club, social center or community building, hospital or similar institution in a residence district or in any multiple-residence district, the minimum width of the side yard shall be fifty (50) percent in excess of those stipulated for the district in which the building is located.

11-602 FENCES, HEDGES AND WALLS

- A) As used in this ordinance, fence or wall shall include a fence, wall, column, pier, post, latticework, screen or any similar structure or any combination of such structures.
- B) No person shall erect or maintain within the City of Bowdle, South Dakota, a fence wall unless it meets the following conditions:
 - 1. Be set back in accordance with the boulevard area as defined in Ordinance #7-101(b).
 - 2. When a fence and/or wall is to be constructed on side yards, it may be constructed on the property line, with the exception of construction on a corner lot, in which case Section B (01) will apply.
 - 3. Be constructed and maintained at a height and in an area where such a structure will not obstruct a clear vision of intersecting roadways or otherwise constitute a traffic hazard.

4. Be thirty-six (36) inches or less in height if such structure is solid or closed so as to prevent vision and is located in the front yard. An open vision type structure, such as chain link fences shall be forty-eight (48) inches in height or less when placed in a front yard.
5. Be eight (08) feet or less in height when located in a back yard or side yard. When a corner lot is involved, the property owner must limit the length of fence or wall at the eight (08) foot height or less to ensure that the structure does not violate Section three (03) of this ordinance.
6. Be constructed and maintained in good condition so as to serve the purpose for which such structure was originally constructed, so that it shall not become unsightly to the neighborhood or otherwise constitute a nuisance.
7. Prior to the construction of any such fence, it will be required that whoever is constructing such fence obtains a building permit from the City.
8. Barbed wire or other sharp, pointed or electrically charged fence is prohibited as outlined in Ordinance #15-506.
9. The use of boxes, sheet metal, old or decayed wood, broken masonry blocks or other unsightly materials to build a fence or wall is prohibited.
10. Fencing around athletic facilities and public property shall be exempt from the requirements of this ordinance.

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11-701 MISCELLANEOUS PROVISIONS

No lot area shall at any time be so reduced or diminished that the front, rear or side yard shall be smaller than prescribed in this Ordinance, unless it is authorized in writing by the Board of Adjustment.

11-801 BOARD OF ADJUSTMENT

A Board of Adjustment is hereby established. The word "Board," as used in this Ordinance, shall be construed to mean the Board of Adjustment. The Board shall consist of the Mayor and all members of the City Council and shall act and perform all duties and exercise the powers of such Board of Adjustment. The Mayor shall be the Chairman of the Board of Adjustment; shall preside at all meetings and shall have no vote except in case of a tie. The concurring vote of at least two-thirds (2/3) of all members of such Board as so composed shall be necessary to reverse any order requirement, decision or determination of any administrative official, or to decide in favor of the appellant on any matter upon which it is required to pass under this Ordinance or to effect any variation in such Ordinance. The City Finance Officer shall be the secretary of the Board.

11-802 RULES OF MEETINGS

Robert's Rules of Order are hereby adopted as the rules to govern meetings of the Board of Adjustment as far as applicable.

11-803 MEETINGS

Meetings of the Board shall be held at the call of the Chairman and at such other times as the Board may determine, and the Chairman shall call a meeting upon the written request of three (3) members. Such Chairman or in his absence the acting Chairman, may administer oaths and compel the attendance of witnesses at the meetings of the Board. All meetings of the Board shall be open to the public. The Board shall keep minutes of its proceedings showing the vote of each member upon each question, or of the absent members or members failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be a public record. The Board shall adopt rules in accordance with the provisions of this Ordinance. The presence of four (4) members shall be necessary to constitute a quorum.

11-804 APPEALS

Appeals to the Board may be taken by any person aggrieved or by any officer, department, board, or bureau of the City of Bowdle affected by any decision of the Administrative Officer.

Such an appeal shall be taken within ten (10) days after such a decision, by filing with the officer from whom the appeal is taken and with the secretary of the Board of Adjustment, a notice of appeal specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the secretary of the Board all papers constituting the records upon which the action appealed from was taken.

The Board of Adjustment shall fix a time for the hearing of the appeal within twenty (20) days from the date of filing with the secretary, give public notice thereof by publishing notice of hearing at least one (1) week in the official newspaper, and mailing a copy of such notice to the parties in interest and decide the same at the time and place filed for such hearing. Upon the hearing, any party may appear in person or by an agent or attorney.

11-805 JURISDICTION

The Board of Adjustment shall have the following powers:

- a) To hear and decide appeals where it is alleged there is error of any order, requirement, decision, or determination made by the Building Inspector in the enforcement of this act, or any ordinance adopted pursuant thereto.
- b) To hear and decide special exceptions to the terms of the Ordinance upon which such a Board is required to pass under such Ordinance.
- c) To authorize upon appeal in specific cases such variance from terms of the Ordinance as will not be contrary to the public interest, where owing to special conditions, a literal enforcement of the provisions of this Ordinance will result in unnecessary hardship, and so that the spirit of the Ordinance shall be observed and substantial justice done.

In exercising the above mentioned powers such board may reverse or affirm, wholly or partly, or may modify the order, requirement and decision or determination appealed from and may make such order, requirement, decision or determination as ought to be made and to that end shall have all powers of the officer from whom the appeal is taken.

The concurring vote of two-thirds (2/3) of the members of the Board shall be necessary to reverse any order, requirement, decision or determination of the Building Inspector, or to decide in favor of the applicant, on any matter upon which it is required to pass under this Ordinance or to effect any variation in this Ordinance.

Any person or persons, jointly or severally aggrieved by any decision of the Board of Adjustment under the provisions of this act, or any taxpayer, or any officer, department, board or bureau of the municipality, may present to a court of records, a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition shall be presented to the court within thirty (30) days after the filing of the decision in the office of the Board, as provided by law.

11-901 CERTIFICATE FOR OCCUPANCY - GENERALLY

No vacant land shall be occupied or used except for agricultural use and no buildings hereafter erected, or altered, shall be occupied or used before and/or until a certificate for occupancy shall have been issued by the building inspector.

11-902 CERTIFICATE FOR OCCUPANCY OF A BUILDING

Certificate for occupancy of a new building or the alteration of an existing building shall be applied for co-incident with the application for a building permit, and said certificate shall be issued within three (3) days after the request for same shall have been made in writing to the Building Inspector, after the erection or alteration of such building or part thereof shall have been completed in conformity with the provisions of these regulations. Pending the issuance of a regular certificate, a temporary certificate for occupancy during the completion of the alterations or during partial occupancy of a building pending its completion.

Such temporary certificate shall not be construed in any way as altering the respective rights, duties or obligations of the owners or of the City relating to the use or occupancy of the premises or any other matter covered by this Ordinance, and such temporary certificate shall not be issued except under such restrictions and provisions as will adequately insure the safety of the occupants.

11-903 CERTIFICATE FOR OCCUPANCY OF LAND

Certificate for occupancy for the use of vacancy land or the change in the use of land as herein provided, shall be applied for before any such land shall be occupied or used, and a certificate for occupancy shall be issued within ten (10) days after the application has been made, provided such use is in conformity with the provisions of these regulations.

Certificate for occupancy shall state that the building or proposed use of a building or land complies with all the building and health laws and ordinances and with the provisions of these regulations. A record of all certificates shall be kept on file in the office of the Building Committee, and copies shall be furnished, on request to any person who has a proprietary or tenancy interest in the building affected.

No permit for excavation for any building shall be issued before application has been made for certificate for occupancy.

11-1001 PLATS

All applications for building permits shall be accompanied by a plat in duplicate, drawn to scale, showing the actual dimensions of the lot to be built upon, the size of the building to be erected and such other information as may be necessary to provide for the enforcement of these regulations. A careful record of such applications and plat shall be kept in the office of the City Finance Officer.

11-1101 INTERPRETATION, PURPOSE, AND CONFLICT

In interpreting and applying the provisions of this Ordinance, they shall be held to be the minimum requirements for the promotion of safety, health, convenience, comfort, prosperity, and general welfare. It is not intended by this Ordinance to interfere with, or abrogate or annul any easements, covenants or other agreements between parties; provided, however that where this Ordinance imposes a greater restriction upon the use of a building or premises or upon height of building, or requires larger open spaces than are imposed or required by other ordinances, rules, regulations or permits, or by easements, covenants or agreements the provisions of this Ordinance shall govern.

11-1201 BOUNDARIES OF DISTRICTS

Where uncertainty exists with respect to the boundaries of the various districts as shown on the maps accompanying and made a part of this Ordinance, the following rules shall apply:

- a) The district boundaries are either streets or alleys unless otherwise shown, and where the designation on the maps accompanying and made a part of this Ordinance indicating the various districts are approximately bounded by a street or alley line, said street or alley shall be construed to be the boundary of such district.
- b) Where the district boundaries are not otherwise indicated and where the property has been or may hereafter be divided into blocks and lots, the district's boundaries shall be construed to be lot lines, and where the designations on maps accompanying and made a part of this Ordinance indicating various districts are approximately bounded by lot lines, said lot lines shall be construed to be the boundary of such district, unless said boundaries are otherwise indicated on maps.
- c) In subdivided property, the district boundary lines on the maps accompanying and made a part of this Ordinance shall be determined by use of the scale contained on such maps.

11-1301 CHANGES AND AMENDMENTS

The City Council may, from time to time, on its own motion or on petition, after public notice and hearings as provided by law, and after reporting by the Board of Adjustments, amend, supplement, or change the boundaries or regulations herein or subsequently established. Whenever the owners of sixty (60) percent or more of the area of all real estate in any district, or part thereof, present a petition duly signed and verified to the Council, requesting an amendment, supplement or change in the regulations prescribed for such district, or part thereof, it shall be the duty of the Council to vote upon said petition within ninety (90) days after the filing by the petitioners with the City Finance Officer in case the proposed amendment, supplement or change be disapproved by the Board of Adjustment, or a protest be presented, duly signed by the owners of forty (40) percent, or more either of the area of lots included in such proposed change, or of those immediately adjacent in the rear thereof extending the depth of one lot or not to exceed two hundred (200) feet therefrom, or of those directly opposite thereto extending the depth of one (1) lot or not to exceed two hundred (200) feet from the street frontage of such opposite lots, or those on the

side thereof in the same block, or not to exceed two hundred (200) feet; such amendment shall not become effective except by the favorable vote of at least two-thirds (2/3) of all the members of the City Council.

11-1401 VALIDITY

Should the court declare any chapter, clause, or provision of this Ordinance to be invalid, the same will not affect the validity of the Ordinance as a whole or any part thereof, other than the part so declared to be invalid.

11-1501 ENFORCEMENT

It shall be the duty of the Building Committee to see that this Ordinance is enforced.

Appeal from the decisions of the Building Committee of the City council may be made to the Board of Adjustment as provided by Chapter 11-801.

Any ordinance or part of an ordinance in conflict herewith be and the same is hereby repealed.

11-1601 FIRE LIMITS

The fire limits of the City of Bowdle shall begin at the center line of Howard Avenue where it intersects the center line of Railroad Street; thence north along said line to the point where it intersects the center line of Pine Street; thence east along said line of where it intersects the center line of Larimer Avenue; thence north along said line to a point opposite the southwest corner of Lot 9, Block 2; thence east along south line of said Lot 9, Block 2 and along the south line of the alley running east and west in Block 2 to the center line of Center Avenue; thence north along said line to the point where it intersects the center line of the alley running east and west through Block 3; thence east along said center line of the alley running east and west to the point where it intersects with the center line of the alley running north and south in Block 3; thence south along to the point where it intersects the center line of Pine Street; thence east along said center line to the point where it intersects the center line of Wood Avenue; thence south of said line to the point where it intersects the center line of Railroad Street; thence southwesterly along said center line to the point of the beginning, except the City Park property.

All new building construction within the Fire Limits heretofore designated shall be constructed with brick, block or stone front, ethically consistent with other buildings located within said district and designed and built in a manner to prevent or reduce the spread of fire to adjacent buildings. Existing structures are exempted from these previous provisions, but all replacement structures or additions to structures shall be subject to this Ordinance.

11-1701 RESERVED

11-1801 EXCAVATIONS FOR SERVICE SEWERS – PERMITS

No person shall make any excavation in the streets, alleys, public property or lay any service sewer therein without first obtaining a permit therefore from the sewer superintendent or Public Works Director.

11-1802 ISSUANCE OF PERMITS – SEWER

The Public Works Director may issue permits for excavations or laying of service sewer as provided in the foregoing section only after compliance with the following:

- a) Application shall be made, in writing, to the Public Works Director showing the applicant's name, address, type of construction, material to be used, estimated time of completion, location of proposed excavation and such further information as may be required by the water and sewer committee, City Council, or the Public Works Director.
- b) Payment of tapping fee (set from time to time by resolution from City Council) to the city finance officer shall be made in order to secure such a permit. The permit shall entitle the owner to have a tap of the public sewer made or supervised by the Public Works Director as well as entitle the owner thereof to perform the acts therein authorized. If such use is for residential purposes, the application shall state the number of families or residents to be served thereby and said tap and sewer use shall be limited to the number of families or residences served thereby as set forth in said application.

11-1803 SPECIFICATIONS FOR GRANTING A SEWER PERMIT

The Public Works Director at the time of granting a sewer permit shall furnish minimum specifications and regulations to be followed in laying the sewer.

11-1804 INTERFERENCE WITH NATURAL DRAINAGE

No person shall construct or alter any building or other construction over, upon or immediately adjacent to any natural drainage except upon the written approval of the Public Works Director who may require such provisions for the natural drainage as may appear to be necessary.

11-1900 MANUFACTURED HOMES (Section 1900 Amended 10/2/19)

11-1900.1 DEFINITIONS

- A. Manufactured Homes – A moveable or portable dwelling which is fabricated in one or more sections at a location other than the home site, constructed and towed on its own permanent chassis, designed for year-round occupancy, primarily to be used without a permanent foundation, but which may sit on a permanent foundation, and designed to be connected to utilities. If designed with more than one section, they are separately transportable, but designed to be joined together into one integral unit. They are also known and referenced as a mobile home. Manufactured homes are built according to the US Department of Housing and Urban Development (HUD) Construction and Safety Standards.

The following shall not be included in this definition:

- 1) Travel trailers, pickup coaches, motor homes, camping trailer, or other recreational vehicles: and,
 - 2) Modular housing which is constructed in accordance with or exceeding the adopted building code regulations, assembled in a manufacturing plant and transported to the building site for final assembly on a permanent foundation.
- B. Type I Manufactured Home – A manufactured home as defined above with more than seven hundred (700) square feet of occupied space in one or more sections.
 - C. Type IA Manufactured Home – A manufactured home as defined above with more than three hundred fifty (350) square feet of occupied space in one section. Also known as a Park Model home.

- D. Type II Manufactured Home – A manufactured home as defined above with more than one thousand two hundred (1,200) square feet of occupied space. It shall consist of more than one sections.
- E. Manufactured Home Park – Any area, tract, site, or plot of land which has three (3) or more lots which are under common ownership, and which manufactured homes are to be placed or located for year-round occupancy.
- F. Manufactured Home Lots – A privately owned plot of land which manufactured homes are to be placed or located for year-round occupancy.

11-1901 MANUFACTURED HOME PARKS – TYPE I & TYPE IA MANUFACTURED HOMES

11-1901.1 PURPOSE

The purpose of manufactured home parks for Type I and Type IA Manufactured Homes is to preserve and enhance property values in the City by providing designated, distinctive areas in which manufactured homes may be situated as a residential dwelling. The principal use of land is for Type I and Type IA Manufactured Homes in which individuals rent their lots.

Exception: Travel trailers, pickup coaches, motor homes or camping trailers may be allowed in a designated tourist pay camp area of the manufactured home park as approved by the City Council.

11-1901.2 DESIGNATED AREAS

The following areas are defined and classified as Manufactured Home Parks:

1. Outlot P, 14-1-20, Bowdle Acreage, City of Bowdle, Haakon County, SD
2. Outlot A-1, Rivercrest Addition, City of Bowdle, Haakon County, SD.
3. N555.6' of Lots 1 and 2 EX 25' Easement and N400' of N555.6' of Lots 3, 4 and 5, Block 4, Russells Addition, City of Bowdle, Haakon County, SD.

11-1901.3 ACCESSORY USES AND STRUCTURES

The following accessory uses and structures shall be permitted in a manufactured home park:

1. Garages.
2. Accessory buildings.
3. Decks.
4. Open and enclosed additions.
5. Home occupations.
6. In home daycares.
7. Signs, directional on-site and off-site.
8. Signs, real estate.
9. Signs, name, and address plate; and,
10. Signs, easement, and utility.

11-1901.4 PROHIBITED USES AND STRUCTURES

No part of any park shall be used for nonresidential purposes, except for such uses that are required for the direct servicing and wellbeing of park residents and for the management and maintenance of the park.

11-1901.5 MINIMUM YARD REQUIREMENTS

All yards must meet the following criteria as measured from the lot line. This section shall apply to all buildings and structures, including but not limited to decks, patios, additions (open and enclosed), accessory buildings and garages:

1. Each lot shall have a minimum area of not less than four thousand (4,000) square feet.
2. The minimum distance required for the separation of a manufactured home from side and rear lot lines shall be six feet (6'). The minimum distance between two manufactured homes shall be a minimum of fifteen feet (15') from side to side and ten feet (10') from end to end.
3. The minimum setback distance required from a private drive, public right-of-way or corner lot shall be twenty feet (20'); and,
4. Garages, accessory buildings, and additions shall not encroach on minimum yard requirements. Shall include decks and be no closer than eight feet (8') from another manufactured home.
 - a. Any existing garages, accessory buildings, additions, and decks not in compliance with the minimum yard requirements at the time of enactment of this ordinance are considered a preexisting nonconformance use. Once removed, they shall not be replaced unless they meet the minimum yard requirements set forth herein.

11-1901.6 REGULATIONS

- A) Manufactured home park developments should be located to avoid the need for excessive traffic movement from the park to pass through an existing residential area or area suitable for future residential development; and,
- B) Access and Street Requirements:
 1. All manufactured home spaces must be served from internal private streets within the manufactured home park and there shall be no direct access from a manufactured home space to a public street or alley.
 2. Internal private streets must be graveled at a minimum and kept in good repair to prevent excessive potholes or pooling of water.
 3. A minimum of two (2) off-street parking spaces shall be provided for each manufactured home lot.
 4. No internal private street access to public streets shall be located closer than fifty feet (50') to any public street intersection.
 5. Stop signs shall be placed at all public street intersections and Yield signs placed appropriately on internal private streets.
 6. Entrance to manufactured home parks shall have direct connections to a public road and shall be designed to allow free movement of traffic on such public roads; and,
 7. Streets should be of adequate width to accommodate the contemplated parking and traffic load in accordance with the type of street with twelve feet (12') minimum moving lanes for collector streets, twelve feet (12') minimum moving lanes for minor streets, and eight feet (8') minimum lanes for parallel parking.
- C) Other requirements:
 1. Type I manufactured homes may be of single or multiple sections and shall not be less than fourteen feet (14') in width as assembled on the site, as measured across the narrowest portion.
 2. Type IA manufactured homes may be of single section and shall not be less than twelve feet (12') in width as assembled on the site, as measured across the narrowest portion.

3. Provided with skirting material which is not highly combustible and installed around the perimeter of the home from the bottom of the manufactured home to the ground within thirty (30) days of placement.
4. The hitch shall be removed.
5. Any open or enclosed additions to the home must match the exterior of the home including that of the skirting and requirements as outlined in Section 2 above.
6. Each manufactured home shall be supplied with electric services.
7. Each manufactured home shall be connected to the City water and sewer systems with individual utility service lines and valves as approved by the Public Works Director.
8. If individual garbage collection points are not available, each manufactured home park shall provide screened areas or enclosed containers accessible for garbage collection of an adequate size for the number of units served; and will be collected by the City's residential contractor.
9. Each manufactured home shall be anchored to the ground to resist tipping and lateral movement in the manner contemplated by the manufactured design and per HUD regulations.
10. Not less than ten percent (10%) of the gross site park area shall be devoted and maintained as recreational facilities for occupant needs.
11. No manufactured home shall occupy more than seventy percent (70%) of the area of the lot on which it is situated.
12. A landscaped buffer area of ten feet (10') in width shall be provided and maintained around the perimeter of the park, except where walks and drives penetrate the buffer.
13. Each manufactured home shall meet or exceed the federal HUD Construction and Safety Standards.
14. Each manufactured home located in the designated flood plain must comply with Chapter 16, Section 5.0.
15. Additional development requirements may be prescribed as conditions for approval when determined to be necessary to ensure protection of the neighboring property's character, compatibility with land uses, and health and safety of manufactured home park occupants.

11-1901.7 LICENSING AND APPLICATION REQUIREMENTS

No person shall establish or maintain a manufactured home park, as defined herein, without first obtaining a license therefor from the governing body of the City of Bowdle, and agreeing, in writing, to comply with the terms of this Ordinance, provided that a plot ground upon which unoccupied manufactured homes are located for the purpose of sale or trade shall not be construed to be a manufactured home park, nor shall said situated manufactured homes be used at any time for the housing or sleeping of persons. All manufactured home parks in existence upon effective date of this ordinance (see 11-1901.2) are licensed and in all other respects comply fully with the requirements of this ordinance,

Application Process

Any real property owner desiring to establish, maintain or operate a manufactured home park shall make application in writing to the governing body of the City of Bowdle. The application shall include a detailed site development plan incorporating the regulations established herein. The plan shall be drawn to scale and indicate the following:

- A) Location, legal description, and topography of the proposed manufactured home park, including adjacent property owners and proximity to state highways, and to city and county roads.

- B) Exterior and interior property or individual lot lines with dimensions and square footage of the proposed park.
- C) Location and dimensions of all easements and rights-of-way.
- D) Proposed lot layout, including parking and recreational areas.
- E) General street and pedestrian walkway plan.
- F) General utility, water and sewer plan with proximity and proposed connection to municipal and/or private utilities.
- G) Site drainage plan and development impact on culverts, etc.
- H) Storm water pollution prevention plan and State issued permit; and,
- I) Certificate of compliance with all ordinances and regulations regarding manufactured home park licensing and zoning, health, plumbing, electrical, building, fire prevention, flood prevention and all applicable ordinances and regulations.

Before a license is granted, the Building Committee, Public Works Director and Chief of Police shall examine all applications. The applicant, premises and proposed plan shall be inspected to ensure compliance with all provisions of the City Ordinances and laws of the State of South Dakota regarding safety and sanitation. The findings shall be submitted to the City Council for action.

The City Council reserves the right to revoke any license issued pursuant to this Ordinance, if after due hearing, it determines that the holder thereof has violated any of the provisions of this Ordinance or that any manufactured home or manufactured home park becomes a nuisance or is being maintained in any unsanitary or unsafe or unlawful manner.

11-1902 MANUFACTURED HOME LOTS – TYPE I MANUFACTURED HOMES

11-1902.1 PURPOSE

The purpose of manufactured home lots for Type I Manufacture Homes is to preserve and enhance property values in the City by allowing manufactured homes to be situated as a residential dwelling. The principal use of land is for Type I Manufactured Homes in which individuals own their lots.

11-1902.2 DESIGNATED AREA

The following area is defined and classified as Manufactured Home Lots for Type I and II Manufactured Homes:

1. Lots 1 thru 24, Hoags Valley Addition, City of Bowdle, SD

11-1902.3 ACCESSORY USES AND STRUCTURES

The following accessory uses and structures shall be permitted on a manufactured home lot:

1. Garages: one or two cars permitted.
2. Accessory buildings: one (1) shed of 144 square feet or less permitted.
3. Decks.
4. Open and enclosed additions.
5. Home occupations;
6. In home daycares.
7. Signs, real estate.
8. Signs, name, and address plate; and,
9. Signs, easement, and utility.

11-1902.4 PROHIBITED USES AND STRUCTURES

No part of the manufactured home lot shall be used for nonresidential purposes.

11-1902.5 MINIMUM YARD REQUIREMENTS

All yards must meet the following criteria as measured from the lot line. This section shall apply to all buildings and structures, including but not limited to decks, patios (open and enclosed) and garages:

1. Each lot shall have a minimum area of not less than six thousand (6,000) square feet.
2. Each lot shall maintain a front yard of ten feet (10'); side yards of five feet (5'); and rear yard of ten feet (10'). The minimum distance between two manufactured homes shall be a minimum of fifteen feet (15') from side to side and ten feet (10') from end to end.
3. Garages and accessory buildings shall not encroach on minimum yard requirements. Shall include decks and be no closer than eight feet (8') from another manufactured home.

11-1902.6 REGULATIONS

A) Access and Street Requirements:

1. A minimum of two (2) off-street parking spaces shall be provided in each manufactured home lot.

B) Other requirements:

1. Manufactured homes may be of single or multiple sections and shall not be less than fourteen feet (14') in width as assembled on the site, as measured across the narrowest portion.
2. Provided with skirting material which is not highly combustible and installed around the perimeter of the home from the bottom of the manufactured home to the ground within thirty (30) days of placement. This also applies to open and enclosed additions.
3. The hitch shall be removed.
4. Any open or enclosed additions to the home must match the exterior of the home including that of the skirting and requirements as outlined in Section 2 above.
5. Each manufactured home shall be supplied with electric services.
6. Each manufactured home shall be connected directly to the City water and sewer systems as approved by the Public Works Director.
7. Each manufactured home shall be anchored to the ground to resist tipping and lateral movement in the manner contemplated by the manufactured design.
8. No manufactured home shall occupy more than seventy percent (70%) of the area of the lot on which it is situated.
9. Each manufactured home shall meet or exceed the federal HUD Construction and Safety Standards.
10. Each manufactured home located in the designated flood plain must comply with Chapter 16, Section 5.0.
11. Additional requirements may be prescribed as conditions for approval when determined to be necessary to ensure protection of the neighboring property's, compatibility with land uses, and health and safety.

11-1902.7 PLACEMENT OF TYPE I MANUFACTURED HOMES ON LOT OUTSIDE OF DESIGNATED AREA

Type I Manufactured Homes existing on residential lots outside the designated area defined in City Ordinance 11-1902.2 at the effective date of this ordinance, may be replaced if the following requirements are met:

A) Access and Street Requirements:

1. A minimum of two (2) off-street parking spaces shall be provided on each manufactured home lot.
- B) Other requirements:
1. Manufactured home may be of single section and shall not be less than fourteen feet (14') in width as assembled on the site, as measured across the narrowest portion.
 2. The running gear and hitch must be removed.
 3. Anchored to a foundation and permanent footing as follows:
 - a. Installed per HUD regulations.
 - b. Foundation around the perimeter shall be continuous from the footing to the bottom of the home; and, constructed with poured concrete or masonry block (8"x8"x16"), unpierced except for ventilation and access.
 - c. Permanent footing around the perimeter shall be a minimum of eight inches (8") thick by sixteen inches (16") wide poured concrete with the bottom at ground level and backfilled to the top of the footing for drainage.
 4. Siding material of a type customarily used on site-constructed residences.
 5. Gabled roof with a pitch of at least 2/12; and roofing material of a type customarily used on site-constructed residences.
 6. The age of the manufactured home may not exceed three (3) years from the date of manufacture.
 7. The replacement of the Type I Manufactured Home must be completed within sixty (60) days of removal of the existing structure; or it may not be replaced.
 8. Any open or enclosed additions to the home must match the exterior of the home and comply with the anchoring and foundation requirements in Section 3 above.
- C) Other requirements:
1. Comply with City Ordinances and Building Codes applicable to private dwellings.
 2. Each manufactured home shall meet or exceed the federal HUD Construction and Safety Standards.
 3. Each manufactured home located in the designated flood plain must comply with Chapter 16, Section 5.0.
 4. Additional requirements may be prescribed as conditions for approval when determined to be necessary to ensure protection of the neighboring property's, compatibility with land uses, and health and safety.

11-1903 MANUFACTURED HOME LOTS – TYPE II MANUFACTURED HOMES

11-1903.1 PURPOSE

The purpose of manufactured home lots for Type II Manufactured Homes is to preserve and enhance property values in the City by allowing them to be situated as a permanent residential dwelling. The principal use of land is for Type II Manufactured Homes in which individuals own their lots.

11-1903.2 ACCESSORY USES AND STRUCTURES

The following accessory uses and structures shall be permitted on a manufactured home lot:

1. Garages.
2. Accessory buildings.
3. Decks.
4. Open and enclosed additions.
5. Home occupations.
6. In home daycares.
7. Signs, real estate.

8. Signs, name, and address plate; and,
9. Signs, easement, and utility.

11-1903.3 PROHIBITED USES AND STRUCTURES

No part of the manufactured home lot shall be used for nonresidential purposes.

11-1903.4 MINIMUM YARD REQUIREMENTS

All yards must meet the setback requirements for residential districts as outlined in Ordinances 11-401, 11-501 and 11-601.

11-1903.5 REGULATIONS

A) Comply with City Ordinances and Building Codes applicable to private dwellings.

B) Access and Street Requirements:

1. A minimum of two (2) off-street parking spaces shall be provided on each lot.

C) The placement of Type II Manufactured Homes shall meet or exceed the following installation regulations:

1. Consist of two or more sections and shall not be less than twenty feet (20') in width as assembled on site, as measured across the narrowest portion.
2. The running gear and hitch must be removed.
3. Anchored to a foundation and permanent footing as follows:
 - a. Installed per HUD regulations.
 - b. Foundation around the perimeter shall be continuous from the footing to the bottom of the home; and, constructed with poured concrete or masonry block (8"x8"x16"), unpierced except for ventilation and access.
 - c. Permanent footing around the perimeter shall be a minimum of eight inches (8") thick by sixteen inches (16") wide poured concrete with the bottom at ground level and backfilled to the top of the footing for drainage.
4. Siding material of a type customarily used on site-constructed residences.
5. Gabled roof with a pitch of at least 2/12; and roofing material of a type customarily used on site-constructed residences.
6. The age of the manufactured home may not exceed three (3) years from the date of manufacture.
7. Any open or enclosed additions to the home must match the exterior of the home and comply with the anchoring and foundation requirements in Section 3 above.

D) Other requirements:

1. Each manufactured home shall meet or exceed the federal HUD Construction and Safety Standards.
2. Each manufactured home located in the designated flood plain must comply with Chapter 16, Section 5.0.
3. Additional requirements may be prescribed as conditions for approval when determined to be necessary to ensure protection of the neighboring property's, compatibility with land uses, and health and safety.

11-2001 EXCAVATION CODE – ADOPTED

This chapter shall be known as the Excavation Code and is hereby adopted by the city for the regulation of excavations within the city.

11-2002 DEFINITIONS

Whenever the work "excavation" or form or tense thereof is used in the code adopted by this article, it shall be held to mean excavation, dirt moving, earth moving, trenching, digging, land filling or otherwise disturbing the natural lay of the land.

11-2101 COMPLIANCE WITH REGULATIONS

It shall be the duty of all excavation contractors to comply with all ordinances relating to the construction of building or other structures, to the construction of streets or sidewalk pavements, to trenching and excavating, and all laws and ordinances pertaining to regulating the activities engage in.

11-2102 GUARDING EXCAVATIONS

No excavation in any public place shall be left open overnight, unless appropriate barriers are provided, and unless approved by the Public Works Director of water unless said excavation is in an alley way or street, in which case approval must first be obtained from the Street Public Works Director.

11-2201 EXCAVATION – PERMIT REQUIRED

No person may excavate, trench, move dirt or otherwise conduct himself in an activity, as defined in Chapter 11-2002, without having first obtained a permit from the municipality.

11-3000 WIND ENERGY SYSTEMS - PURPOSE

The purpose of this ordinance is to ensure that the placement, construction and modifications of a Wind Energy System (WES) facility is consistent with the City's land use policies, to minimize the impact of WES facilities, to establish a fair and efficient process for review and approval of applications, to assure a comprehensive review of environmental impacts of such facilities, and to protect the health, safety and welfare of the citizens.

11-3001 FEDERAL AND STATE REQUIREMENTS

All WES facilities shall meet or exceed standards and regulations of the Federal Aviation Administration and South Dakota State Statutes and any other agency of federal or state government with the authority to regulate WES facilities.

11-3002 DEFINITIONS

- 1) Large Wind Energy System or LWES – All WES facilities excluding Small Wind Energy Systems.
- 2) Small Wind Energy System or SWES – A WES facility with a single tower height of less than seventy-five (75) feet and a swept area of thirty (30) feet or less used primarily for on-site consumption of power.
- 3) Tower Height – The height above grade of the fixed portion of the tower, excluding the wind turbine itself.
- 4) System Height – The height above grade of the tallest point of the WES, including the rotor radius.
- 5) Turbine – The parts of the WES including the blades, generator, and tail.
- 6) Wind Energy System or WES – A commonly owned and/or managed integrated system that converts wind movement into electricity. All of the following are encompassed in this definition of system:
 1. Tower or multiple towers, including foundations.
 2. Generator(s).

3. Blade(s).
 4. Power collection systems, including pad mount transformers.
 5. Access roads, meteorological towers, on-site electric substation, control building, and other ancillary equipment and facilities; and,
 6. Electric interconnection systems or portion thereof dedicated to the WES.
- 7) Wind Tower – The monopole, freestanding or guyed structure that supports the energy capture, conversion, storage, and transfer components of a WES. These wind towers are not attached to any building.

11-3003

REQUIREMENTS FOR SITING SMALL WIND ENERGY SYSTEMS (SWES):

- 1) Standards: A Small Wind Energy System as defined in 11-302(2) shall be a permitted use in all zoning districts subject to the following requirements:
 - A) Setbacks. The minimum setback distance between each wind turbine tower and all surrounding property lines, overhead utility or transmission lines, other wind turbine towers, electrical substations, meteorological towers, primary communication towers, public roads and dwellings shall be no less than the total height of the SWES, unless written permission is granted by each affected person. This minimum setback distance is measured from the base of each tower.
 - B) Access. All ground mounted electrical and control equipment shall be labeled and totally and permanently enclosed by a security fence of at least six (6) feet high. No fence is required if the climbing apparatus is enclosed inside the wind tower and the entry is secured, or if the climbing apparatus is located at least twelve (12) feet above the ground level.
 - C) Lighting. A SWES shall not be artificially lit unless the Federal Aviation Administration requires such lighting.
 - D) Noise. SWES facilities shall not exceed fifty-five (55) dBA, as measured at the closest neighboring inhabited dwelling. The level, however, may be exceeded during short-term events such as utility outages or windstorms.
 - E) All SWES shall be equipped with a manual and automatic braking device capable of halting operation.
 - F) All wiring for SWES shall be buried.
 - G) All outbuildings/cabinets associated with a SWES shall meet all setback requirements for the zoning district in which the SWES is located.
 - H) Appearance, Color, Finish. The SWES shall be a non-reflective, neutral color. It shall remain painted or finished the color of finish that was originally applied by the manufacturer.
 - I) Signs. All signs, other than the manufacturers or installer's identification, appropriate warning signs, or owner identification on a wind generator, tower, building, or other structure associated with a SWES visible from any public road shall be prohibited.

- J) Code Compliance. A SWES shall comply with all applicable local, state, and national construction and electrical codes, and relevant national and international codes.
 - K) No SWES shall be installed in any location where its proximity with fixed broadcast, retransmission or reception antenna for radio, airport RF signals, television or wireless phone or other personal communication systems would produce electromagnetic interference with signal transmission or reception.
 - L) Utility Notification. No SWES shall be installed until evidence has been given that the utility company has been informed of the customer's intent to install an interconnected customer-owned generator. Off-grid systems shall be exempt from this requirement.
- 2) Permit Requirements:
- A) Building Permit. A building permit shall be required for the installation of a SWES in accordance with Ord. 11-1602.
 - B) The building permit shall be accompanied by a plot plan which includes the following:
 - 1) Property lines and physical dimensions of the property.
 - 2) Location, dimensions, and types of existing major structures on the property.
 - 3) Location of the proposed SWES.
 - 4) The right-of-way of any public road that is contiguous with the property.
 - 5) Any overhead utility lines.
 - 6) Wind system specifications, including manufacturer and model, rotor diameter, tower height, and tower type (monopole, lattice, guyed).
 - 7) Tower foundation blueprints or drawings.
 - 8) Tower blueprint or drawing.
 - 9) Proof of notification to the utility in the service territory in which the SWE is to be erected, consistent with the provisions of; and,
 - 10) That status of all necessary interconnection agreements or studies.
 - C) Expiration. A permit issued pursuant to this ordinance shall expire if the SWES is not installed and functioning within twelve (12) months from the date the permit is issued.
- 3) Abandonment:
- A) A SWES that is out-of-service for a continuous twelve (12) month period will be deemed to have been abandoned. The City Council may issue a Notice of Abandonment to the owner of a SWES that is deemed to have been abandoned. The owner shall have the right to respond to the Notice of Abandonment within thirty (30) days from the date the notice is received. The Council shall withdraw the Notice of Abandonment and notify the owner that the Notice has been withdrawn if the owner provides information that demonstrates the SWES has not been abandoned.
 - B) If the SWES is determined to be abandoned, the owner of the SWES shall remove the wind generator from the tower at the owner's expense within three (3) months from the date the Notice of Abandonment is received. If the owner

fails to remove the wind generator from the tower, the Council may pursue legal action to have the wind generator removed at the owner's expense.

4) Violations. It is unlawful for any person to construct, install or operate a SWES that is not in compliance with this ordinance or with any condition contained in a building permit issued pursuant to this ordinance.

5) Severability. The provisions of this ordinance are severable, and the invalidity of any section, subdivision, paragraph or other part of this ordinance shall not affect the validity or effectiveness of the remainder of the ordinance.

11-3004

LARGE WIND ENERGY SYSTEMS (LWES):

The City of Bowdle prohibits any and all LWES as defined in 11-302(1) within the City limits.

Ord. #2009-01, 02/21/09, Section 3000 Adopted.

CHAPTER 12
COMMUNITY ANTENNA TELEVISION ("CATV")
(Amended 07/06/)

12-100

PURPOSE – COMMUNITY ANTENNA TELEVISION ("CATV")

The City of Bowdle, by authority of SDCL 9-35 *et seq.*, shall maintain exclusive jurisdiction by this ordinance to regulate, prohibit and consent to the construction, installation, operation, and maintenance of CATV Systems within the corporate limits of Bowdle. City may grant to any persons offering a CATV System ("Provider") the nonexclusive right to erect, maintain and operate in, under, over, around, across the streets, avenues, sidewalks, alleys, bridges, highways, easements dedicated for compatible uses and other public places in the City of Bowdle, South Dakota, and the subsequent additions thereto, towers, poles, lines, cables, wires and other apparatus or device for the purpose of transmission and distribution, by cable or other mode, of television and non-television signals (such non-television signals to include but not limited to FM radio programming, high-speed internet and telephony) to enable sale by Provider of its CATV service to inhabitants of said City and other various purposes, for a period not to exceed twenty (20) years regulating the same and providing for compensation to the City and prescribing penalties for violation. The purpose of this ordinance is otherwise to detail the basic requirements for a franchise and the terms and conditions for any other contractual arrangement thereafter deemed appropriate and consistent with state and federal law.

12-101

DEFINITIONS

For the purpose of this Ordinance, the following terms, phrases, words and their derivations shall have the meaning given herein. When not consistent 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.

"CATV" or "CATV System" or "System" means "Community antenna television system," which is further defined as a system of coaxial cables or other electrical conductors and

equipment used or to be used primarily to receive television or non-television, radio or other signals directly or indirectly off-the-air and transmit them to subscribers for a fee.

“Basic Cable Service” means the service tier which includes but is not limited to the retransmission of local broadcast, satellite, or other signals.

“Cable operator” is any person who provides cable service over a cable system

“Cable service” is the transmission to subscribers of video programming or other programming service and the subscriber interaction, if any, which is required for the selection or used of such video programming or other programming, communication, or internet service.

“Cable system” is a facility consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide cable service to multiple subscribers within a community. The term does not include a facility that serves subscribers without using the public right-of-way; a facility of a telecommunications company that provides telecommunication service as defined and regulated by SDCL chapter 49-31, except to the extent that the facility is used to transmit video programming directly to subscribers, unless the extent of such use is solely to provide interactive on-demand services.

“Cable Television Reception Service” means the delivery by the Franchisee to television receivers (or any other suitable type of electronic terminal or receiver of the electronic signals and other communication services carried over the Cable System.

“Cable Television System” or “Cable System” is a system utilizing certain electronic and other components or devices which deliver to subscribing members of the public various communication services including but not limited to television, internet, radio and telephone.

“City” is the City of Bowdle, South Dakota.

“Council” is the City Council of Bowdle, South Dakota.

“FCC” shall mean the Federal Communications Commission.

“Franchise” is an authorization, established by ordinance, issued by a franchising authority, which authorizes the construction and operation of a cable system.

“Franchisee” is any person granted a Franchise pursuant to the authority of this ordinance and otherwise in accordance with state and federal laws for the construction, maintenance, and operation of a cable system.

“Franchising authority” is a municipality.

“Other programming service” is information that a cable operator makes available to all subscribers.

“Person” is any person, firm, partnership, association, corporation or organization of any kind and any other legally recognized entity.

“Public, educational or governmental access facilities” is a channel capacity designated for public, educational and governmental use and the facilities and equipment for the use of such channel capacity.

“Subscribers” are those persons contracting to receive cable television reception services furnished under this Ordinance or under a subsequent Franchise grant.

“Video programming” is programming provided by or considered comparable to programming provided by a television broadcast station.

12-102 GRANT OF NON-EXCLUSIVE AUTHORITY

1. The grant of any Franchise by the City to any Franchisee shall be for the non-exclusive right to erect, maintain and operate in, under, over, along, across and upon the present and future streets, lanes, avenues, sidewalks, alleys, bridges, highways, easements dedicated for compatible uses and other public places in the City of Bowdle, South Dakota, and subsequent additions thereto, towers, poles, lines, cables, wires, manholes and all other fixtures and equipment necessary for the maintenance and operation in the City of a cable system, for the purpose of transmission and distribution of signals, including but not limited to audio, visual, electronic, electronic impulse and digital in order to furnish television and radio programs and various other communications services to the public by what is commonly called a CATV System, for a period not to exceed twenty (20) years.
2. The right to use and occupy said streets, alleys, public ways and places for any purposes stated herein or which may be set forth in any contractual arrangement hereafter shall not be exclusive.
3. Franchisee also has the right and authority to lease, rent or in any other manner, obtain the use of, and use within the corporate limits of grantor, wires, lines, poles, cross-arms, cables, appurtenances, fixtures and other apparatus of any and all holders of public permits, public licenses or franchises granted by the City or other public entity. Any such use shall be subject to the terms and conditions of the franchise granted by this Ordinance and subject to all existing and future ordinances, resolutions, regulations, and franchise agreement of the City.
4. The terms and conditions of the franchise shall also be applicable to any facilities installed or operated by the Franchisee before the effective date of the franchise.

12-103 COMPLIANCE WITH APPLICABLE LAWS AND ORDINANCES

The Franchisee shall, during the term hereof, except in those areas which have been preempted by the Cable Communications Policy Act of 1984, or acts amendatory thereto, or which are regulated by the FCC, be subject to all lawful exercise of the regulating and police powers of the City.

12-104 TERRITORIAL AREA INVOLVED

This Ordinance relates to the present territorial limits of the City and to any additional areas as may be specifically set forth in any contractual arrangement with Franchisee.

12-105 LIABILITY AND INDEMNIFICATION

Any Franchisee shall, at all times, keep in effect insurance coverages for Workers Compensation, Property Damage Liability, General Commercial Liability, and such other

insurances as are deemed by the City to be reasonable and appropriate under the specific terms of a Franchise Agreement and authorization.

Any Franchisee shall be required to 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 Workers Compensation law which may arise out of the erection, maintenance, presence, use or removal of said attachments or poles within the City, or by any act of the Franchisee, its agents or employees. Franchisee shall carry insurance in amounts sufficient to protect the parties hereto from and against all claims, demands, actions, judgments, costs, expenses and liabilities which may arise or result, directly or indirectly, from or by reason of such loss, injury or damage, which amounts shall be established by the Franchise Agreement terms.

12-106 TECHNICAL STANDARDS

Franchise authorizations shall be governed by technical standards established by the FCC.

12-107 OPERATION AND MAINTENANCE OF SYSTEM

1. A Franchisee shall only deliver to any customer the signal of a television station that is permitted or authorized to be delivered by any CATV System operating in the City under the rules and regulations of the FCC or any successor thereof, as established by such commission from time to time.
2. A Franchisee shall make installations of a permanent and durable nature and installed in accordance with good engineering practices and comply with all existing and future ordinances, resolutions, regulations, and orders of grantor so as not to interfere in any manner with the right of the public or individual property owners. The system shall not interfere with the travel and use of public places or facilities by the public and during the construction, repair, or removal thereof, shall not obstruct or impede traffic. Any transmission facilities of CATV System or utilized in connection with a system anywhere within the corporate limits of grantor, either on public or private property, shall consist of coaxial cables of low radiation characteristics, satisfactory to and approved by Rural Utilities Service (RUS).
3. A Franchisee shall be required to operate and maintain service so that all customers receive signals of good technical quality and full range of services. Repairs shall be made promptly. Any interruption of service shall only be for good cause and for the shortest possible time. Such interruptions, as far as possible, shall be preceded by notice and shall occur during periods of minimum use of the system.
4. In order to limit failure and malfunctions of CATV system to a minimum and that the same might be promptly corrected and at all times after notice of malfunction or failure, Franchisee shall consistently maintain an office, which shall be open during normal business hours of every day, Monday through Friday inclusive, which shall have a listed telephone.
5. All service requests and complaints shall be responded to within 24 hours of receipt. All failures and malfunctions of the system, shall be corrected within seventy-two (72) hours after notice of such failure or malfunction except or unless such failure or malfunction shall be over a substantial portion of grantee's system and shall have been caused by storm, fire, lightning, explosion, civil commotion or similar catastrophe.
6. Franchisee is authorized to make all necessary excavations in the streets, alleys, sidewalks and public grounds within the corporate limits of grantor, but such excavations shall be carried out with reasonable dispatch and with as little interference

with or inconvenience to the rights of the public as may be feasible. Franchisee shall restore all streets, alleys, sidewalk, and public grounds to their original condition of safety and utility after excavation. In case any obstruction caused by Franchisee shall remain longer than five (5) days after notice to remove it, or in case of neglect by Franchisee, to safeguard any dangerous places, City may remove such obstruction or safeguard such dangerous place at the expense of the grantee.

12-108 SERVICE TO SCHOOLS AND CITY

The Franchisee shall provide to the City and to all public-school buildings within the City, one connection to each City and school building, for education purposes and at no cost to the City or the public-school system, upon request. Each such connection shall be made such that all services available through Franchisee's Cable System will be delivered to all sets or receiving device connected within each building.

12-109 EMERGENCY USE OF FACILITIES

Any and all CATV System facilities shall, in areas serviced, be made available without charge as a public service for use by the City or any other public agency performing civil defense or disaster services.

12-110 SAFETY REQUIREMENTS

The Franchisee shall, at all times, employ ordinary care and shall use and maintain commonly accepted methods and devices for preventing failures and accidents which are likely to cause damages, injuries, or nuisances to the public.

12-111 LIMITATIONS OF RIGHTS GRANTED

Any grant of a Franchise may contain provisions limiting certain rights of Franchise under certain circumstances as may be established from time to time in more specific terms in a contractual arrangement with Franchisee.

12-112 OWNERSHIP AND REMOVAL OF FACILITIES

All cable and passive equipment for cable television reception or internet service of any other service provided under the Cable System that is installed by the Franchisee at a subscriber's location and not purchased or owned by the subscriber shall remain the property of Franchisee and Franchisee shall have the right to remove said cable and equipment. Upon termination of service to any subscriber, the Franchisee shall promptly remove all its above ground facilities and equipment from the premises of such subscriber upon his or her request.

12-113 TRANSFER OF FRANCHISE

The Franchisee shall not sell, transfer, lease, assign or dispose of in whole or in part either by force or voluntary sale, merger, consolidation or otherwise any Franchise without the prior consent of the City Council of City, expressed by resolution and then only under such conditions as may therein be prescribed.

12-114 FRANCHISE FEE

Effective October 1, 1985, and hereafter, the City does hereby impose upon Franchisee a franchise fee. Said fee shall be five percent (5%) of the Franchisee's monthly gross receipts of the Cable System collected from any subscriber who receives Franchisee's services within the boundaries of the City. Excluded from the gross receipts are installation costs, disconnect or reconnect fees and penalties and repair costs.

The franchise fee shall be tendered by Franchisee to the City Finance Office on a quarterly basis.

12-115 RATES

1. Franchisee shall, at all times, maintain on file with the City Finance Office a schedule setting forth all rates and charges to be made to subscribers for basic CATV service, including installation charges. Before making any changes in the rates and charges to subscribers for basic CATV service, Franchisee shall file in writing with the City Administrator a new proposed rate change at least thirty (30) days in advance of the proposed effective date for such rate change and comply with FCC rule 76.1603(b) and 76-1603(c) concerning notice to subscribers and City. Said rates shall be determined according to the FCC Rules and Regulations regarding rates.
2. This provision does not limit the right of Franchisee to pass along to the subscriber's state and local sales tax, programming cost increase or any specific copyright fees.
3. This section is not applicable to rates for premium or pay service.
4. The monthly rate set forth in subsection 1 above shall be payable in advance.
5. The Franchisee shall not discriminate in rates, charges, service facilities, rules, regulations, or any other respect, make or between customers of the same category except to the extent permitted by the Cable Communications Policy Act of 1984 and FCC regulations and any acts amendatory thereto.
6. Grantee shall not, as to rates, charges, service, service facilities, rules, regulations or any other respect, make or grant any undue preference or advantage to any person or subject any person to any undue prejudice or disadvantage, provided however, connection charges may be waived or modified during promotional campaigns of grantee.

12-116 MISCELLEANEOUS

Franchisee's legal, financial, technical, and other qualifications, and the adequacy and feasibility of its construction arrangements, if any, must be approved by all appropriate governing or regulatory bodies.

12-117 MODIFICATION OF FCC RULES

Any modification or amendment of the rules of the FCC shall, to the extent applicable, be considered part of this Ordinance as of the effective date of such amendment, and shall be incorporated herein by specific amendments within one (1) year from the effective date of the amendment, or at the time of a Franchise Agreement approval, whichever occurs first.

12-118 UNAUTHORIZED CABLE USE

It shall be unlawful for any person or persons to obtain any cable television reception service, internet service or any other service from Franchisee, or any firm or private person by installing, rearranging or tampering with any facilities or equipment of Franchisee, unless the same is done with the prior written permission of the Franchisee. A violation of this section is a Class 2 misdemeanor.

12-119 SEVERABILITY

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, or is superseded or preempted by FCC regulation, such portion shall be deemed a separate

distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof.

CHAPTER 13 PENALTIES

13-101 PENALTY

Any person who violates an ordinance of the City of Bowdle shall, in addition to such court costs as may be imposed, be fined in accordance with the City's fine schedule.

CHAPTER 14 PAWNBROKERS

14-101 DEFINITION

A “pawnbroker” shall mean any person, firm or corporation who engages in the business of lending money on the deposit or pledge of personal property, excluding banks or purchases of personal property with an expressed or implied agreement or understanding to sell it back at a stipulated price.

14-102 LICENSE REQUIRED; FEE; TERM OF LICENSE

It shall be unlawful for any person, firm or corporation to engage in the business of pawnbroker without first obtaining a license from the City Finance Office. The annual fee for a pawnbroker’s license shall be one hundred dollars (\$100.00). The license issued under this chapter shall be the calendar year and the license fee shall be for the calendar year or any portion thereof.

14-103 FIXED PREMISES

A pawnbroker must have a fixed premises, which premises must be reflected on the license issued pursuant to this Chapter.

14-104 BOND

Each pawnbroker doing business in the City shall furnish a good and sufficient bond in a form and with a surety approved by the City Council, in the sum of one thousand dollars (\$1,000.00), conditioned for the faithful observance of this Chapter and conditioned for the safe keeping or return of all articles held in pledge of such pawnbroker.

14-105 SUSPENSION OR REVOCATION OF LICENSE

Any violation of the terms and requirements of this Chapter may result in a suspension or revocation of the license. Prior to any suspension or revocation of a license issued under this Chapter, the licensee shall be afforded a public hearing with at least ten (10) days

advance notice of such hearing. At the conclusion of such hearing, the City Council determines that a violation of these ordinances has occurred, it is its sole discretion the Council may either revoke the license or may suspend the license for such period of time as it deems appropriate.

14-106 RECORDS REQUIRED

Every pawnbroker shall keep books or records of pawn tickets in a manner satisfactory to the City Council or the Chief of Police. The records shall be prepared contemporaneously with the purchasing or receiving of any personal property and after requiring and observing property, at a minimum such records shall contain the following information:

- a) The name of the person from whom the property is purchased or received, his place of residence including his mailing address, and his date of birth; and
- b) A specific description of the personal property including, if available, the manufacturer's name, style, model number, serial number, engraved initials, or other identifying marks; and
- c) The date and time of transaction; and
- d) The amount necessary for redemption; and
- e) The date when the article is to be redeemed; and
- f) Any mortgage, bill of sale, receipt, or other hypothecation of the transaction.

14-106.1 Every pawnbroker shall also record the date of sale, disposition or redemption of the property or portion thereof subject of the transaction. The foregoing disposition report shall be located in the same place as the records where the receiving records of the said article are located.

14-106.2 The records required by this section shall be maintained for one (1) year after the date of purchase or receipt and shall be made available for inspection to the City Council or City Police Officers during reasonable business hours.

14-106.3 The records required to be kept pursuant to 14-106, 14-106.1, 14-106.2 and 14-107, shall be maintained on all personal property present in the licensed premises where such item was pawned or purchased for resale.

14-107 HOLDING PERIODS

- a) Any person licensed as a pawnbroker who shall purchase any new or secondhand goods from any individual or business not regularly engaged in trade, shall keep the same for inspection for a period of at least ten (10) days from the time the pawnbroker receives possession of the property.
- b) The foregoing notwithstanding, every article of personal property which is taken in pawn by a pawnbroker shall be held for a period of not less than forty (40) days.
- c) During the foregoing holding periods, said personal property shall not be sold, redeemed, or otherwise disposed of except as otherwise provided herein.

- d) If prior to the expiration of the foregoing holding periods, the Chief of Police or his designee is satisfied that such article of personal property is not stolen goods, may, in his sole discretion, waive the balance of the holding period; provided, however, should the Chief of Police or his designee waive the balance of such holding period, such waiver must be made in writing.

14-108 HOLD ORDER

The Chief of Police or any authorized police officer may, by written order, require a pawnbroker to hold any specified article or articles deposited with or in custody of a pawnbroker for purposes of further investigation by the police department when the police department believes that said item or items may be stolen.

A hold order shall remain in effect for a period of thirty (30) days commencing the day on which the hold order was delivered to the pawnbroker. During the aforesaid thirty (30) day period, the pawnbroker shall make no sale or other disposition of the property subject to the hold order until the expiration of the hold order unless the issuing officer withdraws such order.

14-109 ACCEPTING ARTICLES FROM OTHER THAN LAWFUL OWNER

A pawnbroker who accepts in pledge any article as security for a loan from a pledger who is not the owner thereof, or purchases from resale any property from any person other than the lawful owner, shall obtain no property interest in the same.

Ignorance of the fact that the property was lost or stolen shall not affect the question of title and if the pawnbroker shall sell such article to a third person, the pawnbroker shall nevertheless remain liable to the original owner.

14-110 UNLAWFUL TRANSACTIONS

It shall be unlawful for any pawnbrokers to accept any articles in pawn or purchase for resale any personal property from any person under eighteen (18) years of age. For purposes of this provision, the pawnbroker shall require proof of age.

14-111 INSPECTION OF PREMISES/RECORDS

During regular business hours, pawnbrokers shall permit personnel from the City Police Department to inspect the premises, examine all records pertaining to transactions, inspect all personal property held in pawn, consignment or for resale, and upon request shall afford the Police Department an opportunity to make copies records required pursuant to this Chapter. In addition, immediately upon request by personnel from the City Police Department, the pawnbroker shall provide the Police Department with the original signed pawn ticket. The pawnbroker shall retain the copy of the pawn ticket for its records.

14-112 EXPIRATION OF LICENSE AND RENEWAL

All licenses issued under this chapter shall expire on the 31st day of December during each calendar year. In the event that a licensee under this chapter desires to renew the license, he shall make application to the City Finance Office prior to December 1st of each calendar year, requesting renewal. The City Council at its regular meeting or at such other time as the City Council may schedule, may consider the application for renewal and determine the appropriateness of such renewal. In the event that the City Council grants the renewal request, a new license shall be issued for the next ensuing year upon receipt of the \$100.00 annual fee.

14-113 AGE RESTRICTION

No person under the age of 18 may, on behalf of the pawnbroker, accept property in pawn or purchase used personal property for resale. All pawn tickets must be signed by a person who has attained the age of 18 years.

14-201 DEFINITION

A “Consignment Broker” shall mean any person, firm or corporation who is in the ordinary course of business engages in the business of accepting personal property pursuant to any agreement where said consignment broker shall hold the personal property for resale to the public. Specifically excluded from the foregoing definition shall be livestock auctions, implement dealerships, grain elevators and home or neighborhood rummage sales.

14-202 LICENSE REQUIRED; FEE; TERM OF LICENSE

It shall be unlawful for any person, firm or corporation to engage in the business of consignment broker without first obtaining a license from the City Finance Office. The annual fee for a consignment broker’s license shall be one hundred dollars (\$100.00). The license issued under this chapter shall be the calendar year and the license fee shall be for the calendar year or any portion thereof.

14-203 FIXED PREMISES

A consignment broker must have a fixed premises which premises must be reflected on the license issued pursuant to this chapter.

14-204 SUSPENSION OR REVOCATION OF LICENSE

Any violation of the terms and requirements of this chapter may result in a suspension or revocation of the license. Prior to any suspension or revocation of a license issued under this chapter, the licensee shall be afforded a public hearing with at least ten (10) days advance notice of such hearing. At the conclusion of such hearing, if the City Council determines that a violation of these ordinances has occurred, in its sole discretion the Council may either revoke the license or may suspend the license for such period of time as it deems appropriate.

14-205 RECORDS REQUIRED

Every consignment broker shall keep books or records of pawn tickets in a manner satisfactory to the City Council or the Chief of Police. The records shall be prepared contemporaneously with the purchasing or receiving of any personal property and after requiring and observing property, at a minimum, such records shall contain the following information:

- a) The name of the person from whom the property is purchased or received, his place of residence, including his mailing address and his date of birth; and
- b) A specific description of the personal property including, if available, the manufacturer’s name, style, model number, serial number, engraved initials, or other identifying marks; and
- c) The date and time of transaction; and
- d) The resale price for such consigned item; and
- e) Consignment agreement.

- 14-205.1** Every consignment broker shall also record the date of sale or other disposition of the personal property.
- 14-205.2** The records required by this section shall be maintained for one (1) year after the date of purchase or receipt and shall be made available for inspection to the City Council or City Police Officers during reasonable business hours.
- 14-206** **HOLD ORDER**
The Chief of Police or any authorized police officer may, by written order, require a consignment broker to hold any specified article or articles deposited with or in custody of a consignment broker for purposes of further investigation by the police department when the police department believes that said item or items may be stolen. A hold order shall remain in effect for a period of thirty (30) days commencing the day on which the hold order was delivered to the consignment broker. During the aforesaid thirty (30) day period, the consignment broker shall make no sale or other disposition of the property subject to the hold order until the expiration of the hold order, unless the issuing officer withdraws such order.
- 14-207** **UNLAWFUL TRANSACTION**
It shall be unlawful for any consignment brokers to accept any articles in pawn or purchase for resale, any personal property from any person under eighteen (18) years of age. For purposes of this provision, the consignment broker shall require proof of age.
- 14-208** **INSPECTION OF PREMISES/RECORDS**
During regular business hours, consignment brokers shall permit personnel from the City Police Department to inspect the premises, examine all records pertaining to transactions inspect all personal property held in pawn, consignment or for resale, and upon request shall afford the Police Department an opportunity to make copies of all records required, pursuant to this chapter. In addition, immediately upon a request by personnel from the City Police Department, the consignment broker shall provide the Police Department with the original signed pawn ticket. The consignment broker shall retain the copy of the pawn ticket for its records.
- 14-209** **EXPIRATION OF LICENSE AND RENEWAL**
All licenses issued under this chapter shall expire on the 31st day of December during each calendar year. In the event that a licensee, under this chapter, desires to renew the license, he shall make an application to the City Finance Office prior to December 1st of each calendar year requesting renewal. The City Council at its regular meeting or at such other time as the City Council may schedule, may consider the application for renewal and determine the appropriateness of such renewal. In the event that the City Council grants the renewal request, a new license shall be issued for the next ensuing year upon receipt of the one hundred dollar (\$100.00) annual fee.
- 14-210** **CASH ADVANCES**
Consignment brokers, their employees and agents are prohibited from making cash advances, loans and are otherwise prohibited from tendering cash to an individual who consigns goods to the consignment broker; the foregoing notwithstanding, the consignment broker, its agent and employees, may make cash advances to the consignee provided that the consignment broker obtain all of the information required by Chapter 14 of the City of Bowdle Ordinances pertaining to pawnbrokers and shall further afford the City Police Department access to such records as required by City Ordinance pertaining to pawn transactions.

CHAPTER 15 NUISANCES

GENERAL:

15-101 NUISANCES PROHIBITED

No person shall create, maintain, or permit to be created, committed or maintained any nuisance as defined herein within the City. Each specific act, condition and thing defined in this Chapter as a nuisance shall constitute a nuisance, alone or in combination with others, whether affecting the entire City or a neighborhood of the City, or a considerable number of persons, although the extent of annoyance, injury, damage or danger to persons affected be unequal.

15-102 CERTAIN NUISANCES DEFINED

Whatever is dangerous to human health, whatever renders the ground, the water, the air, or food a hazard or an injury to human health, and the following specific acts, conditions, and things are, each and all of them, hereby declared to constitute a nuisance; provided, however, that this enumeration shall not be deemed to be exclusive:

1. Imperfect plumbing. Any imperfect, leaking, unclean, or filthy sink, water closet, urinal, or other plumbing fixture in any building used or occupied by human beings.
2. Garbage and refuse. Depositing, maintaining, or permitting to be maintained or to accumulate upon any public or private property any animal or vegetable matter which attends the processing, preparations, transportation, cooking, eating, sale, or storage of meat, fish, vegetables, fruit and all other food or food products found within the city which is likely to cause or transmit disease, or which may be a hazard to health.

3. Impure water. Any well or other supply of water used for drinking or household purposes which is polluted, or which is constructed or situated so as to become polluted.
4. Undressed hides. Undressed hides kept longer than 24 hours, except at the place where they are to be manufactured, or in a storeroom or basement the construction of which is approved by the health department.
5. Manure. The accumulation of manure or livestock waste unless it is in a securely tied, closed biodegradable package placed in a leakproof metal container with a tightfitting lid.
6. Breeding places for flies. The accumulations of manure, garbage, or anything whatever are harboring places and breeding area for flies and rodents.
7. Stagnant water. Any water or liquid in which mosquito larvae exist.
8. Poison ivy. Permitting poison ivy to grow upon any public or private property.
9. Dead animals. The owner of a dead animal or the property owner upon whose property the dead animal is located, permitting it to remain undisposed of longer than 24 hours after its death.
10. Polluting river. Throwing or leaving any dead animal or decayed animal or vegetable matter or any slops or filth whatsoever, either solid or fluid, into any pool of water or into the Bad River.
11. Privies and cesspools. Erecting or maintaining any privy or cesspool.
12. Improper garbage handling. Throwing or letting fall on or permitting to remain on any street, alley, or public ground any manure, garbage, rubbish, filth, fuel, or wood while engaged in handling or removing any such substances.
13. Bonfires. Burning, causing, or permitting to be burned without an approved incinerator upon any private or public property any dirt, filth, manure, garbage, sweepings, leaves, ashes, paper, waste, or rubbish of any kind.
14. Burning of garbage. Burning upon any private or public property, any garbage, offal, excrement, fresh or decaying fruits, vegetables, fish, meat or bone, or any foul, putrid or obnoxious liquid or substance.
15. Private sanitary landfill. Operating or permitting the operation of a private sanitary landfill.
16. Rubbish. Depositing, maintaining, or permitting to be maintained or to accumulate upon any public or private property any combustible refuse matter such as papers, sweepings, rags, grass, tree branches, wood shavings, magazines, cardboard, etc.
17. Waste material. All noncombustible inorganic matter such as ashes, glass, sand, earth, stones, concrete, mortar, metals, tin cans, etc.

18. Livestock waste. Any accumulation of waste manure or straw resulting from the transportation, housing, or confining of animals.
19. Graffiti. Any writing, printing, marks, signs, symbols, figures, designs, inscriptions, or other drawings which are scratched, scrawled, painted, drawn, or otherwise placed on any exterior surface of a building, wall, fence, sidewalk, curb, or other permanent structure on public or private property and which has the effect of defacing the property.
20. Abandoned property. Any accumulations of other unsightly trash or junk which would constitute a health hazard, a rodent harborage, a breeding ground for insects or rodents, a dangerous place for children to play in and around or which tends to be unsightly, and which does or tends to lower the value of adjacent real property because of its unsightliness. Unsightly trash or junk includes property which is deteriorated, wrecked, or derelict property in unusable condition, having no value other than nominal scrap or junk value, if any, and which has been left unprotected from the elements outside of a permanent structure, and shall include without being restricted, deteriorated, wrecked, inoperative or partially dismantled motor vehicles, trailers, boats, motors, snowmobiles, lawn mowers, motorcycles, campers, refrigerators and other household appliances, furniture, household goods and furnishings, scrap metals or lumber or other similar articles in such condition.

15-103 ABATEMENT

The City Council of the City of Bowdle is herewith authorized and empowered to abate, upon three days written notice, any public nuisance existing by reason of the violation of any term or provision contained **or in Chapter 15**. In the event that an owner, lessee, renter or purchaser of any occupied premises fails to abate such nuisance at his own expense within three days after written notice of the existence of such public nuisance has been mailed by First Class mail, postage prepaid, to the last known address of the owner of the property, the date of mailing of said notice not included, by the City Council, said Council shall be empowered to authorize entry upon such premises and abatement of such public nuisance, and the cost of such abatement shall be claimed against and collected from such person or persons as were legally imposed with the duty of abating said nuisance, or the person or persons who created the same.

15-104 VIOLATION-PENALTY

In addition to the remedy of abatement, violation of any provision of this article may be punishable in accordance with a schedule of fines and penalties as promulgated from time to time by the City Council.

MOTOR VEHICLES:

15-201 ABANDONED, DISMANTLED, INOPERATIVE OR JUNK MOTOR VEHICLES

Definitions. For the purposes of this article, the following terms, phrases, words, and their derivations have the meaning given herein:

- (a) "Abandoned motor vehicle" means any motor vehicle, as defined in this section, which is left unattended on any public street, alley, public place or parking lot within the city for a period longer than twenty-four hours without notifying the chief of police and making arrangements for the parking of such motor vehicle.

- (b) “Inoperable vehicle” means any motor vehicle, as herein defined, which has not physically moved twenty-five feet in a seven-month period or which is not in operating condition due to damage or removal or inoperability of one or more tires and wheels, damage or removal or inoperability of the engine or other essential parts required for the operation of the vehicle, or which does not have lawfully affixed thereto a valid state license plate or which constitutes an immediate health, safety, fire or traffic hazard.
- (c) “Junked motor vehicle” means any motor vehicle which does not have lawfully affixed thereto a valid state license plate or plates, or the condition of which is wrecked, dismantled, partially dismantled, inoperable, or discarded.
- (d) “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, golfcarts, campers, trailers, boats and farm equipment.
- (e) “Person” means any person, firm, partnership, association, corporation, company, or organization of any kind.
- (f) “Private property” means any real property within the city which is privately owned and which is not public property as defined in this section.
- (f) “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 of facility.
- (g) “Junk yard” means an establishment or place of business which is maintained, operated, or used for storing, keeping, buying, or selling junk, or for the maintenance or operation of an automobile graveyard, and the term shall include garbage dumps and sanitary fills.
- (h) “Automobile graveyard” means any establishment or place of business which is maintained, used, or operated, for storing keeping, buying, or selling wrecked, scrapped, ruined, or dismantled motor vehicles or motor vehicle parts.
- (i) “Filling station” means any establishment or place of business which is maintained, used, or operated, for the purpose of selling to the public fuel used to operate motor vehicles.
- (j) “Repaired” means to restore to normal working condition such that said motor vehicle can be driven and moved solely under its own power, said restoring taking no longer than a period of six (6) months from the first date the motor vehicle is within the City of Bowdle in inoperable condition.

15-202

NUISANCE DECLARED

The presence of an abandoned, wrecked, dismantled, inoperative, junked or partially dismantled motor vehicle or parts thereof, on private or public property is hereby declared a public nuisance which may be abated as such is accordance with the provisions of this chapter. This section shall not apply to any motor vehicle enclosed within a building on private property or to any motor vehicle held in connection with a business enterprise,

lawfully licensed by the City and properly operated in the appropriate business zone, pursuant to the zoning laws of the City, or to any motor vehicle in an appropriate storage place or depository maintained in a lawful place and manner by the city or authorized by the City.

(1) **Storing, parking, or leaving on public property–Prohibited.**

No person shall park, store, leave or permit the parking, storing or leaving of any abandoned or junk motor vehicle of any kind, whether attended or not, upon any public property in the city.

(2) **Presence on private property–Prohibited.**

No person owning, in charge of, or controlling any real property within the city, whether as owner, tenant, occupant, lessee or otherwise, shall allow any abandoned or junk motor vehicle of any kind to remain on such property for longer than thirty days.

(3) **Hazard.**

In no event shall an inoperable vehicle that constitutes imminent health, safety or fire hazard be kept or located on any premises for any length of time.

(4) **Exceptions.** This chapter shall not apply to the following:

- (a) One inoperable motor vehicle kept on private property without being shielded from public view if licensed and kept on a private driveway. If this one inoperable vehicle is in a state of externally visible disrepair or disassembly, it shall not be kept on the private driveway longer than 30 days.
- (b) Filling stations, automobile repair shops or any other motor vehicle related to business in compliance with applicable city ordinances may place inoperable vehicles being repaired or offered for sale on the premises.
- (c) Junkyards operated and maintained in compliance with applicable city ordinances.

15-203 AUTHORITY OF REMOVAL AGENCY GENERALLY

The city of Bowdle may remove and salvage abandoned junk vehicles and other scrap metals and may locate, enumerate and mark; secure authorization for removal; remove, collect and store; and secure transportation to processing centers for any abandoned or junk vehicles and other scrap metals.

15-204 ENTRY ON LAND FOR PURPOSE OF REMOVAL

The City of Bowdle or agents acting on its behalf may enter upon any land for the purpose of removing any abandoned junk vehicles or other scrap metals.

15-205 NOTICE TO OWNER AND LIEN HOLDERS BEFORE REMOVAL

The City of Bowdle shall notify the last record holder of title owner and last record lien holder of any abandoned or junk vehicle or scrap metal, of intention to remove and salvage the vehicle or scrap metal. The notice shall be written and sent certified mail to the last record holder of title and last record lien holders at their last known address and shall give the owner or lien holders five (5) days from the date of the notice to remove the vehicle or scrap metal. At the end of (5) days, if the vehicle or scrap metal has not been removed, the City of Bowdle may remove the vehicle or scrap metal, and the cost of such removal may be claimed against and collected from such person(s) as were legally imposed with the duty of removing the motor vehicle or scrap metal, or the person(s) who created the nuisance.

15-206 NOTICE TO OWNER AND LIEN HOLDERS AFTER REMOVAL-CONTENTS
Within ten (10) days after any abandoned or junk vehicle or other scrap metal has been removed, written notice shall be sent by certified mail to the registered owner, if any, of the abandoned or junk vehicle or scrap metal and to all readily identifiable lien holders of record. The notice shall set forth the date and place of the taking, the year, make, model and serial number of the abandoned vehicle and the place where the vehicle is being held, and shall inform the owner and any lien holders of their right to reclaim the vehicle under section 15-206, upon payment in full of all costs of the removal.

15-207 VESTING OF TITLE IN THE CITY OF BOWDLE AFTER NOTICE IS SENT-TIME ALLOWED FOR HOLDER OF TITLE TO RECLAIM
Notwithstanding any statutes or ordinances to the contrary, title to any abandoned or junk vehicle or other scrap metal shall vest in the City of Bowdle after a period of thirty (30) days from date on which notice was sent under Section 15-205. The record holder of title fails to claim and remove his vehicle, or other scrap metal within thirty (30) days after mailing notice, title to the vehicle is irrevocably vested in the City of Bowdle.

15-208 RECLAIMING VEHICLE
In the event that the owner or a lien holder desire to reclaim the vehicle, such person shall notify the City Finance Officer in writing. The City Finance Officer shall inform such a person the cost of removal and storage of the vehicle. Upon payment of the costs and proof of ownership or lien, possession of the vehicle shall be turned over to the owner or lien holder. The person reclaiming possession of the vehicle must comply with this provision within the 30-day reclamation period and must also remove the vehicle from storage within said time.

15-209 APPLICATION FOR CERTIFICATE OR TITLE BY THE CITY OF BOWDLE
The City of Bowdle shall apply for salvage title for any salvage or junked vehicle as required by the State of South Dakota.

15-210 DISPOSITION OF VEHICLE
Upon acquisition of title to a vehicle, the City of Bowdle may sell or otherwise dispose of the vehicle. The proceeds, if any, shall be deposited by the City of Bowdle in its general fund and may thereafter be expended as all other such general fund monies.

LITTER:

15-301 LITTER

(1) Definitions.

- (a) "Litter" means any quantity of un-containerized garbage, trash, refuse, debris or other waste material including, but not limited to, cans, bottles, jars, treated or untreated paper, wrappings, ashes, cigarettes, cardboard, rags, yard clippings, leaves, grass, wood, crockery, dead animals, scrap metal, salvaged metal and motor vehicle parts.
- (b) "Un-containerized litter" means any litter which is not enclosed within a building or placed securely in a container designed or adapted for use as a place for storing litter for the purpose of collection for disposal.

- (2) **Un-containerized litter prohibited.**
Any person being the owner, tenant or person in control of any private property shall at all times maintain the premises free of un-containerized litter, except for that un-containerized litter which is left out overnight for purposes of collection.
- (3) **Throwing or depositing in or upon streets, sidewalks or public or private places.**
No person shall throw or deposit any litter in or upon any street, sidewalk or other public place or any private property except in public or private containers designed and intended for the collection of litter. Persons placing litter in such containers shall do so in such a manner as to prevent its being carried or deposited by the elements upon any street, sidewalk, or other public place or private property.
- (4) **Sweeping into gutters, streets, or other public places.**
No person shall sweep into or deposit in any gutter, street, or other public place within the city with any accumulation of litter from any building or lot or from any public or private sidewalk or driveway.
- (5) **Public rights-of-way–Unlawful deposits.**
(a) It is unlawful for any person to deposit on any street any material which may be harmful to the pavement thereof, or for any person to deposit, or for the owner of the adjacent property to allow, any deposit of any waste material, glass, rocks, dirt or other articles which may do injury to any person, animal or property including any person traveling across the street or right-of-way.
(b) In addition to any penalty provided for the proceeding, if the owner of the adjacent property does not remove the material within five days after receiving notice to remove the items, he shall be liable to the city for all costs incurred by the city in removing the material, glass, rock, dirt, or other articles from the street or right-of-way adjacent to his property.
- (6) **Property owner’s responsibility to maintain abutting sidewalks and alleys.**
Every person owning or occupying property shall keep the sidewalks and alleys abutting such property free of litter.
- (7) **Hauling.**
No person shall drive or move any truck or other vehicle unless such vehicle is so constructed or loaded as to prevent any load, contents, or litter from falling, being blown, or otherwise being deposited upon any street, alley, other public place, or any private property.
- (8) **Construction sites.**
(a) No person being the owner or person in charge of any property upon which a structure is being constructed or demolished shall permit the accumulation of un-containerized litter upon such property or permit litter therefrom to become blown or scattered upon such property or any property or public place.
(b) No person being the owner of any property upon which a structure is being constructed or demolished shall fail to provide adequate containers to hold all litter produced upon such property or otherwise appearing thereon.
- (9) **Loading or unloading operations.**

No person owning or having charge of any premises upon which objects or materials are being loaded or unloaded from any vehicle or other device for conveyance shall permit any un-containerized litter resulting from such loading or unloading to accumulate upon such property or to be blown or scattered upon such property or any other property or public place.

(10) Distribution of handbills.

No person shall throw or deposit any handbill in or upon any street, sidewalk, or public place, nor shall any person throw, or deposit, or place any handbill upon any vehicle without the specific and immediate consent of the person having charge of such vehicle. This section shall not prohibit the handing out of handbills to persons willing to receive such handbill.

(11) Violation-Penalty.

Violation of any provision of this article may be punishable in accordance with a schedule of fines and penalties as promulgated from time to time by the City Council.

15-401

NUISANCE VEGETATION

Certain weeds and plants declared nuisances.

The following named weeds and plants shall be deemed dangerous and unhealthy and are declared to be nuisances: ragweed, pusley, pigweed, nettle, thistle of any kind, sunflower, goldenrod, tumbleweed, burdock, cocklebur, sandbur, wild oats, sticktight, milkweed, mustard and any and all other variety of weeds and vegetation deemed to be noxious, obnoxious, dangerous and unhealthy or deemed to be a nuisance by the building official, by the State of South Dakota, or by South Dakota statute as from time to time amended, and all other weeds and grasses growing upon any lot or parcel of land in the City to a greater height than twelve inches or which have gone or are about to go to seed.

Duty to correct.

It shall be the duty of the occupant, person in charge, or owner of any lot or parcel of land in the city to keep such lot, to include any abutting City right-of-way, commonly known as the City boulevard, free of such nuisance vegetation by cutting, spraying or removal, as may be appropriate.

Violation-Penalty.

Violation of any provision of this article may be punishable in accordance with a schedule of fines and penalties as promulgated from time to time by the City Council.

Notice to destroy.

The City Council is hereby authorized and empowered to notify in writing the owner of any such area, lot or place within the City or the agent of such owner or the occupant of such premises to cut, destroy or remove any such grass, weeds or deleterious or unhealthful growths or other noxious matter found growing, located or lying on such property or upon the sidewalk abutting same. Such notice shall be by certified mail, return receipt requested to the owner, agent, or occupant at his last known address.

Action upon noncompliance.

Upon failure, neglect or refusal of any owner, agent, or occupant so notified to comply with said notice within ten (10) days after the mailing thereof, the City Finance Officer or Mayor is authorized and empowered to provide for the cutting, destroying or removal of such grass, weeds or deleterious unhealthful growths or other noxious matter and to defray the

cost of the destruction thereof by special assessment against the property as provided in this Code or pursuant to state statute.

Weed removal costs.

If the owner, agent, or occupant of the land fails to cut the weeds as provided for in the preceding section, then the City shall cut the weeds. The cost to the landowner will be established by resolution of the City Council of the City of Bowdle. The City Council reserves the right and authority to review and adjust the charges established by resolution.

Costs assessed.

The City Finance Officer shall cause an account to be kept against each lot for the destruction of noxious weeds upon said lot as herein provided, and upon the completion of the work in destroying such weeds and abating said nuisance the City Finance Officer shall thereupon certify said account showing the amount and description of the property and the owner thereof to the County Assessor who shall thereupon add such assessment to the general assessment, together with the regular assessment, to be collected as a municipal tax for general purposes. Said assessment shall be subject to review and equalization the same as assessments or taxes for general purposes.

Recovery by City.

In lieu of spreading the cost of the destruction of such noxious weeds 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, agent, or occupant of such property.

ANIMALS AND FOWL:

15-501 ANIMALS AND FOWL

Definitions.

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

“Animal control officer” means the person designated by the commission to be reasonable for the care and maintenance of the animal shelter and to work with other law enforcement officials in the enforcement of this chapter.

“Animal shelter” means a building and facilities therein approved by the city council and the health authority for the impounding of animals.

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

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

“At large” means:

- (1) An animal when off or away from the premises of the owner, possessor, keeper, agent, or servant, or a member of his immediate family, unless restrained and controlled by a leash.

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

15-502 RUNNING AT LARGE PROHIBITED

It shall be unlawful for any person to have any animal which is owned, kept, harbored or allowed to be habitually in or upon the premises occupied by him or under his or their control to be at large and to go in or upon the private premises of others or upon any public property.

It shall be the duty of the owner of every dog to keep said dog securely chained or contained within an appropriate fence.

Any dog found in the City running at large or found to be disturbing the peace is hereby declared to be a nuisance and shall be impounded as hereinafter provided.

15-503 IMPOUNDING OF DOGS

- 1) **Impounding.** The Police Department of the City of Bowdle may impound all dogs found to be in violation of the provisions of this Ordinance. Provided further, that the Police Department of the City of Bowdle, with the approval of the City Council of the City of Bowdle is hereby authorized to employ a sufficient number of persons to capture, convey to the dog pound care for, kill and dispose of, in the manner herein provided, all dogs found to be in violation of the Ordinance.
- 2) **Dogs impounded-how redeemed.** In addition to such a penalty as may be imposed for a violation of these ordinances, the owner(s) of any dogs impounded hereunder may redeem the same by paying the following costs and fees:
 - a) Five dollars (\$5.00) per day for the cost of feeding, watering and caring for said dog; and
 - b) A fee of twenty dollars (\$20.00) represents the cost of apprehending, transporting to the pound, and the cost of the various administrative activities involved in administering this Ordinance; and
 - c) Documentation of rabies inoculation; and
 - d) Any other penalties assessed under this Ordinance.
- 3) **Public notice.** Immediately after impounding any dog hereunder, it shall be the duty of the pound keeper to enter upon the records of the pound in a book to be kept by him for such purpose the date of impounding, and a description of the dog impounded.

Public notice of the impounding of such dog shall be given by posting one copy of the description of such dog and date of impounding on the bulletin board in the U.S. Post Office, located in Bowdle, South Dakota. Any such dog not redeemed by the owner thereof within three (3) days after the posting of such notice by the pound keeper, shall be and is hereby declared to be a public nuisance. Notice by telephone or in person to the last known owner of the impounded dog shall be deemed to be sufficient compliance with this Ordinance.

- 4) **Sale or destruction of impounded dogs.** At the expiration of three (3) days from the date of posting the notice of impounding, if any, such dogs shall be unclaimed or if the owner or claimant thereof shall fail or refuse to comply with the provisions of this Ordinance, for the release of the same, it shall be the duty of the person in charge of such dog pound to destroy such dog and to cause it to be removed and properly buried. Provided, however, in the event that prior to the destruction of such dog:

Any person tender's payment of all fees and expenses which the owner of said dog would be required to pay in order to redeem said dog, then the pound keeper shall sell the dog to such person in lieu of destroying the dog. In the event that more than one person is willing to tender the minimum amount, the pound keeper shall accept sealed bids and shall sell the animal to the highest bidder.

- 5) **Animal bites.** Whenever any animal bites a person, law enforcement officer or any person authorized by the City of Bowdle to enforce the ordinances pertaining to such animals, shall impound such animal and place the animal at a licensed veterinary clinic, for a period of not less than ten (10) days, for the purpose of rabies observation. The animal shall not be released until the following conditions are met:
- a) A duly licensed Doctor of Veterinary Medicine authorizes the release or otherwise certifies that such animal is rabies free; and
 - b) That proof is presented by the owner of such animal that such animal has been vaccinated against rabies and that such vaccination is still in effect; and
 - c) That the owner of such animal tender to the City of Bowdle the cost of impounding such animal, the cost of any vaccination or other veterinary expenses incurred by the City of Bowdle; and
 - d) That the owner of such animal tender to the City of Bowdle the amount of applicable fines and court costs as may be imposed by ordinance.

If the impounded animal dies during the period of Quarantine, its head shall be sent to the State Department of Health or other appropriate facility for examination of rabies.

15-504 LIVESTOCK AND FOWL RUNNING AT LARGE PROHIBITED

It shall be unlawful for any person(s) owning or having the care or control of any fowl, cattle, horses, asses, mules, sheep, goats, hogs, or other animals, to permit the same to run at large within the city limits of the City of Bowdle.

15-505 OFFENSIVE STABLE

It shall be unlawful to place or maintain any hog pen, chicken coop, stable or similar structure within the city limits and a violation of this ordinance shall constitute a nuisance.

15-506 BARBED WIRE AND ELECTRICAL FENCES PROHIBITED

Barbed wire and electrically charged fences are hereby declared to be a public nuisance and shall not be constructed or maintained on any property within the city limits. Said fences shall be allowed only on the very exterior boundary of the city.

15-507 RABIES VACCINATION

Every dog within the City of Bowdle must have a current rabies vaccination, which is at the owner's expense and in addition said owner must provide these records of vaccination to law enforcement or to the City upon request.

ANIMALS:

15-508

Vicious Animals

- (a) An animal may be declared to be vicious by the City, or the attending physician of the victim of an animal bite or scratch may request such declaration, under the following guidelines:
 - (1) An animal which, in a vicious or terrorizing manner approaches in an apparent attitude of attack, or bites, inflicts injury, assaults or otherwise attacks a person or other animal upon the streets, sidewalks or any public grounds or places; or
 - (2) An animal which, on private property, in a vicious or terrifying manner, approaches in an apparent attitude of attack, or bites, or inflicts injury, or otherwise attacks a mailman, meter reader, serviceman, journeyman, delivery man, or other employed person, or other person or animal who is on private property by reason of permission of the owner or the occupant of such property or who is on private property by reason of a course of dealing with the owner of such private property.
 - (3) No animal may be declared vicious if the injury or damage is sustained to any person or animal who is committing a willful trespass or other tort upon premises by the owner or keeper of the animal, or who was teasing, tormenting, abusing or assaulting the animal or was committing or attempting to commit a crime.
- (b) When the City declares an animal to be vicious, the animal control officer shall notify the owner of such declaration in writing that such animal must be registered as a vicious animal within five business days after the receipt of such written notice. Said notice shall be served either in person or by mailing such notice by certified mail.
- (c) The vicious animal shall be impounded by animal control at the owner's expense; the animal shall be locked in an escape-proof kennel of such design as to prevent the entry of children and the escape of the animal.
- (d) Any vicious animal found off the premises of its owner, other than provided for in this article, shall be seized by the animal control officer or any police officer and impounded. If the animal cannot be captured, it may be destroyed. If the animal has been running at large, or bites a person, or bites another animal, the animal control officer or any police officer may order the owner to deliver the animal to the animal shelter within 24 hours and order the owner to appear in court to show cause why this animal shall not be destroyed. If the owner of the animal fails to deliver the animal as ordered, the animal control officer or any police officer shall use such means as is necessary to impound the animal.

Disturbing the peace.

- (a) The owner or custodian of an animal shall not allow the animal to create a disturbance by making loud noises at any time of the night or day.
- (b) Any animal control officer or police officer may remove and impound any animal which is disturbing the peace when an owner of the animal cannot be located. A notice advising the owner of the impoundment shall be left on the premises.

Cruelty to animals; right of entry.

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

Stray abandoned or unkept animals.

No person shall harbor or keep any stray animals. Animals known to be strays shall be immediately reported to the animal control officer.

Poisoning.

Unless recommended by the health authority, it shall be unlawful for any person to willfully or maliciously administer or cause to be administered poison of any sort whatsoever to any animal, which is the property of another, with the intent to injure or destroy such animal, or to willfully or maliciously place any poison or poisoned food where such is accessible to any such animal.

Keeping of animals.

- (a) The keeping of prohibited animals on any personal land in the city. This prohibition includes the domestic fowl of the order Galliformes and Gallinaceous birds (fowl-like birds including chickens), and the order Anseriformes (waterfowl). This prohibition also includes horses, cattle, hogs, sheep, goats, ostrich's, emus and all other domesticated or undomesticated large animals. (Amended 09/06/2022)
- (b) It is considered a nuisance and shall be unlawful for any person to keep and maintain (other than the care and treatment of injured animals by people licensed for that purpose) or sell animals or creatures that are native fur bearers, bears, mountain lions, bobcats, lynx, panthers, endangered species, exotic cats, or venomous snakes.
- (c) Nothing in this section shall be deemed to prohibit the keeping of (Felis catus) the domestic cat, (Mustela putorius furo) the European polecat otherwise known as the ferret, or (Canis familiaris) the domestic dog, as long as license or permit procedures are followed.

Responsibility.

- (a) No person shall create or maintain any condition, operate any equipment, or keep any animal, fowl, pet, or insect under his jurisdiction in such a way that such condition or operation causes or is likely to cause the transmission of diseases from animals or insects to man.
- (b) No owner, keeper, caretaker, or attendant of an animal shall allow an animal to defecate on public or private property other than his own. If such animal does defecate upon public or private property, the owner, keeper, caretaker, or attendant must immediately and thoroughly clean the fecal matter from such property.

Abandoning of animal.

No person shall abandon an animal in the city.

Enforcement.

The animal control officer is authorized to enforce all the provisions of this chapter and may issue citations for violations of any section or may issue warning tickets requiring correction of a violation.

Failure to comply with warning ticket.

It is unlawful for any person to fail or refuse to comply with the provisions or requirements of a warning ticket lawfully issued under this chapter.

Trapping of animals.

To person without permission of the city health department shall set, allow to be set, or use any trap for the purpose of catching any animal, which trap could injure or kill any animal, except rodent traps in the interior of a building, and except by persons employed by or agents of the city health department or city parks, and recreation committee for purposes of the city's health and welfare.

Payment of fees and charges—Stopping payment on or issuing bad check prohibited.

No person may avoid payment of license or impoundment fees prescribed by this title or charges for veterinarian services or rabies observation costs incurred under this chapter, by stopping payment on any check or issuing an insufficient funds check.

Enforcement—Authority.

- A. The provisions of this title shall be enforced by the Bowdle police department or the animal control officer.
- B. The animal control officer or police department may issue citations for violations of any section of this title or may issue warning tickets requiring correction of a violation.

Enforcement—Interfere with.

No person may hinder, delay, or obstruct any police officer or the animal control officer in the performance of any duty under this title, or seek to release any animal in the custody of the animal control officer, except as provided herein.

Violation—Penalty.

Any person, firm, partnership, association, or corporation violating any provision of this title shall be guilty of a misdemeanor and may be punished in accordance with a schedule of fines and penalties as promulgated from time to time by the City Council.

ADOPTION OF UNIFORM HOUSING CODE:**15-601 SUBSTANDARD BUILDINGS**

Any building or portion thereof that is determined to be an unsafe building under the Uniform Building Code, including any dwelling unit, guest room or sweet of rooms, or the premises on which the same is located, in which there exists any of the conditions referenced in the Uniform Housing Code to the extent that it endangers the life, limb, health, property, safety or welfare of the public or the occupants thereof, shall be deemed and hereby are declared to substandard buildings.

15-602 ADOPTION OF UNIFORM CODE

The Uniform Housing Code, in its entirety, and all acts amendatory thereto, is and are hereby adopted by the City of Bowdle for the regulation of use and occupancy, location and maintenance of all residential buildings and structures within the City. A printed copy of such Code shall be on file in the office of the City Finance Officer.

15-603 RIGHT OF ENTRY

When it is necessary to make an inspection to enforce the provisions of this ordinance, or when the building official has reasonable cause to believe that there exists in a building or upon a premises a condition that is contrary to and in violation of this ordinance that makes the building or premises unsafe, dangerous or hazardous, the building official may enter the building or premises at reasonable times to inspect or to perform the duties imposed by this Code, provided that if such building or premises be occupied that credentials be presented to the occupant and entry requested. If such building or premises be unoccupied, the building official shall first make a reasonable effort to locate the owner or other person having charge or control of the building or premises and request entry. If entry is refused, the building official shall have recourse to the remedies provided by law to secure entry.

15-604 ABATEMENT

Buildings or portions thereof that are determined to be substandard as defined in the Uniform Housing Code are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition, or removal in accordance with the procedure specified in Chapter 11 of the Uniform Housing Code.

15-605 REPAIR, VACATION AND DEMOLITION

When a building official has inspected or caused to be inspected a building and has found and determined that such building is a substandard building, the building official shall commence proceedings to cause the repair, rehabilitation, vacation or demolition of the building, all in accordance with the Uniform Housing Code.

15-606 RECOVERY OF COST OF REPAIR OR DEMOLITION

The building official shall keep an itemized account of the expense incurred by the City in the repair or demolition of any building done pursuant to the provisions of the Uniform Housing Code. Upon the completion of the work of repair or demolition, said building officials shall prepare and file with the Finance Officer of the City of Bowdle a report specifying the work done, the itemized and total cost of the work, a description of the real property upon which the building structure is or was located, and the names and addresses of the persons entitled to notice pursuant to the Uniform Housing Code. The City may thereupon order that said charge shall be made a personal obligation of the property owner or access said charge against the property involved.

15-607 RIGHT OF APPEAL

Enforcement of any notice and order of the building official issued under this ordinance shall be stayed during the penalty of appeal therefrom that is properly and timely filed in accordance with the provisions of the Uniform Housing Code.

ABATEMENT OF DANGEROUS BUILDINGS:

15-701 ABATEMENT OF DANGEROUS BUILDINGS

All buildings or portions thereof which are determined after inspection by the City to be dangerous as defined in the current Uniform Code for the Abatement of Dangerous

Buildings are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition and removal in accordance with the procedure specified in said Uniform Code.

15-702 ADOPTION OF UNIFORM CODE

The Uniform Code for the Abatement of Dangerous Buildings, in its entirety, and all acts amendatory thereto, is and are hereby adopted by the City of Bowdle for the regulation of construction and alteration of buildings, and determination and procedures regarding abatement of dangerous buildings within the City, except any portions which are specifically excepted herein. A printed copy of such Code shall be on file in the office of the City Finance Officer.

Any and all references in the Uniform Code for the Abatement of Dangerous Buildings to “building official”, “health officer”, “fire marshal”, “director of public works” shall be deemed to refer to the City of Bowdle and/or any representative(s) or agent(s) of the City of Bowdle acting on behalf of and under the authority of the City of Bowdle.

15-703 RIGHT OF ENTRY FOR INVESTIGATION AND INSPECTION

Whenever necessary to make an inspection or when the City or the representative(s) inspecting on behalf of the City, hereinafter referred to collectively as “City”, has reasonable cause to believe that there exists a nuisance in any building or upon the premises any condition which makes such building or premises a nuisance as provided in this article, the City may enter such building or premises at all reasonable times to inspect the same or perform any duty imposed upon the City by this article, provided that: If such building or premises be unoccupied, the City shall first make reasonable effort to locate the owner or other persons having charge or control of the building or premises and demand entry.

- (a) Whenever the City becomes aware of and upon inspection thereof that any condition(s) prohibited in this article have been created or exist on any premises located within the city, the City may give, or cause to be given, notice to abate the unlawful condition or conditions existing on the premises. Such notice shall be made as set forth herein and **not** as set forth in Chapter 4, Section 401, paragraph 401.4 of the Uniform Code for the Abatement of Dangerous Buildings. The notice shall be made by mailing a copy of such notice and order by certified mail, postage prepaid, return receipt requested, at the last known address of the property owner as it appears on the last equalized assessment roll of the county or as known to the City, or shall be made by personal service, or whenever the owner or agent there is not known or cannot be found, and his last known post office address is unknown, a copy of such notice may be posted for twenty-four hours (24) hours upon the premises where the nuisances exists or such notice may be served by one weekly publication in the legal newspaper. The failure of any such property owner to receive such notice shall not affect the validity of any proceedings taken under this section. Service by certified mail, return receipt requested, in the manner provided herein shall be effective on the date of mailing.
- (b) If the City has determined that a condition(s) have been created or exist in violation of City code, the City shall order all permits be secured therefore and the work physically commenced within such time as set forth in the Uniform Code referred to in the chapter, and shall order such work completed within such time as the City shall determine is reasonable under all of the circumstances.

15-704 ABATEMENT

- (a) In the event a person shall fail to abate any nuisance created, permitted or maintained by him following written notice to him to do so, the City may cause such nuisance to be abated. The cost may be charged against the owner of the personal property abated and/or the owner of the real estate upon which the nuisance was located.
- (b) The City may prepare a statement of the expense incurred in the razing, demolishing, removing, reconstruction, or other affirmative act necessary to abate the unlawful condition(s) and shall file such statement with the City Finance Officer. Such a statement shall refer to the particular premises including any improvements, structures, or buildings thereon, upon which the actions taken to abate the unlawful conditions occurred. With regard to the premises or each piece of property therein referred to, the statement shall show the number of the lot and block and the name of the addition or subdivision in which the lot lies or upon which the structures, improvements or buildings were located at the time that the actions to abate the unlawful conditions were taken or shall describe such premises in any other way that they may be easily identified.

15-705 RIGHT TO RECOVER COSTS OF ABATEMENT

- (a) The City may recover all costs involved in the repair and/or demolition work as provided in this article through the special assessment procedure provided by the state statutes.
- (b) When the nuisance abated is an unsafe or dilapidated building, junk, trash, debris, or similar nuisance arising from the condition of the property, the City may commence civil action against the owner of the real property for its costs of abatement in lieu of taxing the cost by special assignment.

15-706 RIGHT OF APPEAL

Any person entitled to notice may appeal from any notice and order or any action of the City under this article pursuant to the provisions as set forth in the Uniform Code for the Abatement of Dangerous buildings.

AIRTIGHT CONTAINERS, WELLS, ETC:

15-801 AIRTIGHT CONTAINERS-WHEN RESTRICTED

It shall be unlawful for any person to leave or permit to remain outside of any dwelling, building or other structure or within any unoccupied or abandoned building, dwelling, or other structure under his control in a place accessible to children any abandoned or discarded icebox, refrigerator or other container which has an airtight door or lid, snap lock or other locking device from said icebox, refrigerator or container.

15-802 AIRTIGHT CONTAINER-KEEPING, DECLARED NUISANCE

The keeping of any discarded icebox, refrigerator or other airtight container is hereby declared to constitute a public nuisance and the same shall be abated as provided by state law and the abatement of such nuisance shall not, in any manner, affect any penalty which may be imposed for the violation of this ordinance.

15-803 WELLS AND CISTERNS COVERED

No person owning or in control of any property shall allow upon any such property any well cistern, vault or other pit except the same be covered by a good, safe and substantial

covering made of iron or lumber, and securely fastened in such manner that the same cannot be removed by children; provided that any person may have upon his premises a well closed by a high board fence or other substantial enclosure at least five (5) feet high. Any type of well uncovered without a fence is hereby declared a nuisance.

OTHER NUISANCES:

15-901 MUFFLER, EXCESSIVE SMOKE AND NOISE

No person shall operate any motor vehicle without an adequate muffler, nor operate said motor vehicle in such a manner as to unnecessarily emit excessive smoke or noise from the motor nor needlessly sound the horn or other noise making device.

15-904 EXCESSIVE NOISES

It shall be unlawful for any person to willfully make or continue or cause to be made or continued, any loud, unnecessary and unusual noise which disturbs the peace or quiet of any neighborhood or which causes discomfort or annoyance to any reasonable person of normal sensitiveness residing in the area.

The standard which may be considered in determining whether a violation of the provisions of this section exists may include, but not be limited to, the following:

- (a) the level of noise;
- (b) whether the nature of the noise is usual or unusual;
- (c) whether the origin of the noise is natural or unnatural;
- (d) the level and intensity of the background noise, if any;
- (e) the proximity of the noise to residential sleeping facilities;
- (f) the nature and zoning of the area within which the noise emanates;
- (g) the density of the inhabitation of the area within which the noise emanates;
- (h) the time of the day or night the noise occurs;
- (i) the duration of the noise; and
- (j) whether the noise is recurrent, intermittent, or constant.

CHAPTER 16
FLOOD PLAIN DAMAGE PREVENTION

Chapter 16, Adopted 08/07/07, Effective 08/27/07

SECTION 1.0 - STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND OBJECTIVES Level B (A zones)

16-101 STATUTORY AUTHORIZATION

The Legislature of the State of South Dakota has in SDCL 9-36 and 7-18-14 (State Statute delegating authority) delegated the responsibility to local government units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the City Council of the City of Bowdle, South Dakota, does ordain as follows:

16-102 FINDINGS OF FACT

- (1) The flood hazard areas of the City of Bowdle are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.
- (2) These flood losses may be caused by the cumulative effect of obstructions in areas of special flood hazard which increase flood heights and velocities, and when inadequately anchored, damage uses in other areas. Uses that are inadequately floodproofed, elevated or otherwise protected from flood damage also contribute to the flood loss.

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16-103 STATEMENT OF PURPOSE

It is the purpose of this ordinance to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions to specific areas by provisions designed:

- (1) To protect human life and health;
- (2) To minimize expenditure of public money for costly flood control projects;
- (3) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) To minimize prolonged business interruptions;
- (5) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in areas of special flood hazard;
- (6) To help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;
- (7) To ensure that potential buyers are notified that property is in an area of special flood hazard; and,
- (8) To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

16-104 METHODS OF REDUCING FLOOD LOSSES

In order to accomplish its purposes, this ordinance includes methods and provisions for:

- (1) Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
- (2) Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- (3) Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;
- (4) Controlling filling, grading, dredging, and other development which may increase flood damage; and
- (5) Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards in other areas.

SECTION 2.0 - DEFINITIONS

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance it's most reasonable application.

"Area of special flood hazard" means the land in the floodplain subject to a one percent or greater chance of flooding in any given year.

"Base flood" means the flood having a one percent chance of being equaled or exceeded in any given year.

"Development" means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operations located within the area of special flood hazard.

"Flood" or "flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- 1) the overflow of waters, and/or
 - 2) the unusual and rapid accumulation or runoff of surface waters from any source.
- "Flood Insurance Rate Map (FIRM)" means an official map of the community on which the Federal Emergency Management Agency has delineated areas of special flood hazard designated as Zone A.

"Manufactured home" means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include "recreational vehicle."

"Structure" means a walled and roofed building or manufactured home that is principally above ground.

"Substantial improvement" means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage," regardless of the actual repair work performed. The term does not, however, include either:

- (1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, and/or safety code specifications which have been identified by the local code enforcement official as appointed by the City Council and which are the minimum necessary to assure safe living conditions or
- (2) Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."

SECTION 3.0 - GENERAL PROVISIONS

16-301 LANDS TO WHICH THIS ORDINANCE APPLIES

This ordinance shall apply to all areas of special flood hazard within the jurisdiction of the City of Bowdle.

16-302 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD

The areas of special flood hazard identified by the Federal Emergency Management Agency in its Flood Insurance Rate Map (FIRM) dated January 16, 1976, with an effective date of March 01, 1987, is adopted by reference and declared to be a part of this ordinance. The FIRM panel numbers are H 01. The FIRM is on file at the City of Bowdle Finance Office.

16-303 COMPLIANCE

No structure or land shall hereafter be constructed, located, extended, or altered without full compliance with the terms of this ordinance and other applicable regulations.

16-304 ABROGATION AND GREATER RESTRICTIONS

This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

16-305 INTERPRETATION

In the interpretation of this ordinance, all provisions shall be:

- (1) Considered as minimum requirements;
- (2) Liberally construed in favor of the governing body; and
- (3) Deemed neither to limit nor repeal any other powers granted under State statute.

16-306 WARNING AND DISCLAIMER OF LIABILITY

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the areas of special flood hazards or uses permitted within such areas of special flood hazards or uses permitted within such area will be free from flooding or flood damages. This ordinance shall not create liability on the part of the City of Bowdle, any officer or employee thereof, or the Federal Emergency Management Agency for any flood damages that result from reliance on this ordinance, or any administrative decision lawfully made thereunder.

SECTION 4.0 - ADMINISTRATION

16-401 ESTABLISHMENT OF DEVELOPMENT PERMIT

any A development permit shall be obtained before construction, or development begins within area of special flood hazard established in Section 3.2. A property receiving a Letter of Map Amendment or Letter of Map based upon fill must also obtain a development permit.

Application for a development permit shall be made on forms furnished by the City of Bowdle Finance Office and may include but not be limited to: plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing.

Where base flood elevations are utilized, all new construction, substantial improvements and other development must comply with requirements of Section 4.3-2, Use of Other Base Flood Data.

16-402 DESIGNATION OF THE CITY COUNCIL

The City Council is hereby appointed to administer and implement this ordinance by granting or denying development permit applications in accordance with its provisions.

16-403 DUTIES AND RESPONSIBILITIES OF THE CITY COUNCIL SHALL INCLUDE BUT NOT BE LIMITED TO:

16-403.1 PERMIT REVIEW

- (1) Review all development permits to determine that the permit requirements of this ordinance have been satisfied.
- (2) Review all development permits to determine that permits have been obtained from those Federal, State, or local governmental agencies from which prior approval is required.
- (3) Review all development permits to determine if the proposed development adversely affects the flood carrying capacity of the area of special flood hazard. For the purposes of this ordinance, "adversely affects" means damage to adjacent properties because of rises in flood stages attributed to physical changes of the channel and the adjacent overbank areas.
 - (i) If it is determined that there is no adverse effect and the development is not a building, then the permit may be granted without further consideration.
 - (ii) If it is determined that there is an adverse effect, then technical justification (i.e., a registered professional engineer's certification) for the proposed development shall be required.
 - (iii) If the proposed development is a building, then the provisions of this ordinance shall apply.

16-403.2 USE OF OTHER BASE FLOOD DATA

When base flood elevation data has not been provided in accordance with Section 3.2, BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD, the City Council Building Committee shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a Federal, State, or other source. Where base flood elevation data are utilized, all new construction, substantial improvements, or other development in Zone A are administered in accordance with Sections 4.3-3, Information to be Obtained and Maintained and 5.2, SPECIFIC STANDARDS.

16-403.3 INFORMATION TO BE OBTAINED AND MAINTAINED

- (1) Obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or improved structures, and whether or not the structure contains a basement.
- (2) For all new or improved floodproofed structures:
 - (i) Verify and record the actual elevation (in relation to mean sea level) to which the structure has been floodproofed.
 - (ii) Maintain the floodproofing certifications required in Section 4.3-1(3).

16-403.4 ALTERATION OF WATERCOURSES

- (1) Notify adjacent communities and the S.D. Office of Emergency Management prior to any alteration or relocation of a watercourse and submit evidence of such notification to the Federal Emergency Management Agency.
- (2) Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

16-403.5 INTERPRETATION OF FIRM BOUNDARIES

Make interpretations, where needed, as to the exact location of the boundaries of the areas of special flood hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in Section 4.4.

16-404 VARIANCE PROCEDURE

16-404.1 APPEAL BOARD

- (1) The Building Committee, as established, shall hear and decide appeals and request for variances from the requirements of this ordinance.
- (2) The Building Committee shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the City Council in the enforcement or administration of this ordinance.
- (3) Those aggrieved by the decision of the City Council, or any taxpayer, may appeal such decisions to the Sixth Judicial Circuit Court, as provided in South Dakota Codified Law(s).
- (4) In passing upon such applications, the City Council shall consider all technical evaluations, all relevant factors, standards specified in other sections of this ordinance, and:
 - (i) the danger that materials may be swept onto other lands to the injury of others;
 - (ii) the danger to life and property due to flooding or erosion damage;
 - (iii) the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners;
 - (iv) the importance of the services provided by the proposed facility to the community;
 - (v) the necessity to the facility of a waterfront location, where applicable;
 - (vi) the availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
 - (vii) the compatibility of the proposed use with the existing and anticipated development;
 - (viii) the relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

- (ix) the safety of access to the property in times of flood for ordinary and emergency vehicles;
 - (x) the expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and,
 - (xi) the costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, streets and bridges.
- (5) Upon consideration of the factors of Section 4.4-l(4) and the purposes of this ordinance, the City Council may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.
 - (6) The City of Bowdle Finance Office shall maintain the records of all appeal actions, including technical information, and report any variances to the Federal Emergency Management Agency and the SD Office of Emergency Management.

16-404.2 CONDITIONS FOR VARIANCES

- (1) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items (i-xi) in Section 4.4-l (4) have been fully considered. As the lot size increases beyond one-half acre, the technical justifications required for issuing the variance increase.
- (2) Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places without regard to the procedures set forth in the remainder of this section.
- (3) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- (4) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- (5) Variances shall only be issued upon:
 - (i) a showing of good and sufficient cause;
 - (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant; and
 - (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expenses, create nuisances, cause fraud or victimization of the public as identified in Section 4.4-l(4) or conflict with existing local laws or ordinances.
- (6) Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor below the base flood elevation

and that the cost of flood insurance will be commensurate with the increased risk from the reduced lowest floor elevation.

SECTION 5.0 - PROVISIONS FOR FLOOD HAZARD REDUCTION

16-501 GENERAL STANDARDS

In all areas of special flood hazard, the following standards are required:

16-501.1 ANCHORING

- (1) All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure and capable of resisting hydrostatic and hydrodynamic loads.
- (2) All manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement and capable of resisting hydrostatic and hydrodynamic loads. Methods of anchoring may include but are not limited to use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces. Specific requirements may be:
 - (i) over-the-top ties are provided at each of the four corners of the manufactured home, with two additional ties per side at intermediate locations, with manufactured homes less than 50 feet long requiring one additional tie per side.
 - (ii) frame ties are provided at each corner of the home with five additional ties per side at intermediate points, with manufactured homes less than 50 feet long requiring four additional ties per side.
 - (iii) all components of the anchoring system be capable of carrying a force of 4,800 pounds; and
 - (iv) any additions to the manufactured home be similarly anchored.

16-501.2 CONSTRUCTION MATERIALS AND METHODS

- (1) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- (2) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.
- (3) All new construction and substantial improvements shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

16-501.3 UTILITIES

- (1) All new and replaced water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
- (2) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters; and

- (3) On-site waste disposal systems shall be located to avoid impairment or contamination from them during flooding.

16-501.4 SUBDIVISION PROPOSALS

- (1) All subdivision proposals shall be consistent with the need to minimize flood damage;
- (2) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;
- (3) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and
- (4) Base flood elevation data shall be provided for subdivision proposals and other proposed developments which contain at least 50 lots or 5 acres (whichever is less).

16-501.5 ENCROACHMENTS

Encroachments, including fill, new construction, substantial improvements, and other development shall be prohibited in any floodway unless a technical evaluation demonstrates that the encroachments will not result in any increase in flood levels during the occurrence of the base flood discharge.

16-502 SPECIFIC STANDARDS

In all areas of special flood hazard where base flood elevation data has been provided as set forth in Section 4.3-2, Use of Other Base Flood Data, the following standards are required:

16-502.1 RESIDENTIAL CONSTRUCTION

- (1) New construction and substantial improvement of any residential structure shall have the lowest floor (including basement) elevated to or above the base flood elevation. Properties that have received a Letter of Map Amendment or Letter of Map Revision based upon fill must still have their lowest floor elevated to or above the base flood elevation.

16-502.2 NONRESIDENTIAL CONSTRUCTION

- (1) New construction and substantial improvement of any commercial, industrial, or other non-residential structure shall either have the lowest floor (including basement) elevated one foot about to the level of the base flood elevation; or, together with attendant utility and sanitary facilities, shall:
 - (a) be floodproofed so that below the base flood elevation the structure is watertight with walls impermeable to the passage of water;
 - (b) have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and
 - (c) be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this paragraph. Such certifications shall be provided to the official as set forth in Section 4.3-3(2).
- (d) Properties that have received a Letter of Map Amendment or Letter of Map Revision based upon fill must still have their lowest floor elevated to one foot above the base flood elevation.

16-502.3 BELOW-GRADE RESIDENTIAL CRAWLSPACE CONSTRUCTION

New construction and substantial improvement of any below-grade crawlspace shall:

- (1) Have the interior grade elevation, that is below base flood elevation, no lower than two feet below the lowest adjacent grade.
- (2) Have the height of the below grade crawlspace measured from the interior grade of the crawlspace to the top of the foundation wall, not exceeding four feet at any point.
- (3) Have an adequate drainage system that allows floodwater to drain from the interior area of the crawlspace following a flood.
- (4) Meet the provisions of Section 5.1-1, Anchoring; 5.1-2, Construction Materials and Methods; and 5.2-3, Openings in Enclosures Below the Lowest Floor.