

REVISED

MUNICIPAL ORDINANCES

TOWN OF HUMBOLDT, SOUTH DAKOTA

Ordinance # O-07-13-09

Effective Date: November 4, 2009

**AN ORDINANCE IN REVISION OF THE MUNICIPAL ORDINANCES
OF THE TOWN OF HUMBOLDT, SOUTH DAKOTA**

Revised under the direction of the Town Board of the Town of Humboldt
Prepared by the South Eastern Council of Governments

ORDINANCE # _____

AN ORDINANCE IN REVISION OF THE MUNICIPAL ORDINANCES OF THE TOWN OF HUMBOLDT, SOUTH DAKOTA

BE IT ORDAINED BY THE TOWN OF HUMBOLDT, SOUTH DAKOTA:

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

First Reading: _____

Second Reading and Adoption: _____

Publication Dates: _____ & _____

Effective Date: _____

Signed: Allen Schmeichel
Humboldt Town Board President

ATTEST:

Kristie Ellis
Finance Officer, Town of Humboldt

Seal

NOTICE OF ADOPTION

AN ORDINANCE IN REVISION OF THE MUNICIPAL ORDINANCES OF THE TOWN OF HUMBOLDT, SOUTH DAKOTA

Notice is hereby given Ordinance # _____, an Ordinance in Revision of the Municipal Ordinances of the Town of Humboldt, was duly adopted by the Town Board on _____, and shall become effective _____, according to South Dakota law.

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

A copy of the Revised Municipal Ordinances is available for public inspection at Humboldt Town Hall and may be viewed during regular business hours.

Kristie Ellis
Finance Officer

(Publication Dates: _____ & _____)

SUMMARY AND GENERAL INFORMATION

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

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

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

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

1. Town or Municipality - The Town of Humboldt, South Dakota.
2. Town Board - The governing body of the Town.
3. He, His or Him - Words imparting masculine gender shall extend and be implied to females and to firms, partnerships, associations, corporations, organizations and other legally recognized entities, as well as to males.
4. May - Permissive.
5. Person - Any individual, firm, partnership, association, corporation, organization or other legally recognized entity.
6. Shall - Mandatory.

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TITLE 1 – ADMINISTRATIVE CODE
[MUNICIPAL OFFICERS AND EMPLOYEES SDCL 9-14]

- Chapter 1.01 – Municipal Employees
- Chapter 1.02 – Town Board of Trustees
- Chapter 1.03 – Finance Regulations
- Chapter 1.04 – Fire Department

CHAPTER 1.01 – MUNICIPAL EMPLOYEES

- 1.0101 Appointment of Officers. At the first regular meeting of each May, there shall be appointed a Finance Officer, Water/Sewer Superintendent, and such other officers as may be provided by ordinance, to hold office until the appointment and qualifications of successors. All such appointments shall be made by the Town Board. The Town Board may, by resolution, enter into a contract pursuant to SDCL 9-14-23 with an attorney to provide legal services to the Town as the Town Attorney. (SDCL 9-14-3)
- 1.0102 Salaries. The salaries of all appointed officers and employees of the Town shall be approved by the Town Board by resolution and shall be paid bi-weekly unless otherwise provided. The Finance Officer shall be bonded in such sum to be approved by the Town in accordance with state law, conditioned for the faithful performance of the duties of such office. (SDCL 9-14-1, SDCL 9-14-28)
- 1.0103 Employment Policies. All policies regarding personnel regulations and benefits of the Town shall be included in the Personnel Policy Manual, which shall be filed with the Finance Officer and available to all personnel.

CHAPTER 1.02 – TOWN BOARD OF TRUSTEES

- 1.0201 Composition. The Town Board shall consist of five (5) Trustees, elected at large. Each Trustee shall be elected for a term of three (3) years. (SDCL 9-7-3)
- 1.0202 Regular Meetings. The Town Board shall hold its regular meetings on the second and fourth Monday of each month, or in the event of a holiday, the following day, or at such other time as determined by the Board. The Town Board shall meet at the Town Hall or other designated place to consider, take under advisement, and act upon such business as may come before it. (SDCL 9-7-6)
- 1.0203 Special Meetings. Special meetings of the Town Board may be held at any time upon the call of the President of the board or Finance Officer by oral or written notice to the members present within the municipality. The Finance Officer shall also cause such written notice of this special meeting to be posted in a conspicuous place at the regular meeting place of the Town Board at least twenty four hours in advance if possible.

No business shall be transacted at any special meeting except that which was mentioned in said notice thereof; but when all of the Trustees are present at a special

meeting, and all of the Trustees concur in the vote, the business transacted shall be valid, even though the meeting was not called as herein provided and the business transacted was different than that for which the meeting was called.

Special meetings shall be conducted according to the regular rules of procedure adopted by the Town Board, and as governed by statute (SDCL 9-7-6).

1.0204 President of Board. At the first regular meeting in May, after their election, the members of the Town Board shall elect one of their members as President to serve for one year and until his successor is elected and qualified. (SDCL 9-7-5)

1.0205 Compensation. The Board of Trustees are to be allowed compensation as set by resolution, which shall be paid in such installments as may be determined by the Board. (SDCL 9-14-28)

1.0206 Town Board Rules and Regulations. Robert's Rules of Order, Revised, are hereby adopted as the rules to govern the deliberations of the Town Board, insofar as applicable.

1.0207 Quorums. A majority of the Trustees elected shall constitute a quorum to do business.

1.0208 Meetings Open to the Public. The meetings of the Town Board shall be open to the public, but it shall be unlawful for any person to interfere in any way with the deliberations of the Board at such meetings, and no person not a member of the Board shall address or deliver any remarks to the Board at such meetings, without first asking for and receiving the privilege of so doing.

CHAPTER 1.03 – FINANCE REGULATIONS

1.0301 Revenues and Special Funds. All money belonging to the Town from taxation, licenses, fines, permits, the operation of utilities, or from any other source, shall be paid into the Town treasury and the Town Board shall designate by ordinance to what fund or funds such money shall be applied. The Finance Officer shall keep full, true and just accounts of all financial affairs of the Town and shall keep such accounts and furnish in such form and in such manner from time to time as required by the South Dakota Department of Revenue. (SDCL 9-14-18)

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

1.0303 Purchases. No municipal employee, officer or member of the Board shall enter into any contract, make any purchase, or create any indebtedness against the town in excess of \$100.00, without first having submitted the matter of incurring such indebtedness or making such contract to the Town Board or having received authority of the Town Board therefore. The provisions of this section shall not apply

to emergency situations or to purchases for equipment, supplies, or repairs where such funds have been authorized by the Town Board.

CHAPTER 1.04 – FIRE DEPARTMENT

1.0401 Establishment. There shall be established for the Town a Volunteer Fire Department, which shall consist of officers as stated in their bylaws, and such other members as may be from time to time determined by the Fire Department. (SDCL 9-33-13)

TITLE 2 – BOUNDARIES AND VOTING PRECINCT

[INCORPORATION OF MUNICIPALITIES SDCL 9-3]

[CHANGE OF MUNICIPAL BOUNDARIES 9-4]

[PRECINCTS AND POLLING PLACES SDCL 12-14]

Chapter 2.01 – Boundaries

Chapter 2.02 – Voting Precinct

CHAPTER 2.01 – BOUNDARIES

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

CHAPTER 2.02 – VOTING PRECINCT

2.0201 Voting Precinct. The Town of Humboldt shall have one election precinct to be located in the Humboldt Community Center. (SDCL 12-14-9)

TITLE 3 – HEALTH AND SANITATION
[SANITATION AND HEALTH MEASURES SDCL 9-32]
[ABATEMENT OF NUISANCES SDCL 9-29-13]

- Chapter 3.01 – Nuisances
- Chapter 3.02 – Collection of Garbage & Recyclables
- Chapter 3.03 – Disposal Site
- Chapter 3.04 – Dangerous Buildings

CHAPTER 3.01 – NUISANCES

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

- A. Garbage – The animal and vegetable waste resulting from the handling, preparation, cooking and serving foods.
- B. Solid Waste – Any garbage, refuse, sludge from a waste treatment plant, water supply treatment plant or air pollution control facility and other discarded materials, including solid, liquid, semisolid or contained gaseous material resulting from industrial, commercial and agricultural operations, and from community activities. . .including, but not limited to wood and other construction materials, appliances, yard waste, tires, scrap iron, chemicals or fuel. (SDCL 34A-6-1.3)
- C. Wastewater – The spent water of a community. From the standpoint of source it may be a combination of the liquid and water-carried wastes from residences, commercial buildings, industrial plants and institutions, together with any groundwater, surface water and storm water that may be present.

3.0102 Prohibited and Defined. No person shall create, commit, maintain or permit to be created, committed or maintained any nuisance as defined herein, within the Town. The following specific acts, conditions, and things are, each and all of them, hereby declared to constitute nuisances (SDCL 9-32-1):

- A. Depositing, maintaining or permitting to be maintained, or to accumulate upon any public or private property, any household wastewater, sewage, garbage, refuse, rubbish, offal, excrement, decaying fruit, vegetables, fish, meat, bones; any fowl, putrid, or obnoxious liquid substance; any chemical, or hazardous material: putrescible and non-putrescible animal or vegetable wastes or solid wastes, or any other waste material which constitutes or tends to create a danger to public health, safety, or welfare. (SDCL 9-32-10, SDCL 34A-7-9)
- B. The accumulation of manure, garbage, or anything whatsoever which may be breeding areas for flies, mosquitoes, or rodents. (SDCL 9-32-10)
- C. Permitting weeds to grow to maturity on any private property, including but not limited to, Canada thistle, sunflowers, ragweed, cocklebur, burdock, black mustard, and bull thistle. Also, allowing the dense growth of any vegetation

including brush or grass, in excess of six (6) inches high, without proper trimming or mowing, which may constitute a health, safety, or fire hazard. (SDCL 9-32-12)

- D. For the owner of a dead animal to permit it to remain undisposed of longer than twenty-four (24) hours after its death. (SDCL 9-29-13)
- E. Any excavation, trench, or open basement in which stagnant water is permitted to collect or which may jeopardize the life, limb, or safety of the general public. (SDCL 9-29-13)
- F. Throwing or letting fall on or permitting to remain on any street, alley, or public ground any manure, garbage, rubbish, filth, fuel or wood while engaged in handling or removing any such substance. (SDCL 9-32-10)
- G. Keeping or maintaining any building or enclosure where livestock or fowl are kept unless a special permit is requested and such is approved by the Town Board. (SDCL 9-29-13)
- H. Disposing of garbage, waste, or refuse by open burning, or causing, allowing, or permitting the conducting of a salvage operation by open burning in the Town except as otherwise permitted by the Town Board. The following types of open burning shall be permissible for a specific purpose when conducted in conformity with the subsections set forth below:
 - 1. Fires purposely set for instruction and training of public and industrial fire fighting personnel when authorized by the Fire Chief of the Town Volunteer Fire Department.
 - 2. Fires set for the elimination of a fire hazard, which cannot be abated by any other means when authorized by the Fire Chief of the Town Volunteer Fire Department.
 - 3. Fires purposely set by town maintenance personnel for the purposes as authorized by the Fire Chief of the Town Volunteer Fire Department.
 - 4. Campfires and other fires used solely for recreational purposes, shall be in an enclosed fireplace, manufactured and designed for recreational purposes, with a bottom and grated top or cover and have UL approval. No open pits, or in ground and/or directly on the ground fires will be allowed.
 - 5. Open fires for ceremonial occasions or for outdoor preparation of foods will require a permit issued by the Town Board for each occurrence.
- I. Maintaining, or causing or permitting the same, any building or premises, which is determined to be dangerous or dilapidated. Any building or structure which has any or all of the conditions or defects hereinafter described shall be deemed to be a dangerous or dilapidated building if such conditions or defects thereby injure or endanger the comfort, repose, health, or safety of others, or if

such conditions or defects exist to the extent that the life, health, property, value of property, or safety of the public or its occupants are jeopardized:

1. Whenever any building or structure is
 - a. vacant and unoccupied for the purpose for which it was erected and;
 - b. the building is unfit for occupancy as it fails to meet minimum housing standards and;
 - c. the building has remained substantially in such condition for a period in excess of six (6) months.
2. Whenever any building or structure through lack of maintenance or attention and by virtue of its physical appearance and presence thereby depresses the market of value of surrounding properties.

3.0103 Littering in Public Places. No person shall throw or deposit litter in any gutter, streets, or other public place within the Town except in authorized public or private receptacles. The following further identifies acts and conditions that constitute nuisances and are therefore prohibited:

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

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

- B. No persons, while driving or passenger in a vehicle, shall throw or deposit litter upon any street or other public place or upon private property within the Town.

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

- C. No person shall throw or deposit litter on any occupied, open, or vacant private property within the Town, whether owned by such person or not, except that owner or person in control of private property may maintain authorized private receptacles for collection in such manner that litter will be prevented from being deposited upon any streets, sidewalks, or other public place or upon any private property.

3.0104 Abandoned, Wrecked, Dismantled or Discarded Vehicles. No person shall abandon any vehicle within the Town of Humboldt for such time and under such circumstances as to cause such vehicle to appear to have been abandoned.

- A. Definitions. As used in this Chapter the following words, terms and phrases shall have the meanings herein ascribed:
1. Motor Vehicle – shall mean any self-propelled vehicle including, but not limited to automobiles, motorcycles, motor scooters, trucks, tractors, go-carts, and campers.
 2. Abandoned motor vehicle – shall mean any motor vehicle, which is left unattended on any public street or alley, in any public parking lot or in any other public place for more than twenty-four (24) consecutive hours.
 3. Junk motor vehicle – shall mean any motor vehicle which does not have lawfully affixed thereto unexpired license plates or which is wrecked, dismantled, partially dismantled, parts of, inoperable or discarded.
 4. Private property – shall mean any real property within the Town which is not owned by a governmental entity.
- B. Nuisance Declared. The presence of an abandoned, wrecked, dismantled, inoperative, junk, parts of or a partially dismantled motor vehicle on private or public property, is declared a public nuisance pursuant to SDCL Section 9-29-13.
- 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, properly operated in the appropriate zoning district. This section shall also not apply to any motor vehicle in operable condition specifically adapted or designed for operation on drag strips or raceways, campers and boats during the time of May 1st to October 31st.
- C. 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 of the Town.
- D. Storing, Parking or Leaving on Public Property – Removal. Whenever any officer of the Town finds an abandoned or junk motor vehicle on public property they shall place written notice on the vehicle that it will be removed to a place decided upon by the Town unless the owner removes the vehicle from public property within twenty-four (24) hours of the giving of the notice. Nothing in this section precludes the town officer from immediately removing a vehicle, which causes an obstruction or hazard to traffic.
- E. Presence on Private Property – Prohibited. No person owning, in charge of or in control of any real property within the Town, whether as owner, tenant, occupant, lessee, or otherwise shall allow any abandoned or junk motor vehicle of any kind to remain on such property longer than fourteen (14) days.
- F. Presence on Private Property – Notice to Remove. Whenever it comes to the attention of a town officer that any person has an abandoned or junk motor vehicle on their property, a notice in writing shall be served by certified mail

upon the property owner ordering that the motor vehicle or parts thereof be made to be licensed and operable, removed, or stored in an enclosed building within fourteen (14) days. The notice shall be deemed complete upon mailing to the property owner and the notice shall notify that failure to comply with the notice shall be a violation of this Chapter. The recipient of such notice shall have fourteen (14) days from the date of notice to file a notice of appeal of the determination contained therein. The notice of appeal must be in writing and filed with the Finance Officer. All appeals will be determined by the Town Board.

- G. Antique Vehicles. No owner or occupant of private property shall have a motor vehicle retained on private property for antique collection or rebuilding unless it is in an enclosed building. See 3.0104 B.
- H. Removal by Town – Notice to Owner. It shall be the duty of the police department or duly authorized ordinance enforcement personnel to notify, by certified mail, the property owner, if on private property, registered owner, and if encumbered, the leinholder, of the removal, storage and present location of any motor vehicle removed under the provisions of this Chapter and that the vehicle can be recovered by payment of costs incident to its removal and storage.
- I. Violation – Penalty. Any person violating any provision of this Chapter shall be guilty of a misdemeanor, and upon conviction shall be subject to a penalty not to exceed thirty days imprisonment or a fine of one hundred dollars, or both.

3.0105 Diseased Vegetation. Any owner, occupant, or person in charge of any property under the jurisdiction of the Town shall remove at their own expense any trees, brush, wood, or debris infected with Dutch Elm disease or other infestations or infectious disease found thereon when so notified by the Town to do so. The Town Board shall cause to be mailed to such owner, occupant, or person written notice that they appear before said Board at an appointed time not less than fourteen (14) days from the date of notice to show cause why said trees, brush wood, or debris should not be declared a public nuisance.

At said meeting, the Town Board may resolve and declare the same to be a public nuisance and may order its removal by said owner, occupant, or person within fourteen (14) days from the date of service of said resolution and order on said owner, occupant, or person.

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

3.0106 Overgrown Vegetation. Any owner, occupant, or person in charge of any property under the jurisdiction of the town shall not permit any vegetation including brush or grass to grow to six (6) inches long without proper trimming or mowing.

Whenever any property has an overgrowth of vegetation, a notice will be placed on the property by an authorized official of the Town, stating that mowing must be done within five (5) days. If the nuisance is not abated within the allowed time the Town will authorize the removal of the nuisance at the expense of the owner of the property.

- 3.0107 Smoke Nuisance. No person shall construct, maintain, or use any smokestack or chimney unless the same shall be constructed, operated, or used so that sparks, cinders, coal, ashes, smoke or fumes there from shall not become injurious or dangerous to the health or to the property of individuals or the public, nor materially impair the value of property within said Town. All such smokestacks now or hereafter used and operated shall be constructed and arranged in such a manner and of such material as to be safe from causing fires and shall be of such height from the ground as not in any manner to cause a violation of this section.

Whenever any such smokestack or chimney is causing or is in danger of causing a violation of this section, the owner or person responsible therefore shall at once cause such smokestack or chimney to be reconstructed or repaired of proper and safe material or raised to such height or to be arranged within a reasonable time so that such smokestack or chimney will be in compliance with the provisions of this section. The Town Board may, when any smokestack or chimney is dangerous to the health and safety of the inhabitants, or injurious to such a degree as to be a nuisance, order the same torn down or extended up or otherwise remedied so that it will comply with this section. (SDCL 9-33-9, SDCL 9-33-10)

- 3.0108 Nuisances How Abated. Unless otherwise provided for in this Chapter, the Town Board shall, by certified mail, give written notice or cause written notice to be given to any person creating, permitting, or maintaining any nuisance to abate such nuisance forthwith, and if any person shall neglect or refuse to do so within a reasonable time after such notice, they shall be guilty of a violation of this Chapter. The Town Board shall cause to be removed or abated any such nuisance, and the Town shall recover expenses incurred from the person maintaining such nuisance in a civil suit instituted for such purpose, or may levy an assessment against the property and collect the same.

In addition to the methods herein provided, if any vegetation referred to in Section 3.0102 (C) is found growing on any premises in the Town from May 15th to September 15th of each year, the Town shall publish twice in the official newspaper, general notice covering all premises of the Town, that unless such vegetation is destroyed within one (1) week from the date of publication of second notice, the Town will destroy or cause to be destroyed the same, and the costs thereof will be assessed against the premises where said vegetation shall be found growing.

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

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

- 3.0109 Penalty. Any person violating any provision of this Chapter shall be guilty of a misdemeanor. Each day such violation is committed or permitted to continue, shall be punishable as a separate violation.

CHAPTER 3.02 – COLLECTION OF GARBAGE & RECYCLABLES

- 3.0201 License Required. No commercial garbage hauler shall use the streets for the collection, removal or disposal of any garbage and recyclable materials without first having obtained a license to perform such service from the Town Board. The application shall be filed with the Finance Officer along with proof of insurance, proposed rate structure and payment of license fee. The license fee shall be set by resolution by the Humboldt Town Board. The licenses shall run from January 1st through the 31st day of December of the following year. Certain provisions may be attached to the license including but not limited to, the licensed hauler providing the Town with a list of current customers, and their addresses, that reside in the Town limits. Such list will be provided to the Town every month by the 15th of that month.

- 3.0202 Collection of Garbage and Recyclable Material. Every licensed commercial hauler shall collect the garbage at least once in each week and recyclables shall be collected at least twice in each month. Garbage collectors shall be under no obligation to remove any garbage unless the payments of the removal of such garbage as provided by contract with the customer shall have been made.

- 3.0203 Rates. All licensed garbage haulers shall file, as a part of their application for a business license, a general statement of their use rate structures and billing systems.

- 3.0204 Vehicles for Collection of Garbage and Recyclables. Licensed commercial garbage and recyclable haulers shall provide themselves with suitable vehicles which shall be water tight and permanently covered on top so as to prevent the escape of odors and contents and so as to hide the garbage from the public view. Such vehicle shall be thoroughly washed at such times as may be necessary to keep the 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 thing shall be carried on such vehicle so as to drag upon the highway. Vehicles shall not exceed twenty-six thousand (26,000) pounds, except on posted truck routes.

Commercial haulers shall obey all the ordinances of the Town and all the rules and regulations relating to the collection and handling for garbage and recyclables, and report to the Town Board any violations which may come to their attention. Any license issued under this Chapter may be revoked by the Town Board for the violations by the licensee of any provision of State law, Federal law or Town Ordinances.

- 3.0205 Storing Garbage Prior to Collection. All garbage shall be placed in either sealed water-tight bags or inside garbage containers and set to the curb or accessible alley on days of pickup. Whenever the premises in which garbage and rubbish accumulates are adjacent to a street or alley, the garbage and rubbish containers for such premises shall be kept in a location convenient and accessible to such street or alley, if premises are not adjacent to a street or alley, the garbage and rubbish containers shall be kept on the premises in such a location that they will be readily accessible to the nearest street or alley without being unsightly.

The proprietor or operator of each duplex, apartment house or similar multiple family dwelling shall furnish and maintain for use of the tenants a sufficient number of garbage containers to hold all garbage that accumulates upon such premises in the course of a week, or he shall require the tenants upon said premises to furnish such containers. The place where the garbage containers are located shall be kept clean and in a sanitary condition at all times.

Every owner or person in charge of any restaurant, hotel, grocery, store, whole sale or food processing establishment or any other business or commercial place having garbage or rubbish shall furnish and provide for use in connection therewith a garbage or refuse container. Such container shall have covers for all openings and shall be emptied often enough to prevent the same from giving off any odor or stench.

- 3.0206 Town Not Liable. The Town shall not be liable for any expenses incurred through the failure of a contractor or operator or their agents and employees to operate and maintain collection services in a proper and efficient manner, and for any actions that may result from, or be attributed to such services performed.

CHAPTER 3.03 – DISPOSAL SITE

- 3.0301 Location. The Town Board shall select and establish as disposal site suitable lots or parcels of land either within or outside the Town limits; and until otherwise ordered, all straw, manure, leaves, ashes, and other rubbish which may be removed from public or private premises shall be drawn to and deposited upon said dumping grounds; and all material which can be burned shall be burned at such locations and in such manner as may be directed by the Town.
- 3.0302 Use of. The Town disposal site may not be used for the purposes of burying dead carcasses or carrion. Also, no metal or other non-burnable materials shall be deposited at the dumping grounds.
- 3.0303 Penalty. Anyone disposing of prohibited materials in the Disposal Site is in violation of the regulations set forth by the Environmental Protection Agency. The Town shall impose a fine of \$500.00 for anyone guilty of such violation.

SECTION 3.04 – DANGEROUS BUILDING

- 3.0401 Definitions. For the purpose of this code, any building or structure which has any or all of the conditions or defects hereinafter described shall be deemed to be a dangerous building, provided that such conditions or defects exist to the extent that the life, health, property or safety of the public or its occupants are endangered:
- A. Whenever any door, aisle, passageway, stairway or other means of exit is not of sufficient width or size or is not so arranged as to provide safe and adequate means of exit in case of fire or panic.
 - B. Whenever the walking surface of any aisle, passageway, stairway or other means of exit is so warped, worn, loose, torn or otherwise unsafe as to not provide safe and adequate means of exit in case of fire or panic.
 - C. Whenever the stress in any materials, member or portion thereof, due to all dead and live loads, is more than one and one-half times the working stress or stresses allowed in the Building Code for new buildings of similar structure, purpose or location.
 - D. Whenever any portion thereof has been damaged by fire, earthquake, wind, flood, or by any other cause, to such an extent that the structural strength or stability thereof is materially less than it was before such catastrophe.
 - E. Whenever any portion or member or appurtenance thereof is likely to fail, or to become detached or dislodged, or to collapse and thereby injure persons or damage property.
 - F. Whenever any portion of a building, or any member, appurtenance or ornamentation on the exterior thereof is not of sufficient strength or stability, or is not so anchored, attached or fastened in place so as to be capable of resisting a wind pressure of one-half of that specified in the Building Code for new buildings of similar structure, purpose or location without exceeding the working stresses permitted in the Building Code for such buildings.
 - G. Whenever any portion thereof has wracked, warped, buckled or settled to such an extent that walls or other structural portions have materially less resistance to winds or earthquakes than is required in the case of similar new construction.
 - H. Whenever the building or structure, or any portion thereof, because of the following:
 - 1. dilapidation, deterioration or decay;
 - 2. faulty construction;
 - 3. the removal, movement or instability of any portion of the ground necessary for the purpose of supporting such building;
 - 4. the deterioration, decay or inadequacy of its foundation; or

5. any other cause is likely to partially or completely collapse.
- I. Whenever, for any reason, the building or structure, or any portion thereof, is manifestly unsafe for the purpose of which it is being used.
- J. Whenever the exterior walls or other vertical structural members list, lean or buckle to such an extent that a plumb line passing through the center of gravity does not fall inside the middle one-third of the base.
- K. Whenever the building or structure, exclusive of the foundation, shows 33 percent or more damage or deterioration of its supporting member or members, or 50 percent damage or deterioration of its nonsupporting members, enclosing or outside walls or coverings.
- L. Whenever the building or structure has been so damaged by fire, wind, earthquake or flood, or has become so dilapidated or deteriorated as to become:
 1. an attractive nuisance to children;
 2. a harbor for vagrants, criminals or immoral persons; or as to
 3. enable persons to resort thereto for the purpose of committing unlawful or immoral acts.
- M. Whenever any building or structure has been constructed, exists or is maintained in violation of any specific requirement or prohibition applicable to such building or structure provided by the building regulations of this jurisdiction, as specified in the Building Code or Housing Code, or of any law or ordinance of this state or jurisdiction relating to the condition, location or structure of buildings.
- N. Whenever any building or structure which, whether or not erected in accordance with all applicable laws and ordinances, has in any nonsupporting part, member or portion less than 50 percent, or in any supporting part, member or portion less than 66 percent of the
 1. strength,
 2. fire-resisting qualities or characteristics, or
 3. weather-resisting qualities or characteristics required by law in the case of a newly constructed building of like area, height and occupancy in the same location.
- O. Whenever a building or structure, used or intended to be used for dwelling purposes, because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangement, inadequate light, air or sanitation facilities, or otherwise, is determined by the health officer or housing inspector to be unsanitary, unfit for human habitation or in such a condition that is likely to cause sickness or disease.

- P. Whenever any building or structure, because of obsolescence, dilapidated condition, deterioration, damage, inadequate exits, lack of sufficient fire-resistive construction, faulty electric wiring, gas connections or heating apparatus, or other cause, is determined by the fire marshal or housing inspector to be a fire hazard.
- Q. Whenever any building or structure is in such a condition as to constitute a public nuisance known to the common law or in equity jurisprudence.
- R. Whenever any portion of a building or structure remains on a site after the demolition or destruction of the building or structure or whenever any building or structure is abandoned for a period in excess of six months so as to constitute such building or portion thereof an attractive nuisance or hazard to the public.

3.0402 Authority.

- A. Administration. The Building Inspector shall serve at the request of the Town Board and is hereby authorized to enforce the provisions of this Chapter.
- B. Right of Entry. Whenever necessary to make an inspection or whenever the Building Inspector has reasonable cause to believe that there exists in any building or upon any premises, any condition which makes such building or premises dangerous as defined in 3.0401, the Building Inspector may enter such building or premises at all reasonable times to inspect the same or perform any duty imposed upon the Building Inspector by this Chapter; provided that
 - 1. if such building or premises be occupied, he shall first present proper credentials and request entry; and
 - 2. if such building or premises be unoccupied, he shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and request entry. If such entry is refused or owner is not located, the Building Inspector shall have recourse to every remedy provided by law to secure entry.
- C. Declaration as Public Nuisance. All buildings or portions thereof which are determined after inspection by the Building Inspector to be dangerous as defined in this Chapter are hereby declared to be public nuisances and shall be abated by repair, demolition, or removal.

3.0403 Notice and order. The building official shall issue a notice and order directed to the record owner of the building. The notice and order shall contain:

- A. The street address and a legal description sufficient for identification of the premises upon which the building is located.
- B. A statement that the building official has found the building to be dangerous with a brief and concise description of the conditions found to render the building dangerous under this Chapter.

- C. A statement of the action required to be taken as determined by the building official.
 - 1. If the building official has determined that the building or structure must be repaired, the order shall require that all required permits be secured therefore and the work physically commenced within such time (not to exceed ninety (90) days from the date of the order) and completed within such time as the building official shall determine is reasonable under all of the circumstances and in accordance with current building code.
 - 2. If the building or structure is in such condition as to make it immediately dangerous to the life, limb, property or safety of the public or its occupants, it shall be ordered to be vacated within a time certain from the date of the order as determined by the building official to be reasonable.
 - 3. If the building official has determined that the building or structure must be demolished, the order shall require that the building be vacated within such time as the building official shall determine is reasonable (not to exceed 30 days from the date of the order); that all required permits be secured therefore within 30 days from the date of the order; and that the demolition be completed within such time as the building official shall determine is reasonable.

- D. Statements advising that if any required repair or demolition work (without vacation also being required) is not commenced within the time specified, the building official
 - 1. will order the building vacated and post it to prevent further occupancy until the work is completed, and
 - 2. may proceed to cause the work to be done and charge the costs thereof against the property or its owner.

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

- F. Such notice may be served personally by an authorized representative of the Town by prepaid first class mail and certified mail, upon the owner of the property where the nuisance exists, and such notice is deemed given at the time it is mailed, and said period to reply or abate begins to run at such time of giving notice.

- G. Proof of Service. The receipt card returned in acknowledgment of receipt by certified mail, shall be affixed to the copy of the notice and order retained by the Building Inspector. Failure by any person to actually receive any document sent to him by certified mail or to sign and return any receipt card acknowledging receipt by certified mail shall not invalidate service made upon such person by certified mail.
- H. Posting of Notice to Vacate. Every notice to vacate shall, in addition to being served as provided in this section, be posted at or upon each exit of the building, and shall be in substantially the following form:

“DO NOT ENTER
UNSAFE TO OCCUPY”
It is a misdemeanor to occupy this
building, or to remove or deface this notice.
Building Inspector
Town of Humboldt

3.0404 Appeal.

- A. Board of Appeals. In order to provide for final interpretation of the provisions of this Chapter and to hear appeals provided for hereunder, there is hereby established a Board of Appeals which shall be the Town Board of Humboldt. The Board shall render all decisions and findings in writing to the appellant with a copy to the Building Inspector. Copies of all rules or regulations adopted by the Board shall be delivered to the Building Inspector who shall make them freely accessible to the public.
- B. Form of Appeal. Any persons entitled to service under Section 3.0403 may appeal from any notice and order or any action of the Building Inspector under this Chapter by filing at the office of the Municipal Finance Officer within thirty (30) days from the date of the service of such order, a written appeal containing:
 - 1. A heading in the words: “Before the Board of Appeals in the Town of Humboldt”.
 - 2. A caption reading: “Appeal of _____, giving the names and addresses of all appellants participating in the appeal.
 - 3. A brief statement setting forth the legal interest of each of the appellants in the building or the land involved in the notice and order.
 - 4. A brief statement of the specific order or action protested, together with any material facts claimed to support the contentions of the appellant.
 - 5. A brief statement of the relief sought, and reasons why it is claimed the protested order or action should be reversed, modified, or otherwise set aside.

6. The signatures of all parties named as appellants, and their official mailing addresses.
 7. The verification (by declaration under penalty of perjury) of at least one appellant as to the truth of the matters stated in the appeal.
- C. Processing of Appeal. Upon receipt of any appeal filed pursuant to this section, the Finance Officer shall present it at the next regular or special meeting of the Board of Appeals.
 - D. Scheduling and Noticing Appeal for Hearing. As soon as practical after receiving the written appeal, the Board of Appeals shall fix a date, time, and place for the hearing of the appeal by the Board. Such date shall be not less than fourteen (14) days and not more than sixty (60) days from the date the appeal was filed with the Municipal Finance Officer. Written notice of the time and place of the hearing shall be given at least ten (10) days prior to the date of the hearing to each appellant by the Finance Officer either by causing a copy of such notice to be delivered to the appellant(s) by mailing a copy thereof, postage prepaid, addressed to the appellant at his address shown on the appeal.
 - E. Effect of Failure to Appeal. Failure of any person to file an appeal in accordance with the provisions of this section shall constitute a waiver of his right to an administrative hearing and adjudication of the notice and order, or any portion thereof.
 - F. Scope of Hearings on Appeal. Only those matters or issues specifically raised by the appellant shall be considered in the hearing of the appeal.
 - G. Staying of Order Under Appeal. Except for vacation orders enforcement of any notice and order of the Building Inspector issued under this Chapter shall be stayed during the pending of an appeal therefrom which is properly and timely filed.
 - H. Form of Notice of Hearing. The notice to appellant shall be substantially in the following form, but may include other information:

“You are hereby notified that a hearing will be held before the Board of Appeals at _____ .m on the _____ day of _____, 20____, upon the notice and order served upon you. You may be present at the hearing. You may be, but need not be, represented by legal counsel. You may present any relevant evidence and will be given full opportunity to cross-examine all witnesses testifying against you.”
 - I. Inspection of the Premises. The Board of Appeals may inspect any building or premises involved on the appeal during the course of the hearing provided that:
 1. notice of such inspection shall be given to the parties before the inspection is made,

2. the parties are given an opportunity to be present during the inspection, and
3. the Board shall state for the record upon completion of the inspection the material facts observed and the conclusions drawn therefrom. Each party then shall have a right to rebut or explain the matters so stated by the Board.

J. Form of Decision. The decision shall be in writing and shall contain findings of fact, a determination of the issues presented, and the requirements to be complied with. A copy of the decision shall be delivered to the appellant by certified mail, postage prepaid, return receipt requested. The effective date of the decision shall be as stated therein.

3.0405 Enforcement.

A. Recordation of Notice and Order. If compliance is not made with the order within the time specified therein, and no appeal has been properly and timely filed, the Building Inspector shall file in the office of the County Auditor a certificate describing the property and certifying:

1. that the building is a dangerous building and
2. that the owner has been so notified.

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

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

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

D. Extension of Time to Perform Work. Upon receipt of an application from the person required to conform to the order and an agreement by such person that he will comply with the order if allowed additional time, the Building Inspector may, in his discretion, grant an extension of time, not to exceed an additional one hundred twenty (120) days, within which to complete said repair, rehabilitation, or demolition, if the Building Inspector determines that such an

extension of time will not create or perpetuate a situation imminently dangerous to life or property.

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

3.0406 Violations.

- A. No person shall obstruct, impede or interfere with, any officer, employee, contractor or authorized representative of the town, or with any person who owns or holds any estate or interest in any building which has been ordered to be repaired, vacated or demolished under the provisions of this Chapter.
- B. No person shall enter or occupy any building which has been posted with a notice to vacate. No person shall remove or deface any such notice so posted until the required repairs, demolition, or removal ordered by the Housing Inspector have been completed.
- C. Any person violating any provision of this Chapter or failing to obey any order of the Building Inspector or Board of Appeals made pursuant to this Chapter, after such order has become final, shall be subject to a fine not to exceed \$500.00, if convicted, and each day such violation or failure to obey shall occur may be considered a separate violation of this Chapter. The Building Inspector is authorized to initiate prosecutions for the violation of this Chapter or for the failure to obey such orders.

3.0407 Recovery of Cost of Repairs or Demolition.

- A. **Assessment.** The Town may recover the total cost of the repair or demolition of dangerous buildings or structures through any means available under the laws of the State of South Dakota, including, but not limited to, any special assessment procedure provided by such laws, as from time to time may be amended.
- B. **Surplus.** Any surplus realized from the sale of such building, over and above the cost of demolition and of cleaning the lot, shall be paid over to the person or persons lawfully entitled thereto.

TITLE 4 – LICENSES
[TRADE REGULATION AND LICENSES SDCL 9-34]
[ALCOHOLIC BEVERAGES SDCL 35]

- CHAPTER 4.01 – General Provisions
- CHAPTER 4.02 – Transient Merchants, Peddlers
- CHAPTER 4.03 – Alcoholic Beverages
- CHAPTER 4.04 – Permits

CHAPTER 4.01 – GENERAL PROVISIONS

- 4.0101 License Required. It shall be unlawful for any person, persons, firm, or corporation to engage in any activity for which a license is required without first having obtained such license, as herein provided. The Town Board may at any time expand the general provisions of this Chapter by requiring any person, persons, firm, or corporation engaging in any trade, business, or occupation within the Town which is not specified by this ordinance to obtain a license, as deemed necessary. (SDCL 9-34-1)
- 4.0102 Application for License. Any person, persons, firm, or corporation wishing to obtain a license as herein provided, shall make written application to the Finance Office stating the name of the applicant, address, purpose of the activity, the length of time for which said license is wanted, and the particular place at which said license is to be used.
- Fees for all licenses shall be fixed by the Town Board, where not specified in this Chapter, and all license fees shall be paid in full at the time of application in such manner as approved by said Board.
- 4.0103 License Expiration. Any annual licenses granted under the provisions of this Chapter shall expire on the 31st day of December next following the granting thereof, except as otherwise provided, and shall not be granted for any sum less than the annual rate, and there shall be no rebate made on the termination of said calling, vocation, or kind of business for which said license was issued.
- 4.0104 Revocation. The Town Board shall have the authority at any time to suspend or revoke any license granted under the provisions of this Chapter whenever said Board shall be satisfied upon written complaint that such calling, vocation, or kind of business for which said license has been issued, has been made or conducted in an improper or illegal manner, and in case of such revocation, the Town Board may refund to the holder of such license such proportionate amount of money paid therefore as said Board shall deem just.
- 4.0105 Issuance of License. Except as otherwise provided, all licenses shall be issued by the Finance Officer after issuance of license has been approved by the Town Board and the applicant shall have complied with all requirements for issuance of such license. Unless otherwise provided, all licenses shall be signed by the Finance Officer and shall have affixed thereto the official seal of the Town.

4.0106 Record of Licenses. The Finance Officer shall keep a record of all licenses issued by the Town stating when and to who issued, for what purpose, and for what length of time, the amount of money paid for said license, and the place where such activity is to be carried on.

CHAPTER 4.02 – TRANSIENT MERCHANTS, PEDDLERS

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

- A. Peddler - The word “peddler” as used in this chapter shall mean any person, whether a resident of the Town or not, traveling from place to place, from house to house, or from street to street for the purpose of selling or soliciting for the sale of goods, wares, merchandise or services, other than agricultural products produced or processed in this state; and shall also mean and include any person transacting temporary business within the Town at an established place of business. The word “peddler” shall include the terms “solicitor, transient or itinerant merchant or vendor: or “transient or itinerant photographer.”
- B. Temporary Business – shall not include bona fide garage or rummage sales which are not conducted at the same location more than four times per year; the duration of each sale shall not exceed four days.

4.0202 Exceptions. The provisions of this chapter shall not apply to solicitations, sales or distributions made by charitable, educational or religious organizations which have registered each sales project with the Finance Officer on forms provided by that office. There shall be no fee for such registration.

4.0203 Permit Required. It shall be unlawful for any person to engage in business as a peddler within this Town without first obtaining a permit to do so.

4.0204 Application for Permit. The application for a permit required by the provisions of this article shall:

- A. Require proof that the applicant has received the license required by the State of South Dakota pursuant to SDCL 37-13, as amended;
- B. Contain a statement as to whether or not the applicant has been convicted of any crime, misdemeanor or violation of any state or federal law or municipal ordinance or Code; the nature of the offense; the punishment or penalty assessed thereof, if previously convicted; and the place of conviction;
- C. Whether the applicant, upon any sale or order, shall demand, accept or receive payment, or deposit, of money in advance of final delivery;
- D. The period of time the applicant wishes to engage in business within the Town;
- E. The local and permanent addresses and the name of the person and business, if any, that the applicant represents;

- F. The kind of goods, wares, merchandise, or services the applicant wishes to engage in within the Town.
 - G. The last three (3) cities or towns wherein the applicant has worked in.
 - H. Such other relevant information as the authorized official may require for the investigation of the applicant.
- 4.0205 False Information. It shall be unlawful for any person to give any false or misleading information in connection with their application for a permit required by this Chapter.
- 4.0206 Fee for Permit. Before any permit shall be issued under the provisions of this Chapter, the applicant shall pay a fee of thirty-five (35) dollars cash.
- 4.0207 Issuance Restricted. No peddler's permit shall be issued to a corporation, partnership or other impersonal legal entity. Each individual person engaging in the business of peddling within the Town shall be required to have a permit whether acting for himself or as an agent or representative of another.
- 4.0208 Display. Every peddler having a permit issued under the provisions of this Chapter and doing business within the Town shall display his permit upon the request of any person, and failure to do so shall be deemed a violation of this Chapter.
- 4.0209 Revocation of Permit. A permit issued under the provisions of this Chapter may be revoked for the violation by the permittee of this Code, state law or Town Ordinance. Upon such revocation, such permit shall immediately be surrendered to an authorized agent of the Town, and failure to do so shall be a violation of this Chapter.
- 4.0210 Permit Expiration Date. All permits issued under the provisions of this article will expire thirty (30) days from the date of issuance of permit.
- 4.0211 Refusing to Leave. Any peddler who enters upon premises owned or leased by another and refuses to leave said premises after having been notified by the owner or possessor of said premises, or his agent, to leave the same shall be deemed guilty of a violation of this ordinance.
- 4.0212 Entrance to Premises Restricted. It shall be unlawful for any peddler to enter upon any private premises when the same are posted with a sign stating "No Peddlers Allowed."
- 4.0213 Misrepresentation. It shall be unlawful for any peddler to make false or fraudulent statements concerning the quality or nature of their goods, wares, merchandise or services for the purpose of inducing another to purchase the same.
- 4.0214 Hours of Operation. It shall be unlawful for any peddler to engage in the business of peddling between the hours of 8:00 p.m. and 9:00 a.m. the following morning, or at any time on Sundays, except by specific appointment with an invitation from the prospective customer. However, the Town Board may, upon application by the peddler, grant a permit to operate for longer hours and on Sundays. The Board shall consider the applicant's request for additional times of operation based upon the Board's determination of the health and welfare of the public including but not

limited to such criteria as traffic safety, pedestrian safety, location(s) of operation, suitability of days and times requested considering the product to be sold, projected age of customers, etc. If the Board determines, a permit which specifies the hours and days during which the peddler is permitted to operate will be issued.

- 4.0215 Prohibited Conduct. Any peddler selling or soliciting for the sale of goods, wares, merchandise or services by traveling from place to place, house to house, or street to street shall not remain in any one (1) place for a period longer than necessary to make a sale after having been approached or stopped for that purpose.
- 4.0216 Penalty for Violation. Violation of this ordinance is punishable by a fine or by imprisonment as established in 12.0101 of the Humboldt Municipal Code.

CHAPTER 4.03 – ALCOHOLIC BEVERAGES

- 4.0301 Definitions. The following words, terms and phrases, when used in this Chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:
- Alcoholic beverage, wine, malt beverage and distilled spirits* and other such words and terms mean the same as the definitions given them by SDCL 35-1-1.
- 4.0302 Traffic in Alcoholic Beverages. No person shall produce, transport, store or sell within the Town, or within one mile of its territorial limits, any alcoholic beverage, except as authorized by SDCL Title 35.
- 4.0303 Unlicensed Business Prohibited. No person, unless he first obtains a license provided by SDCL Title 35, shall transact the business authorized by such Title to be conducted by such licensee within the Town or within one mile of its territorial limits.
- 4.0304 Unlawful to Violate Liquor Laws. It is unlawful for any licensee under the provisions of the state alcoholic beverage law, and this Chapter, or other person to violate any of the provisions of such law or of this Chapter or to fail to comply therewith within the Town or within one mile of its territorial limits.
- 4.0305 Place of Business of Licensee. The place of business of an alcoholic beverage licensee shall be within the premises as described in the legal description provided on the application for the license. Such premises must conform to all requirements of the State of South Dakota and the Town and be a safe and proper place.
- 4.0306 Closing of Premises of Public Facility On-Sale and Malt Beverage Retail Dealers.
- A. Every public facility on-sale dealer in alcoholic beverages, distilled spirits, wines and malt beverages and every malt beverages retail dealer shall flash the lights of his place of business at 1:45 a.m. each day as a warning that within 15 minutes the licensed premises will close. By 2:00 a.m., every public facility on-sale dealer and malt beverage retail dealer shall clear his premises of all persons except employees and shall lock all doors to the premises and shall turn out all lights thereon, except such a night light as is approved by the

Town. Such night light shall burn from 2:00 a.m. until daylight of the following day. Each public facility on-sale dealer and malt beverage dealer and his employees shall leave the place of business or premises by 3:00 a.m. Each public facility on-sale dealer and malt beverage retail dealer may enter the premises or authorize one of his employees to enter his premises at any time for the purpose of reasonable maintenance of the premises. For the purpose of this section, "reasonable maintenance" means only such maintenance as is necessary to prevent the deterioration or destruction of the premises or any fixtures located thereon. The purpose of this subsection is that such premises shall be wholly vacant during the closed period, except as provided in this subsection.

- B. Any of the public facility on-sale dealers having on their licensed premises a duly licensed restaurant pursuant to SDCL 34-18 and who comply with all ordinances applicable thereto and which restaurant is operated in a room separate and apart from the room wherein intoxicating liquor is or can be dispensed may, notwithstanding anything to the contrary set forth in this section, continue to operate exclusively as a restaurant, provided all intoxicating liquor and the facilities for dispensing it are isolated and contained in a separate room devoted principally to the use of dispensing and consuming of alcoholic beverages and which room with its alcoholic contents is vacated, closed and locked as provided in this section.

4.0307 Consumption on Public Streets or Alleys. It shall be unlawful for any person to drink or consume or attempt to drink or consume any distilled spirits, wines and malt beverages, as defined by South Dakota laws, in or upon any public street, alley, highway or public sidewalk.

4.0308 Sale or Consumption of Alcoholic Beverages on Sidewalk Abutting Licensed Premises. The sale and consumption of alcoholic beverages on a sidewalk or walkway subject to a public right-of-way abutting a licensed premises is permitted provided that the license holder derives more than 50 percent of its gross receipts from the sale of prepared food for consumption on the licensed premises. The sidewalk or walkway subject to a public right-of-way shall be immediately adjacent to and abutting the licensed premises. This section does not apply to any federal aid eligible highway unless approved in accordance with the applicable requirements for the receipt of federal aid. The sidewalk or walkway subject to a public right-of-way where the sale and consumption of alcoholic beverages is permitted does not constitute a public place as defined in SDCL 35-1-5.3, if the sidewalk or walkway subject to a public right-of-way has been properly authorized for sale and consumption of alcoholic beverages. The hours of authorized sale and consumption on the sidewalk or walkway subject to a public right-of-way as provided by this section shall be consistent with the hours permitted for the on-sale license.

4.0309 Persons to Whom Sale Prohibited. No licensee of any class shall sell or give for use as a beverage any alcoholic beverage to any person under the age of 21 years, notwithstanding any of the provisions of South Dakota laws.

- 4.0310 Purchase and Use by Persons Under 21. No person under the age of 21 years shall purchase or attempt to purchase alcoholic beverages, nor shall any person under the age of 21 years drink any alcoholic beverage in a public place or have any alcoholic beverage in his possession in a public place.
- 4.0311 Sunday Sales Permitted by Certain On-Sale Dealers. Notwithstanding any of the other provisions of this Chapter, any on-sale dealer that applies, qualifies, and receives a Sunday retail dealer classification may sell, serve and allow to be consumed, on the premises covered by their license, alcoholic beverages on Sunday except between the hours of 2:00 a.m. and 7:00 a.m.
- 4.0312 Sunday Hours of Sale of Alcoholic Beverages for Off-Sale Dealers. Any licensed off-sale dealer of alcoholic beverages may sell or allow to be sold alcoholic beverages on Sunday between the hours of 7:00 a.m. and 12:00 a.m.
- 4.0313 Violations. Any person, firm, or licensee in violation of any of the provisions of this Chapter shall be deemed guilty of a misdemeanor. For failure to correct any violation when applicable, after notice, each day of failure to do so shall constitute an additional separate offense. Whenever any person acting as clerk, servant, agent, or employee of any other person or establishment violates any of the provisions of this Chapter that person shall also be deemed as guilty as a principal. Failure to comply with all existing requirements, including the provisions in this Chapter, shall provide cause for revocation of any license granted under the provisions of South Dakota Laws. (SDCL 35-2-10)

CHAPTER 4.04 – PERMITS

- 4.0401 Permits Required. No person, group, or organization shall engage in any activity such as street dances, rodeos, carnivals, circuses or similar special events to be conducted within the Town of Humboldt or within one (1) mile from the outer boundary of the Town without securing a permit therefore from the Town Board.
- 4.0402 Permit Requirements. A request for a special activity permit shall be presented to the Town Board for consideration and the Board shall have authority to specify the duration of such permit and any special conditions or requirements of the applicant as a condition of approval.

TITLE 5 – OFFENSES

[MINORS SDCL 26]

CHAPTER 5.01 – Offenses Against Public Welfare

CHAPTER 5.02 – Animals

CHAPTER 5.03 – Fireworks and Firearms

CHAPTER 5.04 – Minors

CHAPTER 5.01 – OFFENSES AGAINST PUBLIC WELFARE

5.0101 Disorderly Conduct. A person shall be guilty of disorderly conduct if, with the purpose of causing public danger, alarm, disorder, nuisance, or if his conduct is likely to cause public danger, alarm, disorder or nuisances or if he willfully does any of the following acts in a public place (SDCL 9-29-3, 22-13-1):

- A. Commits an act in a violent and tumultuous manner toward another whereby that other is placed in danger of life, limb or health.
- B. Commits an act in a violent and tumultuous manner toward another whereby the property of any person is placed in danger of being destroyed or damaged.
- C. Causes, provokes or engages in any fight, brawl or riotous conduct so as to endanger the life, limb, health or property of another, except in exhibitions duly authorized and licensed by law.
- D. Interferes with another's pursuit of a lawful occupation by acts of violence.
- E. Obstructs, either singly or together with other persons, the flow of vehicular or pedestrian traffic and refuses to clear such public way or place when ordered to do so by a law enforcement officer or other authorized official.
- F. Is in a public place under the influence of an intoxicating liquor or drug in such a condition as to be unable to exercise care for his own safety or the safety of others.
- G. Resists or obstructs the performance of duties by a law enforcement officer or other authorized official.
- H. Incites, attempts to incite, or is involved in attempting to incite a riot.
- I. Addresses abusive language or threats to any law enforcement officers or any other authorized official of the Town who is engaged in the lawful performance of his duties, or any other person when such words have direct tendency to cause acts of violence. Words merely causing displeasure, annoyance or resentment shall not be prohibited.
- J. Damages, befouls, or disturbs public property or the property of another so as to create a hazardous unhealthy or physically offensive condition.

- K. Makes or caused to be made any loud, boisterous and unreasonable noise or disturbance to the annoyance of any other person, nearby, or near to any public highway, road or common, whereby the public peace is broken or disturbed or the traveling public annoyed.
- L. Fails to obey a lawful order to disperse by a law enforcement officer or other authorized official where one or more persons are committing acts of disorderly conduct in the immediate vicinity and the public health and safety is eminently threatened.
- M. Throws a stone, snowball or any other missile upon or at any vehicle, building, tree or other public or private property or upon or at any person in any public or private way or place or enclosed or unenclosed ground.

As used above, the following definitions shall apply:

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

This Section shall not be construed to suppress the right of lawful assembly, picketing, public speaking or lawful means of expressing public opinion not in contravention with other laws.

5.0102 Open Containers. It shall be unlawful to drink any beer or alcoholic beverage or to possess any glass, can or other container containing beer or any alcoholic beverage on which the seal has been broken, in any public place, vacant building, automobile, street, alley, sidewalk or place of amusement or business establishment not

authorized to sell beer or alcoholic beverages unless approved by the Town Board. (SDCL 35-1-5.39 and SDCL 35-1-9.3)

- 5.0103 Alcoholic Beverages in City Parks. In all city parks, no person shall consume any alcoholic beverages, except that the restriction shall not apply to malt beverages or wine as defined by SDCL 35-1-1, or where alcoholic beverages are licensed to be sold.
- 5.0104 Public Intoxication. It shall be unlawful for any person to become drunk, intoxicated or under the influence of alcoholic beverages in any private house or place to the annoyance of any person or persons, and it shall be unlawful for any person to be or remain in the state of intoxication, or under the influence of alcoholic beverages, in any public place or upon streets and alleys in the Town.
- 5.0105 False Report of a Crime Prohibited. No person in the Town shall knowingly make or give any false, misleading or unfounded statement or report concerning the commission or alleged commission of any crime occurring within the Town. (SDCL 22-11-9)
- 5.0106 Injury or Removal of Public or Private Property. No person shall willfully, maliciously, wantonly, negligently or otherwise injure, deface, destroy, or remove real property or improvements thereto or moveable or personal property belonging to the Town or to any person in the Town. (SDCL 22-34-1)
- 5.0107 Tampering in General. No person in the Town shall tamper with, injure, deface, destroy or remove any sign, notice, marker, fire hydrant, topographical survey marker or monument or any other personal property erected or placed by the Town. (SDCL 22-34-1)
- 5.0108 Indecency. It shall be unlawful for any person within the Town to:
- A. Knowingly disseminate, distribute or make available to the public any obscene materials.
 - B. Knowingly engage or participate in any obscene performance made available to the public.
 - C. Knowingly engage in commerce for commercial gain with materials depicting and describing explicit sexual conduct, nudity, or excretion utilizing displays, circulars, advertisements, and other public sales efforts that promote such commerce primarily on the basis of the prurient appeal.
 - D. Appear in any public place in a state of dress intended to make any indecent exposure of his or her person. (SDCL 9-29-9)

As used in this Section, the following definitions shall apply (SDCL 22-24-27):

- A. Obscene - To the average person applying contemporary community standards taken as a whole, that the predominant appeal of the matter appeals to the prurient interests and (i) depicts or describes patently offensive representations

or descriptions of ultimate sexual acts, normal or perverted, actual or simulated; or (ii) depicts or describes patently offensive representations or descriptions of masturbation, excretory functions or lewd exhibits of the genitals; and which, taken as a whole, lacks serious literary, artistic, political or scientific value.

- B. Prurient Interest - Shameful or morbid interest in nudity, sex or excretion which goes substantially beyond customary limits of candor in description or representation.
- C. Material - Any book, magazine, newspaper or other printed or written material or any picture, drawing, photograph, motion picture or other pictorial representation or any statue or other figures or any recordings, transcription or mechanical, chemical or electrical reproduction or any other articles, equipment or machines.
- D. Dissemination - To transfer possession of, with or without consideration.
- E. Knowingly - Being aware of the character and content of the material.
- F. Promote - To cause, permit, procure, counsel or assist.

5.0109 Indecent Exposure Or Simulation Thereof Prohibited.

- A. It is unlawful for any person or premises with or without a license for the sale of alcoholic beverages, while in the presence of any other person:
 - 1. To fail to conceal, with a fully opaque covering, the sexual parts of his or her body, to include the genitals, pubic area and anus of any person, or the nipple and areola of the female breast.
 - 2. To expose any device, costume or covering which gives the appearance of, or simulates, the genitals, pubic area of the male or female body, or the nipple or areola of the female breast.
 - 3. To allow erotic dancing, which simulates sexual activity or which violates contemporary community standards.
- B. It is unlawful for any person or premises with or without a license for the sale of alcoholic beverages, to cause, allow or permit any person on said licensed premises to violate the provisions of 5.0109 (A) of this Section.
- C. Shows, such as, but not limited to, male strippers, female strippers, topless or bottomless waitresses, erotic performers or similar type shows shall be considered by the Town Board to be a violation of this Section.
- D. Any licensee in alcoholic beverages who violates this Section shall be subject to the suspension or revocation of his, her or its license for such violation whether or not a separate ticket for such violation has been issued. It is the intent of the Town Board that the holding of such show shall be a violation of the Section and the Town Board will schedule a hearing for suspension or

revocation of the license independently of any proceedings of a criminal nature under this Section.

- E. Any person or premises with or without a license to sell alcoholic beverages in violation of this Section, shall be fined in a sum not exceeding five hundred dollars (\$500.00) or be imprisoned not exceeding thirty (30) days or punished by both such fine and imprisonment.

CHAPTER 5.02 – ANIMALS

- 5.0201 Definitions. For the purpose of this Chapter, the following words and phrases shall have the meanings respectively ascribed to them:
- A. At-large -
 - 1. An animal when off the premises of the owner and not under the control of the owner, possessor, keeper, agent, servant or member of his immediate family by a leash.
 - 2. An animal when on the premises of the owner, possessor, keeper, agent or servant and not attended by a competent person unless the animal is chained, restrained, enclosed or confined in a manner preventing it from leaving the premises or from reaching the sidewalk.
 - B. Leash - A cord, thong, or chain, not to exceed fifteen (15) feet in length, by which an animal is controlled by the person accompanying it.
 - C. Owner - Any person harboring or keeping an animal and of who is head of the household the residence or the owner or manager in charge of the establishment or premises at which an animal remains or returns to, is the owner of the animal within the meaning of this Chapter.
- 5.0202 Running at Large Prohibited. It shall be unlawful for any person to allow any dog, cat or other animal held as a domestic pet to run at large at any time. The fine for an animal running at large shall be set by resolution by the Humboldt Town Board.
- 5.0203 Impoundment. A law enforcement officer, town employee or an animal control officer shall impound any animal found to be running at large within the Town. If the owner of said animal is ascertained, said owner shall be notified of the impoundment within twenty four (24) hours. Owner shall be liable and responsible for all impound fees, charges and fines.
- 5.0204 Liability. Animal control officers, town employees or officials and law enforcement officers shall not be responsible for any injury or disease of any animal resulting from the enforcement of this Chapter.
- 5.0205 Failure to Claim. Any impounded animal not claimed by the owner within three (3) days after receiving notice shall become the property of the Town and shall be placed for adoption in a suitable home or humanely euthanized.

- 5.0206 Fees. An owner reclaiming an impounded animal shall pay the following fee:
- A. First Impoundment - \$75.00
 - B. Second Impoundment for same animal - \$100.00
 - C. Any subsequent impoundments within a 12 month period - \$125.00
 - D. Owner is responsible for payment for all impound fees, charges and fines.
- 5.0207 Compulsory Immunization of Animals for Rabies. Every dog, cat or other animal held in the Town, six (6) months of age or older, shall be immunized against rabies by a licensed veterinarian. Immunization against rabies shall be given at such intervals to guarantee immunity and the minimum time period between vaccinations shall be determined by the available vaccine and based upon the recommendations and approval of the State Veterinarian (SDCL 9-32-1).
- Any owner acquiring a dog, cat or other animal by purchase, gift, birth or otherwise shall have such animal immunized against rabies within one (1) month following acquisition or when such animal reaches the age of six (6) months.
- Any animal impounded shall not be released to any person until such animal has been immunized against rabies, provided, however, no animal so impounded shall be immunized if the owner can present a certificate of a current immunization having been previously performed.
- All veterinarians or other qualified persons designated to immunize animals against rabies shall provide the owner at the time of immunization with a certificate or metallic tag showing the date of the immunization.
- Whenever metallic tags are so given for immunizations, such metallic tags shall be worn by all animals on a collar, harness, or chain when off the premises of the owner.
- 5.0208 Responsibility of Owner to Place Animal for Observation. When any person owning or harboring a dog, cat or other animal has been notified that said animal has bitten or attacked any person, the owner shall within twenty-four (24) hours place the animal under the care and observation of a law enforcement officer or a licensed veterinarian for a period not less than ten (10) days.
- At the end of the ten (10) day observation period, the animal shall be examined by a licensed veterinarian and if cleared by the veterinarian, may be reclaimed by the owner upon paying the expenses incident thereto.
- Any animal impounded or placed for observation showing active signs of rabies, suspected of having rabies, or known to have been exposed to rabies, shall be confined under competent observation for such time as may be deemed necessary to determine a diagnosis.
- Any person who shall suspect that any animal in the Town is infected with rabies, shall report said animal to the Animal Control Officer, the Town or other health

authority, describing the animal and giving the name and address of the owner if known.

No person shall knowingly harbor or keep any animal infected with rabies or any animal known to have been bitten by an animal known to have been infected with rabies. Any person within the Town receiving information or reports of suspected rabies in wild animals or domestic animals shall report such information to the Town or Animal Control Officer. Any rabid animal may be destroyed by the Animal Control Officer.

Whenever law enforcement officer or other authorized official shall have determined that there is danger of the existence or spread of rabies in the Town, such facts shall be made known to the Town Board. The Board, upon receipt of said facts, may by proclamation, in the interest of public safety and general welfare of the citizenry, order all animals muzzled when off the premises of the owner. Forty-eight (48) hours after the publication of said proclamation all animals found off the premises of the owner, unmuzzled, shall be seized and impounded or may be immediately destroyed if all reasonable efforts to seize said animals fail. All animals seized and impounded shall be held for observation as hereinbefore provided for not less than ten (10) days, and if cleared by a licensed veterinarian may be claimed by the owner upon paying the expenses incidental thereto. Any animal not claimed may be disposed of as herein before provided (SDCL 9-29-12).

5.0209 Vicious Animals. An animal is declared to be vicious within the meaning of this Section when it shall have bitten any person, when the fact that there has been no provocation to incite such action has been reasonably established, or when a propensity to attack or bite human beings shall exist and is known, or ought reasonably to be known by the owner.

No vicious animal shall be allowed off the premises of its owner unless muzzled or on a leash, and in charge of the owner or a member of the owner's immediate family over sixteen (16) years of age.

Any vicious animal, which is found off the premises of the owner, other than provided herein, shall be seized by a law enforcement officer or other authorized official and be delivered to the Animal Pound. When reasonable efforts to seize such animal fail and it is deemed advisable such action as is necessary can be taken to dispose of said animal. If impounded upon establishment of the vicious character of said animal, the owner shall be notified to dispose of the animal.

Any owner who allows a vicious animal to be in violation of the provisions of this Section shall be guilty of a misdemeanor and if convicted will be guilty of a further violation each day that such condition is allowed to exist or goes uncorrected. (SDCL 9-29-12)

5.0210 Disturbance of Peace by Animals. The owner of an animal shall not allow such animal to disturb the peace and quiet of the neighborhood also construed to mean the Town, through barking or any other manner possible. Upon complaint, such owner will be notified by a law enforcement officer or other authorized official and said owner shall abate such nuisance. If convicted upon failure to abate such nuisance

said owner will be guilty of further violations for each day that such condition is allowed to exist or goes uncorrected.

5.0211 Cruelty to Animals. No person shall willfully or negligently maltreat, abuse or neglect in a cruel or inhumane manner any animal or fowl. 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, on 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 the same is accessible to any such animal. (SDCL 9-29-11, SDCL 40-1)

5.0212 Disposition of Abused Animals. In cases where an animal or animals have been seized by the animal control officer based upon cruelty, neglect or abandonment, such animal may be adopted to another owner or humanely euthanized thereby extinguishing all property rights of the existing owner following the procedures as hereinafter provided:

- A. Upon seizure of the animal(s), the animal control officer shall serve notice upon the existing owner, if the identity of said existing owner is known, informing said existing owner of the animal control officer's intent to have said animal disposed of.
- B. The existing owner shall have three (3) business days to:
 - 1. Declare in writing and deliver to the animal shelter keeping said animal(s):
 - a. Notice of said existing owner's intent to maintain ownership of the animal(s) and to object to the adoption or euthanasia thereof, and;
 - b. Notice that said existing owner's shall pay when due all impoundment, board and veterinary costs until such time as the animal(s) shall be released to said existing owner or be adopted or euthanized.
 - 2. Pay all impoundment, board and veterinary costs, up to the date of owner's declaration of intent to maintain his ownership of said animal(s) to the animal control shelter.
- C. Upon notification of said existing owner's intent to maintain ownership of the animal(s) and the objection to the adoption or euthanasia thereof said existing owner shall continue said payments to the animal control shelter for impoundment, board and veterinary costs on a weekly basis until such time as the animal(s) shall be released to said existing owner or be adopted or euthanized.

If the existing owner of the animal(s) fails to declare the hereinbefore stated intent or fails to make any payment in a timely manner, or if the identity of said existing owner is unknown or notification to said existing owner cannot be made, ownership of the animal(s) will revert to the animal shelter.

5.0213 Tags Required. All dogs and cats over six (6) months of age that are kept, harbored or maintained by their owners in the Town shall be licensed and registered each year. Dog and cat licenses shall be issued by an authorized official.

Before any license shall be issued under this Section, the applicant shall furnish a certificate of vaccination issued by a veterinarian licensed to practice within this State, evidencing the vaccination of the dog or cat for which the license is desired and that the dog or cat has been vaccinated against rabies and that such vaccination will be good for the license year.

The owner shall state at the time application is made for such license and upon printed forms provided for such purpose his name and address, and the name, breed, color and sex of each dog or cat owned or kept by him. The provisions of this Section shall not be intended to apply to dogs or cats whose owners are nonresidents temporarily within the Town, nor to dogs or cats brought into the Town for the purpose of participating in any dog or cat shows nor to “seeing eye” dogs properly trained to assist blind persons when such dogs are actually being used by blind persons for the purpose of aiding them in going from place to place.

The authorized official shall issue to the owner a license certificate and metallic tag for each dog or cat so licensed which shall have stamped thereon the number for which it was issued corresponding with the number on the certificate. Every owner shall be required to provide each dog or cat with a collar to which the license tag must be affixed, and shall see that the collar and tag are constantly worn. In case a dog or cat tag is lost or destroyed, a replacement tag will be issued by the Finance Officer upon presentation of a receipt showing the license for the current year. Dog or cat tags shall not be transferable from one dog or cat to another.

Every license issued under this Section shall be valid for one (1) year from the date of issuance.

5.0214 License Fee Schedule. The fee for licenses shall be established by resolution by the Town Board. The Town Board may in special instances, after a hearing, exempt the license fee in individual cases.

5.0215 License Fee Exemptions. The licensing provisions of this Chapter shall not apply to dogs and cats in the custody of a veterinarian, or animal shelter or animal rescuer, or whose owners are nonresidents temporarily within the Town for a period not exceeding 30 days. Also, when a blind person, physically disabled or hearing impaired person requests that no fee be charged to license his/her guide dog, or service dog, no fee shall be charged, upon submission of medical documentation attesting to said disability and/or service animal certification from a bona fide and recognized authority.

5.0216 Kennel Licenses Issued. The Finance Officer, upon receipt of an application showing the owner's name and address, the name, breed, age, color and sex of each dog kenneled by the owner, a certificate signed by a qualified veterinarian that each dog has been vaccinated and payment of the appropriate license fee, as established by the Town Board, shall issue a kennel license to the owners of dog kennels. All dogs housed in a licensed kennel shall be exempt from the other licensing provision of this ordinance.

- 5.0217 Stray, Abandoned or Unkept Animals. No person shall harbor or keep any stray animals within the Town. Animals known to be strays shall be reported to an animal control officer immediately. (SDCL 9-29-12)
- 5.0218 Number of Pets Limited. It is unlawful for any person to have or to keep more than three (3) domestic pets over the age of six months, except birds and fish, on any lot or premises in the Town, unless such person residing on or in the lot or premises has a valid kennel license issued by the Town. Humane Societies, veterinarian offices, and retail pet stores are exempt from the provisions of this section.
- 5.0219 Livestock Defined. The term “livestock” shall mean any animal which is raised for normal agricultural purposes, including, but not exclusively, hogs, cattle, sheep, horses, chickens, etc.
- 5.0220 Livestock Excluded Within Town Limits. No person shall be permitted to keep livestock of any kind within the town limits.
- 5.0221 Grandfathered Use. All current property which has livestock thereon is excluded from this ordinance. However, when such property is transferred or ceases to be used to accommodate said livestock for more than one week then said property is subject to this ordinance.
- 5.0222 Removal of Excrement. It shall be unlawful for any person who possesses, harbors, or is in charge of any dog, cat, or animal not to immediately remove excrement deposited by said dog, cat, or animal upon a common thoroughfare, street, sidewalk, play area, park, or upon any other public property, or upon any private property when permission of the owner or tenant of said property has not been obtained, and such is hereby declared to be a public nuisance and prohibited.

CHAPTER 5.03 – FIREWORKS AND FIREARMS

- 5.0301 Fireworks Prohibited. The use, throwing, lighting, firing, display or sale of fireworks within the Town shall only be authorized in accordance with SDCL 34-37. The provisions of this Section shall not apply to any person, firm or corporation duly licensed by the Town Board in accordance with Chapter 4.01 of this Ordinance to discharge fireworks for public entertainment at any public celebration in the Town. (SDCL 9-33-1 and SDCL 34-37)
- No fireworks are to be used, exploded, set off or fired at any time within the town limits unless a special permit is approved by the Town Board.
- 5.0302 Carrying Concealed Weapons. No person shall carry concealed about his person, or display in a threatening manner any dangerous or deadly weapon including but not limited to, any pistol or other firearm without a permit, brass knuckle or knuckles of other materials or any sandbag, dagger, bowie knife, dirk knife, or other dangerous or deadly weapon, or any instrument or device which when used is likely to produce death or great bodily harm. Any law enforcement officer may wear or carry such weapons, as may be necessary and proper for the discharge of his official duties. (SDCL 22-14-8, 22-14-9 and SDCL 22-14-10)

- 5.0303 Discharging Weapon. No person shall willfully discharge any pistol, gun, revolver or other firearm, including BB or pellet gun, within the town limits, or in any place where there is any person to be endangered thereby, although no injury to any person shall ensue, unless authorized by the Town Board. (SDCL 22-14, SDCL 9-29-3)

CHAPTER 5.04 – MINORS

- 5.0401 Curfew Hours and Exceptions. No minor under the age of eighteen (18) years shall be or remain in or upon the public streets, alleys, parks, playgrounds, public grounds, public places, public buildings, public places of amusement and entertainment, vacant lots, or other unsupervised public places within the Town between the hours of 11:00 p.m. and 4:00 a.m. of the following day, unless accompanied by his parent, guardian or other adult person having the care and custody of the minor or where the minor is upon an emergency errand or legitimate business directed or authorized by his parent, guardian or such other adult person having the care and custody of the minor.
- 5.0402 Responsibility of Officers. It shall be the right of any authorized officer or person to arrest and detain any minor violating the curfew and to keep the minor detained until the parent, guardian or custodian is notified, when the minor may be released upon the giving of a promise by the minor and his parent or guardian or custodian that such minor together with his parent, guardian or custodian will appear at a stated time before the proper authority to answer to the charges.
- 5.0403 Responsibility of Parents or Guardians. It shall be unlawful for the parents, guardian or other adult person having the care and custody of a minor under the age of eighteen (18) years to knowingly permit such a minor to be or remain in or upon the public streets, alleys, parks, playgrounds, public grounds, public places, public buildings, public places of amusement and entertainment, vacant lots or other unsupervised public places within the Town between the hours of 11:00 p.m. and 4:00 a.m. of the following day, except when the minor is accompanied by his parent, guardian or other adult person having the care and custody of the minor or when the minor is upon an emergency errand or legitimate business directed or authorized by his or her parent, guardian or other adult person having the care and custody of the minor.

TITLE 6 – STREETS, SIDEWALKS AND PUBLIC PLACES

[STREET AND ALLEY IMPROVEMENTS SDCL 9-45]

[SIDEWALK IMPROVEMENTS SDCL 9-46]

CHAPTER 6.01 – Street Names and Addresses

CHAPTER 6.02 – Streets, Sidewalks, Curb and Gutter

CHAPTER 6.03 – Snow and Ice Removal

CHAPTER 6.04 – Municipal Trees

CHAPTER 6.05 – Municipal Parks

CHAPTER 6.06 – Moving Buildings

CHAPTER 6.01 – STREET NAMES AND ADDRESSES

- 6.0101 Names of Streets and Avenues. The names of all streets and avenues in the Town shall be fixed and adopted in accordance with the official map of the Town on file in the office of the Finance Officer. All east-west thoroughfares shall be designated as avenues and all north-south thoroughfares shall be designated as streets. Any such act on dedicating, naming, locating, relocating, opening, widening, paving, improving, renaming, establishing or vacating any street, alley or other public way in the Town shall be so designated on such map. (SDCL 9-45-2)
- 6.0102 Houses and Business Places Must Be Numbered. Every person who is or may hereafter become the owner or renter of any house, residence, store, shop or other business building, situated on any lot fronting on any of the streets or avenues of the Town of Humboldt shall number with 3” minimum numbers. The numbers shall be so located on the structure such that it is clearly visible from the street.
- 6.0103 The Dividing Line of Numbering on All Streets and Avenues. The dividing line for numbering on all streets running north and south shall be Main Street. The dividing line for numbering all avenues running east and west shall be Second Avenue. All streets and parts of streets running north of Second Avenue shall be designated by prefixing to the names thereof the word “North” and all streets running south of Second Avenue shall be designated by prefixing names thereof the word “South”. In like manner all avenues and parts of avenues east of Main Street shall be designated by prefixing to the names thereof the word “East” and all avenues running west of Main Street shall be designated by prefixing to the names thereof the word “West”.
- 6.0104 Numbering Lots. One number shall be apportioned to every building or lot along all the thoroughfares of the Town whether the same is occupied or not. In case more than one building is erected in a single lot the same may be numbered by placing thereon the regular number which appeared on the building formerly situated in the space or the number which would otherwise be allotted to the space and on the second building to be erected thereon the regular number plus the fraction, one-half (1/2). (SDCL 9-45-2)
- 6.0105 Numbering Intervals. All buildings shall be numbered consecutively in units and tens and all blocks consecutively in even hundreds. All numbering on east and west

thoroughfares shall begin at the dividing line at Main Street and proceed outward to the limits of the Town, placing odd numbers on the south side and even numbers on the north side of each thoroughfare. All numbering on north and south thoroughfares shall begin at the dividing line at Second Avenue and proceed outward to the limits of the Town, placing odd numbers on the east side and even numbers on the west side of each such thoroughfare.

- 6.0106 Cost Assessed. If the owner of any dwelling house, building, business establishment or lot fronting on a street or avenue within the Town shall fail, refuse or neglect to place the number, or replace the number when necessary, an authorized agent of the Town may cause a notice to be personally served on him by certified mail to the last known address ordering him to do so. In case of failure of such owner to comply with such notice within ten (10) days after the date of such notice, the authorized agent may cause the same to be done, and assess the cost thereof against the property or premises numbered. (SDCL 9-45-2)

CHAPTER 6.02 – STREETS, SIDEWALKS, CURB AND GUTTER

- 6.0201 Street Surfacing. All streets, roads and alleys constructed or reconstructed shall be surfaced to the appropriate width and manner in accordance with designs and specifications approved by the Town Board. (SDCL 9-45-1)
- 6.0202 Street Excavations. No person shall make or cause to be made any excavation except as hereafter provided, in or under any street, sidewalk, alley or public ground or remove any earth, soil, paving, gravel or materials there from without first having obtained approval from the Town Board. Application for such approval shall state where such excavation is to be made, the extent thereof and the purpose of such excavation.
- 6.0203 Excavation Permits. Applications for excavations other than emergency situations may require a deposit in such sum as deemed necessary by the Town Board to ensure the proper replacement and refilling of any such excavation or to cover the costs of any damages which may be caused by such excavation. Any required deposit shall be paid to the Town once approval of an application is made and any unused portion of said deposit shall be refunded to the applicant upon recommendation and approval of the Town Board.
- 6.0204 Excavation Repairs. Approval for any excavation covered by this Chapter shall be issued only upon the express condition that the applicant shall refill such excavation in accordance with the requirements of the Town Board, and shall restore the pavement or surfacing as the case may be, to its former condition. The Town Board 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 replaced.
- 6.0205 Excavation Inspections. It shall be the duty of authorized Town Personnel to inspect all authorized excavation work at any stage of construction and to ensure compliance with approved requirements. If all backfilling, refilling or surfacing is not completed in accordance with approved requirements, notice thereof in writing shall be given to the applicant who shall put the same in proper order within a maximum of ten (10)

days. If the applicant fails after such notice to complete all requirements the Town board may authorize the necessary repairs and such applicant shall pay the costs thereof.

6.0206 Excavation Barriers. Any person receiving approval to make excavations in or upon any street, alley, sidewalk or public ground shall, during the progress and continuance of the work, erect and maintain around the same both day and night suitable guards, fences, flares and signals so as to prevent injury to persons, animals or vehicles on account of such excavations. No open trench shall be left open for any more time than considered absolutely necessary or reasonable.

6.0207 Sidewalks. Unless otherwise determined by the Town Board, the inside edge of all sidewalks shall be constructed along the property line. Sidewalk construction shall include base material of three (3) inches in thickness, of approved materials. Sidewalks shall be no less than three and one-half (3 ½) in thickness, of Portland Cement Construction, and not less than four (4) feet or more than five (5) feet wide in residential areas, with the slope toward the street of one-fourth (1/4) inch per foot. When considered necessary and advisable for the health, welfare and safety of the people, the Town Board may direct that new sidewalk be constructed and assessed to any abutting property owner in accordance with SDCL 9-46.

When existing sidewalk is removed for any reason it shall be replaced, according to the provisions of this section.

6.0208 Driveway Approaches. No driveway approaches shall protrude or extend into the streets beyond the curb line, unless otherwise so authorized by the Town Board. Concrete driveway approaches shall be of four (4) inch Portland Cement Construction, with the slope gradual to accommodate modern vehicles. On gravel thoroughfares driveway approaches constructed shall permit flow of surface water without drainage interference and shall permit proper blading and maintaining of streets. (SDCL 9-45-1)

6.0209 Curb and Gutter. The Town Board shall reserve the right to direct that curb and gutter be constructed and the cost assessed against any abutting property owner. (SDCL 9-45-5)

6.0210 Permits. When constructed separately from an overall construction project, property owners or their agents shall submit applications for permits for approval by the Town Board for sidewalks, driveway approaches, curbs or curb and gutter. When these improvements are constructed simultaneously or as one project, only one application is necessary to include all improvements and where any or all are part of new construction projects, only one permit for the overall construction shall be issued. All improvements, installations and engineering recommendations shall be in conformance with specifications or recommendations approved by the Town Board.

6.0211 Barrier-Free Construction. Whenever any person, firm or corporation makes new installations of sidewalks, curbs or gutters, in both business and residential areas, it shall be required that they install ramps at crosswalks so as to make the transition from street to sidewalk easily negotiable for handicapped persons in wheelchairs and

for blind persons. All such ramps shall be constructed or installed in accordance with design specifications according to the most current American National Standards Specifications published by the American National Standards Institute. (SDCL 9-46-1.2)

CHAPTER 6.03 – SNOW AND ICE REMOVAL

6.0301 Duty to Remove. It shall be the duty of the owner, tenant or person in possession of any property abutting on any sidewalk to keep such sidewalk free from snow and ice and to cause any accumulated snow to be removed within twenty-four (24) hours after the termination of any snowfall, or snow or ice accumulation. (SDCL 9-30-5)

6.0302 Disposal of Snow. It shall be the duty of the property owner, tenant or person in possession of any public or private driveway, parking lot or parking area to dispose of accumulated snow and ice upon such property in such manner that any snow and ice when removed shall not be deposited upon any sidewalk, within or upon any public street or alley, after such public street or alley, or in any manner that will obstruct or interfere with the passage or vision of vehicle or pedestrian traffic.

It shall be the duty of the property owner, tenant, or person in possession of any property abutting on any sidewalk to dispose of accumulated snow and ice upon such sidewalk in such a manner that any snow and ice when removed shall not be deposited within or upon any public street or alley, after such public street or alley has been cleared of snow and ice by the grading of such snow or ice away from the curb or the picking up and carrying away of such snow or sanding or salting of ice by the Town. (SDCL 9-30-5)

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

CHAPTER 6.04 – MUNICIPAL TREES

6.0401 Authority and Jurisdiction. The Town Board shall have the authority and jurisdiction of regulating the planting, maintenance and removal of trees on streets and other publicly owned property to insure the public safety and to preserve the aesthetics of such public sites. The Town Board shall have the authority to determine the type and kind of trees to be planted upon municipal streets or in parks, and may assist in the dissemination of news and information regarding the selection, planting and maintenance of trees within the corporate limits or within the area over which the Town has jurisdiction whether the same be on private or public property, and to make recommendations from time to time as to desirable statutes concerning the tree program and activities for the Town. (SDCL 9-38-2)

6.0402 Duties of Property Owners. It shall be the duty of any person or persons owning or occupying real property bordering on any street upon which property there may be

trees, to prune such trees in such manner that they will not obstruct or shade the street lights, obstruct the passage of pedestrians on sidewalks, obstruct vision of traffic signs, or obstruct view of any street or alley intersections, except where such services are provided for by utility firms. The minimum clearance of any overhanging portion thereof shall be ten (10) feet whenever practicable, and twelve (12) feet over all streets except truck thoroughfares where the clearances shall be fourteen (14) to sixteen (16) feet, unless otherwise determined by the Town Board.

- 6.0403 Abuse of Trees. Unless otherwise specifically authorized by the Town Board, no person shall intentionally damage, cut, carve, transplant or remove any tree; attach any rope, wire, nails, advertising posters or other contrivance to any tree, allow any gaseous liquid or solid substance which is harmful to such tree to come in contact with them; or set fire or permit any fire to burn when such fire or the heat thereof will injure any portion of any tree located on public grounds along the street or enclosing public grounds. (SDCL 9-38-2)
- 6.0404 Permission to Deposit Materials. No person shall deposit, place, store or maintain upon any public place of the municipality, any stone, brick, sand, concrete or other materials which may impede the free passage of water, air and fertilizer to the roots of any tree growing therein, except by permission of the Town Board.
- 6.0405 Removal of Hazards. Where any tree branches or hedges protrude or overhang on any thoroughfare within the Town so as to be determined as in violation with this Chapter or affecting motor vehicle traffic and good maintenance practices, notification shall be given by the Town Board to the property owner to remove such obstructions or undesirable branches or hedges within a prescribed time period. If not completed within such time, the Town Board may take immediate action to have such items removed with all costs assessed to the property owner. (SDCL 9-38-2)

CHAPTER 6.05 – MUNICIPAL PARKS

- 6.0501 Glass Containers Prohibited. It shall be unlawful for anyone to bring or otherwise deposit any containers made of glass into any Town park.
- 6.0502 Open Fires Prohibited and Exception. No person shall start any fire in any Town park except in those places where barbecue grills have been placed by the Town or when portable barbecue grills are used and then only for the cooking and preparation of food. Every person who starts or uses such acceptable fires shall completely extinguish the fire before leaving the park.
- 6.0503 Animal Control. All animals must be on a leash at all times, according to Section 5.0202 of the Municipal Ordinances.
- 6.0504 Firearms. It is unlawful for any person, without a valid permit, to possess, use or display any firearms, including but not limited to air guns, explosives, bows and arrows or other weapons within the park.
- 6.0505 Protection to Trees and Shrubbery. No person shall pick or cut any wild or cultivated flowers, or cut, break, dig or in any way deface any tree, shrub or plant within the limits of any Town park.

- 6.0506 Protection to Prohibited Areas. No person shall go on foot or otherwise upon any area of any park or parkway where any prohibitory sign is posted.
- 6.0507 Injuring Park Property. No person shall cut, break, scratch, mark, mar or in any way injure or deface any building, fence, wall lamp, flagpole, construction improvement, facility, playground equipment or any other feature or property upon or within any park.
- 6.0508 Vehicle Operating and Parking. Except as authorized by the Town Board, no person shall operate or park any vehicle in any park, except on clearly marked and designated roadways or parking areas therein.
- 6.0509 Littering Prohibited. No person shall throw, deposit, place or leave in any park or parkway, or water therein, any paper, rubbish, waste, cans, bottles or refuse of any kind, whether or not such is offensive to the senses or is injurious to health, except in the receptacles provided for waste.
- 6.0510 Restrictions on Abutting Landowners. The owner, occupant or person in charge of any land abutting upon any park shall not allow any earth, rubbish or refuse of any kind, whether or not such is offensive to the senses or injurious to health, to fall or to wash upon or into any part of any park.
- 6.0511 Animals Protected. No person shall rob, injure or destroy any bird nests within the limits of any park, nor aim or discharge any air gun, slingshot or other weapon, or throw any stones or other missiles at any bird or bird nest or any wild creature within any park nor in any manner capture or attempt to capture or kill any bird or wild creature in any park.

CHAPTER 6.06 – MOVING BUILDINGS

- 6.0601 Permit Required. No person shall move any building or part of building into, along or across any public street, alley, or grounds in the Town without having obtained a moving permit. (SDCL 9-30-2)
- 6.0602 Applications. Written application for a moving permit shall be filed with the Finance Officer, and shall include the name of the applicant, the name of the owner of the building, a description of the lot on which such building is standing and the lot to which it is to be moved, if such location shall be within the Town. The application shall also specify the route along which it is proposed to move the building, and the length of time likely to be consumed in such moving. Any application so filed shall be considered by the Town Board for approval, and any other conditions to be complied with by the applicant, shall be stated.
- 6.0603 Surety Bond. No permit shall be granted until the applicant shall file with the Finance Officer a bond in favor of the Town in the penal sum to be established by the Town Board, with sufficient surety, and conditioned on the applicant promptly repairing and making good, to the satisfaction of the Town Board, any and all damage to any pavement, sidewalk, crosswalk, hydrant, street, alley, or other property, done or caused by the applicant or the applicant's employees, in moving such building or part thereof, or in connection with the moving thereof. The

applicant shall indemnify and save harmless the Town against any and all liability for damages, costs and expenses, arising or which may arise or be incurred in favor of any person by reason of any conduct by the applicant or applicant's agents or employees, in connection with the moving of such building or part thereof, or the use of any public ground for such purpose.

6.0604 Standing Buildings. No building or part of a building being moved, shall be allowed to stand still in any public street or any public ground for more than twenty-four (24) consecutive hours.

6.0605 Permission of Property Owners. No moving permit granted by the Town shall authorize the holder thereof to break, injure, or move any telephone, electric light, power or cable TV wire or pole, or to cut, trim or otherwise interfere with any property without the written permission of the owner or owners thereof.

6.0606 Removal, Demolition or Relocation of Structures. Upon the removal, demolition or relocation of structures from or on any lot within the Town of Humboldt, the foundation of such structure removed, demolished or relocated must be removed from the property and the basement or excavation remaining after removal of the foundation must be filled with good, clean, fill dirt.

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

6.0607 Approval and Fee. No moving permit shall be issued unless the appropriate nonrefundable fee, established by resolution of the Town Board, is paid to the Finance Office.

6.0608 Safeguards. It shall be the duty of the person, firm or corporation moving any building through the streets to do the same with proper care for the safety of persons and property. Warning barricades and lights shall be maintained wherever necessary for the protection of pedestrians or traffic.

6.0609 Protecting Pavement. Where a building or structure is being moved over a street, but is not carried on another vehicle or on a unit equipped with tires, the street surface shall be protected by planking or other device effective to prevent injury to the roadway.

TITLE 7 – TRAFFIC CODE
[TRAFFIC REGULATIONS SDCL 9-31]

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

CHAPTER 7.01 – GENERAL PROVISIONS

- 7.0101 Definitions. When in this Title the following terms are used they shall have the meanings respectively ascribed to them in this Section.
- A. Authorized Emergency Vehicle – Vehicles of any fire department, police vehicles and such ambulances and emergency vehicles of municipal department or public service corporations as are designed or authorized by the Town Board.
 - B. Law Enforcement Officer – Any police officer or other law enforcement personnel approved by the Town Board to enforce the provisions of the Ordinances of the Town.
 - C. Motor Vehicle – Every vehicle, as herein defined which is self-propelled.
 - D. Operator – Any person who is in actual physical control of a vehicle.
 - E. Parking – The standing of a vehicle whether attended or unattended upon a roadway or street otherwise than temporarily for the purpose of and while actually engaged in loading or unloading or in obedience to traffic regulations or traffic signs and signals.
 - F. Vehicle – Every device in, upon or by which any person or property is or may be transported or drawn upon a public highway.
- 7.0102 Duty to Enforce. It shall be the duty of law enforcement officers to enforce these traffic regulations and all of the state vehicle laws applicable to street traffic in the Town, to make arrests for traffic violations, to investigate accidents and to cooperate with other officials in the administration of these traffic laws. (SDCL 9-29-19)
- 7.0103 Directing Traffic. Law enforcement officers shall direct traffic in conformance with traffic laws and ordinances provided that in the event of a fire or other emergency or to expedite traffic or to safeguard pedestrians, Fire Department Personnel may direct traffic as conditions may require. (SDCL 9-29-19)

- 7.0104 Obedience to Enforcement. No person shall refuse or fail to comply with any lawful order, signal or direction of any law enforcement officer, or refuse to submit to any lawful inspection or fail to comply with the provisions or requirements of any warning ticket issued under this Title. (SDCL 9-29-19)
- 7.0105 Exemptions to Authorized Emergency Vehicles. The provisions of this Title regulating the movement, parking and standing of vehicles shall not apply to authorized emergency vehicles while the operator of such vehicle is operating the same in an emergency in the necessary performance of public duties. This exemption shall not, however, exempt the driver of any such vehicle from the consequence of a reckless disregard of the safety of others.
- 7.0106 Application to Workers and Equipment. The provisions of this Title shall not apply to persons, motor vehicles and other equipment while actually engaged in work upon the surface of a street, but shall apply to such persons and vehicles when traveling to or from such work; provided however, such persons and vehicles shall not indiscriminately block traffic, but shall allow reasonable room on the traveled portion of the street for other vehicles to pass.
- 7.0107 Authority to Install Traffic Control Devices. The Town Board shall place and maintain traffic control signs, signals and devices when and as required under this Title to make effective the provisions of said Title, and may place and maintain such additional traffic control devices as may be necessary to regulate traffic. (SDCL 32-14-5)
- 7.0108 Obedience to Traffic Control Devices. The operator of any vehicle shall obey the instructions of any official traffic control device applicable thereto placed or held in accordance with the provisions of this Title unless otherwise directed by a law enforcement officer subject to the exceptions granted the driver of an authorized emergency vehicle in this Chapter.

CHAPTER 7.02 – OPERATION OF VEHICLES

- 7.0201 Driver's License Required. It shall be unlawful for any person to drive or operate upon any of the streets or highways within the Town any motor vehicle without first having secured and having in their possession a valid license or permit to do so. (SDCL 32-12-22)
- 7.0202 License Plates. No person shall operate or drive a motor vehicle within the Town without having conspicuously displayed thereon numbered license plates as required by state law, securely fastened and which shall be kept free from mud, dirt or other obstruction so that the numbered license plates shall be clearly legible by other persons upon the highway.
- 7.0203 Drive on Right Side of Street. Upon all streets the operator of a vehicle shall drive the same upon the right half of the street and shall drive a slow-moving vehicle as closely as possible to the right-hand edge or curb of a street unless it is impractical to travel on such side of the street, and except when overtaking and passing another vehicle subject to the limitations applicable to overtaking and passing set forth in this Title. (SDCL 32-26-1)

- 7.0204 Vehicles Shall Not Be Driven on Sidewalk. The operator of any vehicle except bicycles shall not drive within any sidewalk area except at a permanent or temporary driveway. (SDCL 32-26-21.1)
- 7.0205 Operation of Vehicles on Approach of Authorized Emergency Vehicle. Upon the approach of any authorized emergency vehicle or vehicles giving audible signal by lights or siren, the operator of every other vehicle shall immediately drive the same to a position as near as possible and parallel to the right-hand edge or curb of the street, clear of any intersection and shall stop and remain in such position until the authorized emergency vehicle or vehicles shall have passed, unless otherwise directed by a law enforcement officer. (SDCL 32-31-6)
- It shall be unlawful for the driver of any vehicle, other than one on official business, to follow closer than five hundred (500) feet to any fire apparatus, or to park any vehicle within the block where such fire apparatus has stopped to answer a fire alarm. It shall be further unlawful for the driver of any vehicle to drive over any unprotected hose of the Fire Department without the consent of authorized personnel. (SDCL 32-31-7)
- 7.0206 Backing Around Corners or into Intersection Prohibited. It shall be unlawful for the operator of any vehicle to back such vehicle around a corner at an intersection or into an intersection of public streets. (SDCL 32-30-20)
- 7.0207 Reckless Driving. Any person who drives any vehicle upon a street, avenue or alley carelessly and heedlessly in disregard of the rights or safety of others, or without due cautions and at a speed or in a manner so as to endanger or be likely to endanger any person or property, shall be guilty of reckless driving. (SDCL 32-24-1)
- 7.0208 Careless Driving. Any person who drives any vehicle carelessly and without due cautions at a speed or in a manner so as to endanger any person or property, not amounting to reckless driving as defined in the previous Section, shall be guilty of careless driving. (SDCL 32-24-9)
- 7.0209 Exhibition Driving. Any person who drives any vehicle within the limits of the Town in such a manner that creates or causes unnecessary engine noise, tire squeal, skid or slide upon acceleration or stopping; or that simulates a temporary race, or that causes the vehicle to unnecessarily turn abruptly or away shall be guilty of exhibition driving. (SDCL 32-24-9)
- 7.0210 Right-of-Way at Intersection. The right-of-way rule as between vehicles at intersections is hereby declared as follows: (SDCL 32-26-13)
- A. The operator of a vehicle approaching an intersection shall yield the right-of-way to a vehicle, which has fully entered the intersection.
 - B. When two vehicles approach an intersection at approximately the same time, the operator of the vehicle at the left shall yield the right-of-way to the vehicle on the right.
 - C. The operator of any vehicle traveling at an unlawful speed shall forfeit any right-of-way, which he or she may otherwise have hereunder.

- 7.0211 U-Turn at Intersection. At any intersection where warned by a traffic control sign displaying the words “No U-Turn,” it shall be unlawful for the operator of a vehicle to turn such vehicle at the intersection in a half circle so as to proceed in the opposite direction. (SDCL 32-26-25)
- 7.0212 Right-of-Way, Left Turn. The operator of a vehicle within an intersection intending to turn to the left shall yield the right-of-way to any vehicle approaching from the opposite direction which is within the intersection or so close thereto as to constitute an immediate hazard. The operator having so yielded and having given a signal when and as required may make such left turn and the operators of all other vehicles approaching the intersection from said opposite direction shall yield the right-of-way to the vehicle making the left turn. (SDCL 32-26-18)
- 7.0213 Turning Around in Midblock Prohibited. The operator of a vehicle shall not turn such vehicle so as to park in the opposite direction except at an intersection. (SDCL 32-26-25)
- 7.0214 Action Required at Stop Sign. Except when directed to proceed by a law enforcement officer or traffic control signal, every operator of a vehicle approaching a stop intersection indicated by a stop sign shall come to a full stop at a clearly marked stop line, but if none, before entering the crosswalk on the near side of the intersection or if none, then at the point nearest the intersection roadway where the driver has a view of approaching traffic on the intersecting roadway before entering the intersection.
- After having stopped, the operator shall yield the right-of-way to any vehicle which has entered or is approaching the intersection from another highway and shall not proceed into the intersection until certain that such intersecting roadway is free from oncoming traffic which may affect safe passage. (SDCL 32-29-2.1)
- 7.0215 Action Required at Yield Sign. The operator of a vehicle approaching an authorized sign bearing the word “Yield” or “Yield Right-of-Way” shall in obedience to such sign slow down to a speed reasonable for the existing conditions or shall stop if necessary and shall yield the right-of-way to any pedestrian legally crossing the roadway on which such operator is driving, and to any vehicle in the intersection or approaching on another highway so closely as to constitute an immediate hazard. Said operator having so yielded may proceed and the operators of all other vehicles approaching the intersection shall yield to the vehicle so proceeding. (SDCL 32-29-3)
- 7.0216 Stop Required Before Operator Entering From Alley, Building or Private Road. The operator of a vehicle emerging from an alley, building, private road or driveway within a business or residence district shall stop such vehicle immediately prior to driving onto a sidewalk or onto the sidewalk area extending across such alley, building entrance road or driveway, or in the event there is no sidewalk areas shall stop at the point nearest the street to be entered where said operator has a view of approaching traffic thereon. (SDCL 32-29-2.2)
- 7.0217 Pedestrian’s Right-of-Way. The operator of any vehicle shall yield the right-of-way to a pedestrian crossing the roadway within any marked crosswalk or within any unmarked crosswalk at the end of a block, except at intersections where the

movement of traffic is being regulated by law enforcement officers or traffic control signals. Whenever any vehicle has stopped at a marked crosswalk or at any intersection to permit a pedestrian to cross a roadway, it shall be unlawful for the operator of any other vehicle approaching from the rear to overtake and pass such stopped vehicle. (SDCL 32-27-1)

- 7.0218 Interfering with Snow Removal Equipment. No person shall operate a vehicle within such a distance or follow any municipal, county or state snowplow so as to interfere with the snow removal operations, or in such a manner to cause the snow plow operator to abruptly swerve, steer, stop or divert the snow plow from such snow removal operations.
- 7.0219 Helmets For Minors Required. It shall be unlawful for anyone, under the age of 18 to operate or ride upon a motorcycle, except a moped as defined in SDCL 32-20-1, on the public streets or alleys of this Town, unless such person wears a protective helmet of a type approved by the department of public safety.
- 7.0220 Duty of Motorist to Slow or Stop in Obedience of School Bus Amber or Red Signal. The operator of any motor vehicle driven within the Town, shall, upon meeting or overtaking a school bus, on which amber warning lights are flashing, reduce the speed of the vehicle to not more than twenty (20) miles per hour and proceed past the school bus with caution. An operator who meets or overtakes a school bus on which the red signal lights are flashing, shall bring the vehicle to a complete stop not closer than fifteen (15) feet from the school bus and shall remain stopped until the flashing red signal lights are extinguished.
- 7.0221 Off-Road Vehicles; Operation on Highway Prohibited. No person may operate on a public street or highway any off-road vehicle except for crossing from one side of the road to the other. An off-road vehicle shall be defined as any self-propelled, two or more wheeled vehicle designed primarily to be operated on land other than a highway and includes, but is not limited to, all terrain vehicles, dune buggies, go-carts and any vehicle whose manufacturer's statement of origin (MSO) or manufacturer's certificate of origin (MCO) states that the vehicle is not for highway use. A person may operate an off-road vehicle in a highway ditch if the vehicle is operated as close as possible to the outer edge of the highway right-of-way. However, no person may operate an off-road vehicle in a ditch along the interstate highway system and no person may operate an off-road vehicle except a snowmobile in a highway ditch that is designated as part of the state snowmobile trails system pursuant to SDCL 41-19.

CHAPTER 7.03 – VEHICLE EQUIPMENT

- 7.0301 Warning Tickets. Any authorized law enforcement officers upon reasonable belief that a vehicle is being operated in violation of any provision of this Title or applicable state law or is in such unsafe condition as to endanger any person, may require the driver of the vehicle to stop and submit to inspection of the vehicle and its equipment, license plates and registration cards and is hereby authorized to issue a warning ticket to any driver whose vehicle is in such violation.

Such warning ticket shall clearly designate the provisions, which are being violated and shall provide for notification to law enforcement officials when such violation is corrected by the time specified on the warning ticket.

- 7.0302 Lights Required. A motor vehicle in motion, during the period from half an hour after sunset to half an hour before sunrises shall display at least two (2) lighted lamps on the front and one (1) on the rear of such motor vehicle, such lamps to conform to the state law; provided that a motorcycle or a motor bicycle shall be required to display but one (1) lighted lamp in front and one (1) in the rear.
- 7.0303 Headlights Dimmed. No person shall use headlights upon any vehicle on any street unless the same are dimmed in such a way as to prevent the light being dazzling or blinding to persons using the streets.
- 7.0304 Warning Devices. Every motor vehicle operated or driven in the Town shall be provided with a suitable or adequate horn or other device for signaling which shall be in good working order at all times such vehicle is operated on the streets of the municipality.
- 7.0305 Emergency Vehicle Warning Device. Every law enforcement and Fire Department vehicle and every ambulance used for emergency calls shall be equipped with lights and siren. It shall be unlawful for any other vehicle to be equipped with such equipment.
- 7.0306 Red and Blue Lights. Except as to law enforcement or Fire Department vehicles or tow trucks or wreckers operating under such circumstances as may be provided by law, any person who drives or moves any vehicle in the Town with any red or blue light thereon visible from directly in front or to the sides thereof shall be guilty of a misdemeanor.
- 7.0307 Brakes. Every motor vehicle shall be provided with foot pedal brakes in good working order and sufficient to control such motor vehicle at all times when same is in use.
- 7.0308 Mufflers. No person shall drive a motor vehicle on any street within the Town unless such vehicle is equipped with a muffler in good working order and in constant operation to prevent excessive or unusual noise and annoying smoke. It shall be unlawful for any person to use a muffler cutout on any motor vehicle within the Town.
- 7.0309 Projecting Loads. No person shall drive any vehicle upon any street with any load or part of a load projecting more than four (4) feet beyond the rear end or front ends or more than two (2) feet beyond the sides of the body, or carrying part of such vehicles unless there be attached to the extreme ends and sides of such projecting load some warning sign or signal plainly discernible to other drivers and clearly indicating the projecting parts of such load.
- 7.0310 Weight and Size of Vehicle and Loads. No person shall drive or operate any motor vehicle upon any street the gross weight of which including the load or the size of which do not comply with the requirements of the state law governing such vehicle.

- 7.0311 Windshields Must be Unobstructed. It shall be unlawful for any person to drive any motor vehicle upon any street with the front windshield obstructed or with any signs, posters or other non-transparent material upon the front windshield side wings, sides or rear windows of such motor vehicle other than a certificate or other paper required to be so displaced by law or other temporary driving instruction placed thereon by the manufacturer.
- 7.0312 Protection of Load. No motor vehicle shall be driven or moved on any street unless such vehicle is so constructed or loaded as to prevent any of its load from dripping, sifting, leaking or otherwise escaping there from except that sand may be dropped for the purpose of securing tractions or water or other substances may be sprinkled on a roadway in cleaning or maintaining such roadway. No person shall operate on any street any vehicle with any load unless said load and any covering is securely fastened so as to prevent said covering or load from becoming loose, detached or in any manner a hazard to other users of the highway.
- 7.0313 Loud Noises Prohibited. No person shall operate a vehicle in such a manner as to create loud unnecessary or unusual noise likely to disturb or interfere with the peace and quiet of any other person.

CHAPTER 7.04 – SPEED RESTRICTIONS

- 7.0401 General Restrictions. It shall be unlawful for any person to drive a vehicle on a street or highway at a speed greater than is reasonable and prudent under the conditions than existing or at a speed in excess of those fixed by this Chapter. (SDCL 32-25-16)
- 7.0402 Establishment of Speed Zones.
- A. The Town Board is authorized and empowered to determine and establish upon any public street in the town or any part thereof, limited speed zones which speed limit shall constitute the maximum speed at which any person may drive or operate any vehicle upon such zones, street or highway or portion thereof so zoned, and on which highway the maximum speed permissible in the zone has been conspicuously posted by signs authorized by the Town Board.
 - B. The beginning of such limited speed zones shall be indicated by signs showing the speed limits.
- 7.0403 Maximum Limits Generally. Except as may otherwise be provided by the Town Board, it shall be unlawful for any person to operate or drive any vehicle at a rate of speed greater than the following:
- A. Twenty (20) miles per hour within any business district.
 - B. Fifteen (15) miles per hour on any alley.
 - C. Twenty (20) miles per hour within any residential district.
 - D. The appropriate legal maximums established by state law on all other unmarked streets and highways within the Town shall be effective.

- 7.0404 School Zones. It shall be unlawful for any person to operate or drive any vehicle at a speed greater than fifteen (15) miles per hour when passing a school during the recess or while children are going to or leaving school during opening or closing hours for such school.

CHAPTER 7.05 – PARKING, STOPPING

- 7.0501 Obstruction of Traffic. No vehicle shall be operated or allowed to remain upon any street under the jurisdiction of the Town in such a manner as to form an unreasonable obstruction to traffic. Whenever any authorized Town official or law enforcement officer finds a vehicle which constitutes an obstruction to traffic, such officers shall be authorized to provide for the removal of such vehicle by towing, if necessary, at owner's expense, with no liability to the Town. (SDCL 32-30-1, 2, 3, 4)
- 7.0502 Parking. Whenever there is snow fall of two (2) inches or more or whenever the U.S. Weather Bureau has forecast snowfall of two (2) inches or more for southeastern South Dakota, there shall be no parking of any vehicles; including but not limited to: motor vehicles, trailers, boats and campers upon any street of the Town for a period of twenty-four (24) hours following such forecast or until snow removal operations have been completed, whichever event shall first occur. Such parking may resume on any portion of any such street on which snow removal operation has been completed.
- 7.0503 Ticketing and Towing Vehicles. Any authorized Town official or law enforcement officer shall be authorized to ticket and tow away, or have removed and towed away by any commercial towing service, any car or vehicle illegally parked in any place where such parked vehicle creates or constitutes a traffic hazard, blocks the use of a fire hydrant, or obstructs or may obstruct the movement of any emergency or snow removal vehicle, or in any way is in violation with the provisions of this Title. Cars towed away for illegal parking shall be stored in a place designated by the Town Board and shall be returned to the owner or operator of such vehicle upon payment of a penalty of fifty (50) dollars for each offense plus cost of towing and storage. In the event of failure to pay a prohibited or restricted parking fine within ten (10) days or in the event of a not guilty plea, the matter shall be heard by the magistrate court of the Judicial Circuit which shall impose a fine of not more than one hundred (100) dollars upon a guilty verdict. (SDCL 32-30-13, 14)
- 7.0504 Abandoned Vehicles. The abandonment of a motor vehicle or other vehicle or any part thereof on any street in the Town shall be subject to action and penalties as provided for in this Title and Under Chapter 3.0104. The abandonment of a motor vehicle or other vehicle or any part thereof on private or public property, other than a street, in view of the general public, anywhere in the Town shall be prohibited except as specifically allowed under Chapter 3.0104. (SDCL 32-30-12.1)
- 7.0505 Parking and Storage of Certain Vehicles. Automotive vehicles or trailers without current license plates shall not be parked or stored on any public property or rights-of-way within the Town.
- 7.0506 Towing Costs. When a vehicle is removed from either public or private property as authorized by order of the Town Board, the owner of the vehicle shall be responsible

for all towing costs in addition to the fees provided in Section 7.0503 hereof. In addition the Town shall not be liable for any damages to property or persons incurred as a result of such towing or storage.

- 7.0507 Parking Prohibited in Certain Places. At any time it shall be unlawful to permit any vehicle to stop, stand or park in any of the following places, except where necessary to avoid conflict with other traffic or in compliance with the directions of a law enforcement officer or traffic control device:
- A. In any intersection.
 - B. In a crosswalk.
 - C. Within fifteen (15) feet of a fire hydrant.
 - D. At any place where the vehicle would block the use of a driveway.
 - E. Within twenty (20) feet of the driveway entrance of the fire station and on the side of the street opposite the entrance to such station within one hundred (100) feet of such entrance.
 - F. On any sidewalk.
 - G. At any place where official signs prohibit parking.
 - H. In any public alley.
 - I. Inside of curb, on street right-of-way. Area between the back of the curb to the property line.
- 7.0508 General Parking Restrictions. It shall be unlawful to park any motor vehicle on any private property without the consent of the owner of the property.
- 7.0509 No Parking Areas. The Town Board shall cause signs to be posted in all areas where parking is limited or prohibited, indicating such limitations or prohibitions, except that yellow curb painting may be used to indicate “No Parking” in certain street areas. (SDCL 32-30-6.2)
- 7.0510 Handicapped Parking Areas. Parking in those areas so designated as handicapped parking areas by signs and pavement striping shall be restricted to those vehicles identified, by window sticker and/or license plate, as being operated by handicapped drivers. It shall be unlawful for any person to park in a handicapped area without such identification on his or her vehicle. (SDCL 32-30-11.1, 11.2, 11.3, 11.4, 11.6)

CHAPTER 7.06 – TRUCKS

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

- A. Truck – Any motor vehicle, trailer, semi-trailer, tractor and farm wagon designed or operated for the transportation of property.
- B. Motor Vehicle – All machines propelled by any power other than muscular used upon the streets or highways for the transportation of property.
- C. Trailer – A vehicle of the trailer type, without a power unit of its own, designed and used in conjunction with a motor vehicle for the transportation of property.
- D. Truck Route – Streets and highways designated as truck routes by the Town Board.
- E. Streets – All other streets with the Town which are not designated as truck routes.

7.0602 Truck Routes. The Town Board, by resolution, may designate streets and highways within the Town of Humboldt as truck routes.

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

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

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

7.0606 Load Limits. Trucks may operate on any Town street or highway as long as the gross vehicle weight does not exceed twenty-six thousand (26,000) pounds. Trucks whose gross weight is more than twenty-six thousand (26,000) pounds may operate only on designated truck routes as defined in the Ordinance.

7.0607 Police Authority. Any police officer has the authority to require any person driving or in control of any truck to proceed to any public or private scale for the purpose of weighing and determining whether such truck is in violation of this Ordinance or any other code provision. Such authorities may issue a citation to any motor vehicle that exceeds the limits imposed by this Ordinance. Such authorities may detain such vehicles until the weight of such vehicles meets the limits imposed by this Ordinance.

7.0608 Exceptions to Use of Truck Routes. There shall be the following exceptions to the use of truck routes:

- A. A truck arriving at the end of any designated truck route may be driven over the most direct course to the nearest truck route which extends in the same general direction.
- B. The provisions of this Ordinance relating to the operation of trucks shall not apply to emergency vehicles of the Police Department, Fire Department or to any public utility vehicles where actually engaged in the performance of

emergency duties necessary to be performed by said public departments or public utilities, nor to any vehicle owned by or performing work for the Town, the United States of America or the State or any of its political subdivisions.

- C. Any contractor or material men, while engaged in the repair, maintenance or construction of Town streets or Town improvements, provided that these vehicles shall only use the Town streets within the immediate work area and shall only use the shortest route from the truck route to the work area.
- D. Whenever any truck route has been established and identified, any person driving a truck having a gross weight of or more than twenty-six thousand (26,000) pounds shall drive such truck on such routes and none other, except when it is impracticable to do so or where it becomes necessary to traverse another street or streets to a destination for the purpose of loading or unloading commodities, or for the purpose of towing a disabled or damaged motor vehicle to or from public or private property, and then only by such deviation from the nearest truck route as is reasonably necessary.

7.0609 Trucks Standing or Parking in Alleys. Trucks shall not stand or park in any public alley except for the purpose of receiving or delivering property and for no longer time than is necessary to load or unload. Such trucks, when loading or unloading, shall stand or park on the side of the alley. When two or more trucks are thus standing on opposite sides of the same alley the truck last arriving shall be placed in such staggered positions as to leave sufficient space between it and the first truck for the free passage of other vehicles.

CHAPTER 7.07 – SNOWMOBILES

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

- A. Operate – to control the operation of a snowmobile.
- B. Owner – any person, other than a lienholder, having the property in or title to a snowmobile and entitled to the use or possession thereof.
- C. Private Property – means and includes any and all real property, or land within the Town, which has not been opened or dedicated for public use or as a public thoroughfare.
- D. Snowmobile – any engine-driven vehicle of a type, which utilizes sled type runners, wheels or skis with an endless belt tread or similar means of contact with the surface upon which it is operated.

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

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

- 7.0704 Hours of Operation. No person shall operate a snowmobile on private property of their own or another or upon public highways, streets and alleys within the Town between the hours of 11:00 p.m. and 7:00 a.m. the following day.
- 7.0705 Permission of Property Owner Required for Operation. No person shall operate a snowmobile on private property of another without the express permission to do so by the owner or occupant of such property.
- 7.0706 Operation on Public Ground and Streets Prohibited. No person shall operate a snowmobile on any public school grounds, public sidewalks, park property, park, roads, playgrounds and recreational areas within the Town. Snowmobiles may be operated over snow-covered highways, streets and alleys within the Town limits but only for emergency use as defined in 7.0711 or when the operator must travel upon such for purposes of leaving the Town and/or when returning to his residence from outside the Town. The operator when using any public street, highway or alley in accordance with the above restrictions, shall use the most expeditious and direct route.
- 7.0707 Crossing Streets at Right Angles. Persons operating snowmobiles are permitted to cross streets at right angles but only may do so after stopping and yielding the right-of-way to all approaching traffic and crossing as closely as possible to an intersection or approach.
- 7.0708 Speed. No person shall operate a snowmobile at a speed greater than is reasonable or proper, under all existing circumstances.
- 7.0709 Careless, Reckless or Negligent Operation Prohibited. No person shall operate a snowmobile in a careless, reckless or negligent manner so as to be likely to endanger the person or property of another or cause injury or damage thereto.
- 7.0710 Loud Noises Prohibited. No person shall operate a snowmobile in such manner as to create any loud unnecessary or unusual noise likely to disturb or interfere with the peace and quiet of any other person.
- 7.0711 Emergency Use.
- A. The Town Board may declare that road or weather conditions are such as to constitute emergency travel conditions authorizing use of a snowmobile.
 - B. A snowmobile may also be used when such vehicle is necessary as an emergency vehicle to protect the health, safety and welfare of any individual.
 - C. The operator of a snowmobile under emergency conditions shall be subject to all existing traffic ordinances of the Town and traffic laws of the State.
- 7.0712 Equipment Required. All snowmobiles operated in the Town shall have the following equipment.
- A. Mufflers which are properly attached and which reduce the noise of operations of the vehicle to the minimum noise necessary for operating the vehicles and no person shall use a muffler cutout, bypass or similar device on such vehicle.

- B. Adequate brakes in good working condition.
 - C. A safety or “deadman” throttle in operating condition such being a device which when pressure is removed from the accelerator the throttle causes the motor to disengage from the driving tract.
 - D. At least one headlight and one tail light in good working condition.
- 7.0713 Unattended Vehicles. No owner or operator of a snowmobile shall leave or allow the snowmobile to be or remain unattended on public property or streets while the motor is running, or where the keys for starting the vehicle are left in the ignition.
- 7.0714 Sidewalk Operation Prohibited. No person shall operate a snowmobile upon any public sidewalk in the Town.
- 7.0715 Operation Under the Influence. The operator of a snowmobile shall be deemed the driver or operator of a motor vehicle and be subject to South Dakota law relating to driving while under the influence of intoxicating liquor, drugs or otherwise therein provided and such operator shall be punishable for any violation of such laws.
- 7.0716 Towing. No person operating a snowmobile shall tow any person or object behind such snowmobile except when such person or object is situated upon a conveyance, which is attached to such snowmobile by means of a rigid hitch or tow bar.
- 7.0717 Exception. Notwithstanding the provisions of any other Section, any governmental official in charge of public school ground, park property, playgrounds, public golf courses or parking lots shall have authority to supervise and regulate events or programs conducted thereon or to designate areas under his charge and supervision as recreation areas that he shall deem available for use of snowmobiles and the hours of such use.

CHAPTER 7.08 – MISCELLANEOUS PROVISIONS

- 7.0801 Clinging to Moving Vehicles. No person traveling upon any bicycle, motorcycle, coaster, sled, roller skates or any toy vehicle shall cling to or attach himself or such vehicle to any other moving vehicle upon any street.
- 7.0802 Riding on Outside of Vehicle. No person shall ride on any vehicle upon any portion thereof not designated or intended for the use of passengers.
- 7.0803 Tampering with Vehicles. Any person who shall tamper with the motor vehicle of another, with intent to injure the same or cause inconvenience to the owner thereof, or who shall take and operate the motor vehicle of another without the consent of the owner or person lawfully in charge thereof, under such circumstances as not to constitute larceny, shall be guilty of a misdemeanor.
- 7.0804 Immediate Notice of Accident. The operator of a vehicle involved in an accident resulting in injury to or death of any person, or resulting in any property damage, shall immediately by the quickest means of communication give notice of such accident to a law enforcement officer. (SDCL 32-34-7)

- 7.0805 When Driver Unable to Report. An accident report shall not be required from any person who is physically incapable of making such report during this period of incapacity. Whenever the operator of a vehicle is physically incapable of making such report or is physically incapable of giving an immediate notice of an accident and there is another occupant in the vehicle at the time of the accident capable of doing so, such occupant in the vehicle at the time of the accident shall cause to be given the notice not given by the operator. (SDCL 32-34-8, 9)
- 7.0806 Duty to Give Information, Render Aid. The operator of any vehicle involved in an accident resulting in injury to or death of any person or damage to any vehicle which is driven or attended by any person shall give his name, address and if applicable the license number of the vehicle he is driving and his operator's or chauffeur's license to the person struck or the driver or occupant or person attending any vehicle collided with. The operator shall also render to any person injured in such accident reasonable assistance including the carrying or the making of arrangements for the carrying of such person to a physician, surgeon or hospital for medical or surgical treatment if it is apparent that such treatment is necessary or if such carrying is requested by the injured person. (SDCL 32-34-3)
- 7.0807 Personal Injury. The operator of any vehicle involved in an accident resulting in injury to or death of any person shall immediately stop such vehicle at the scene of such accident or as close thereto as possible but shall then forthwith return to and in every event shall remain at the scene of the accident until he has fulfilled the requirements of Section 7.0806. (SDCL 32-34-7)
- 7.0808 Property Damage. The operator of any vehicle involved in an accident resulting only in damage to a vehicle which is driven or attended by any person shall immediately stop such vehicle at the scene of such accident or as close thereto as possible but shall forthwith return to and in every event shall remain at the scene of such accident until he has fulfilled the requirements of Section 7.0806. Every such stop shall be made without obstructing traffic more than is necessary. Any person failing to stop or comply with said requirements under such circumstances shall be guilty of a misdemeanor. (SDCL 32-34-6)
- 7.0809 Unattended Vehicle, Property. The operator of any vehicle which collides with any vehicle or other property which is unattended shall immediately stop and shall then and there either locate and notify the operator or owner of such vehicle of the name and address of the driver and owner, of the vehicle striking the unattended vehicle or shall attach securely in a conspicuous place in or on the vehicle struck a written notice giving the name and address of the driver and of the owner of the vehicle doing the striking and a statement of the circumstances thereof. Such driver shall without unnecessary delay notify a law enforcement officer of such accident. (SDCL 34-34-4)
- 7.0810 Duty Upon Striking Fixtures. The operator of any vehicle involved in an accident resulting only in damage to fixtures or other property legally upon or adjacent to a street shall take reasonable steps to locate and notify the owner or person in charge of such property of such fact and of his name and address and of the registration number of the vehicle he is driving and shall upon request and if available exhibit his operator's license and shall make report of such accident when and as required in Section 7.0808 or statute. (SDCL 32-34-4)

- 7.0811 Duty Upon Striking Animal. The operator of any vehicle which collides with any dog or domestic animal causing injury thereto shall stop and attempt to ascertain the owner of such animal and notify a law enforcement officer of such accident.
- 7.0812 Manner of Arrest. Except in cases of driving while intoxicated or under the influence of intoxicating liquor, or any stupefying or exhilarating drug and except in the more serious and aggravated cases of speeding or careless and reckless driving and except when reasonably necessary to secure the appearance of a person charged with a violation of this Chapter by a law enforcement officer need not be arrested in the regular manner but may first be given an opportunity after notice to appear voluntarily to answer for such traffic violation.
- 7.0813 Notice to Appear. A person charged with violation of this Chapter by notice shall be given notice to appear before the court of competent jurisdiction at the time or within the time stated in such notice, and that in the event of failure to do so a warrant will be issued for his arrest.

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

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

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

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

- 7.0815 Attest on Failure to Appear. Upon the failure of a person to appear in response to a notice of traffic violation he shall be subject to arrest in the manner otherwise provided by law.
- 7.0816 Repair of Vehicle with Reportable Damage Prohibited Unless Required Notice Affixed. 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 any bullet unless the vehicle bears the notice provided for in SDCL 32-34-23.

TITLE 8 – WATER AND SEWER
[WATER SUPPLY SYSTEMS SDCL 9-47]
[SEWER SUPPLY SYSTEMS SDCL 9-48]

- CHAPTER 8.01 – General Provisions
- CHAPTER 8.02 – Water Provisions
- CHAPTER 8.03 – Sewer Provisions
- CHAPTER 8.04 – Sewer and Water Rates

CHAPTER 8.01 – GENERAL PROVISIONS

8.0101 All Consumers Bound by All Ordinances, Rules and Regulations. Every person connecting with or using any such utility shall be bound by all the ordinances, rules and regulations affecting such utility and the use thereof as contained in this Title, or which may be hereafter adopted by the Town of Humboldt, and any person connecting with or using any such utility shall be deemed to have consented thereof.

8.0102 Creation of the Office of the Utility Manager. The Town owned public utilities of the Town of Humboldt are its water, sewer and natural gas systems. Subject to the supervision of the Town Board, the Town owned public utilities shall be operated by a Town employee to be known as the Utility Manager to be employed by the Town Board. The salary of such Manager shall be fixed by the Town Board.

The Town board shall employ such assistant or assistants as may be necessary for the regular dispatch of the work and business of this department. Such assistants shall be under the direct supervision of the Utility Manager.

8.0103 Duties of the Utility Manager. The duties of the Utility Manager shall include the following:

- A. The Manager shall be responsible for the maintenance and operation of the municipal water plant and its distribution system, the wastewater treatment plant and its collection system, and the natural gas system.
- B. The Manager shall keep the said Public Utilities in a good state of repair to the end that service to consumers may be interrupted as little as possible.
- C. The Manager shall read water and natural gas meters monthly as may be conveniently done.
- D. The Manager shall also show the following facts as often as additionally required:
 - 1. The condition of the property of each utility.
 - 2. Its requirement for proper maintenance.

8.0104 Duties of Town Finance Officer and/or Assistant(s). The duties of the Town Finance Officer and/or Assistant(s) shall include the preparation of a report showing the amount of each consumer's bill, the date of payment, account number, name of consumer and the amounts due from each consumer separately for water, sewer, natural gas, labor and sales tax.

The Town Finance Officer and/or Assistant(s) shall also keep a record by a method designed for that purpose of the consumer's bills for water, sewer, natural gas, merchandise, labor and sales tax, etc., and the Town Finance Officer and/or Assistant(s) shall mail the original of said bills to the consumer in accordance with this Title.

The Town Finance Officer shall keep or cause to be kept, monthly log sheets the number of gallons of water pumped for preceding monthly period and the number of gallons of water sold for such period.

8.0105 Powers.

- A. The Town Board shall have the power to extend, modify or rebuild any public utility under its management and control and to do anything such Town Board deems necessary for the proper and efficient operation of such utility. Said Board may enter necessary contracts for these purposes in accordance with South Dakota Codified Laws.
- B. The Town Board shall have the power to employ all necessary help for the management and operation of the utility under its control and management, prescribe duties of its employees and fix their compensation.
- C. The Town Board shall have the power to buy all fuel and supplies, and where the utility is engaged in distribution, it may purchase wholesale gas for municipal distribution.
- D. The Town Board shall have the power to fix reasonable rates and to adopt reasonable rules and regulations for utility service supplied by the municipally owned public utility under its control and management within the limits provided by the statutes of this state.
- E. The Town Board shall have the power to enter into all necessary working agreements with the officials or agents of the Town. Such agreements may contemplate arrangements for furnishing utility services for the Town Compensation for use by the Town, of buildings, equipment and personnel under the control of the other and transfers of surplus funds in the controls of the Town Board to the General Fund of the Town.
- F. Nothing herein is to be construed as vesting any power or powers in any such Town Board or in the Town beyond the powers now vested in municipal corporations relative to the management and control of utility.

8.0106 Finance. A separate fund or a separate account shall be established for each utility. Into this fund or account shall be all receipts from the utility and from it shall be paid

all disbursements attributable to the utility. The Town Board shall be governed by South Dakota law in connection with Town finances.

8.0107 Reports. The Finance Officer shall immediately after the close of each fiscal year, and as often additionally as may be required by the Town Board, file with the Town a detailed written report of all money and monies received and disbursed by said Utility for said fiscal year, in the case of an annual report, and since the last report was given in the case of any other report required by the Town Board.

8.0108 Utility Service- Application Required. Any person desiring any utility service furnished by the Town, including water or sewer service shall make application for the same to the Town Finance Officer. Such application shall contain the applicant's name, address and the use(s) for which such service is desired. A separate application shall be made for each premise to be served. The applicant shall abide by the rules and regulations established by the Town Board relative to utility service in effect at the time of such application and as they may be revised from time to time in addition to conditions and agreements as the Town Board shall deem advisable.

8.0109 Utility Deposits. All utility users shall make a deposit as follows before utility services will be connected in the amount of one hundred (100) dollars. Fifty (50) dollars of said deposit will be held in trust until service has been discontinued at which time deposits will be refunded or used to pay the final bill. If the account is closed within sixty (60) days of opening the deposit will be forfeited.

8.0110 Same – Not Available to Debtors. The Town may decline or cease to furnish utility service to any person who may be in debt to the Town for any reasons except ad valorem taxes and special assessments.

8.0111 Termination of Service. The Town shall have the right to disconnect or refuse to connect any municipal utility service for the following reasons:

- A. Failure to meet the applicable provisions of law.
- B. Violation of the rules and regulations pertaining to utility services.
- C. Nonpayment of bills.
- D. Willful or negligent waste of service due to improper or imperfect pipes, fixtures, appliances or otherwise.
- E. Tampering with any meter, seal or other equipment controlling or regulating the supply of utility service.
- F. Theft or diversion and/or use of service without payment therefore.
- G. Vacancy of premises.

The Town shall give the municipal utility service customer at least ten (10) days notice before termination of municipal utility service. At any time before the date of termination, a customer may dispute the correctness of all or part of the amount shown on the utility bill or the determination that a violation of this Section has

occurred giving rise to termination hereunder. A customer shall not be entitled to dispute the correctness of all or a part of the amount shown on the municipal utility bill if all or a part of the amount shown was the subject of a previous dispute under this Section.

- 8.0112 Provisions for Termination of Service. The Town shall terminate municipal utility service hereunder only during the hours of 9:00 a.m. to 3:00 p.m. Monday through Thursday except no termination shall be permitted on a legal holiday.

Once the Town has initiated this termination of service provision, the resident utility user will, at least ten (10) days prior to the date of termination of utility services will be contacted by letter, to be notified of the reason for termination and the day and approximate time such utility service will be terminated. Such utility user shall also be notified of his/her right to a hearing on the termination before the Town Board. Termination of service shall not occur until after such contact has been made with the resident utility user.

The utility user may at any time prior to the termination notify the town finance officer of his request to meet with the Town Board to discuss why such utility service should not be terminated. A final decision on termination of service will then be made by the Town Board at this hearing.

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

- 8.0113 Termination After Customer Disputes. Until the date of the Town Board's decision, the Town shall not terminate the utility service of the customer.

Once a decision is reached, the Town shall notify the individual by mail of the Town Board's decision and if applicable:

- A. Amount to be paid or violation under this Section;
- B. Date of notice of termination;
- C. Date of termination, which shall be at least five (5) days after notice;
- D. Notice that unless the Town receives complete payment of the amount shown, or if a different violation of 8.0111 and it is not corrected prior to the date of termination, municipal utility service shall be terminated.

- 8.0114 Service Taps – Extensions. Tapping any water and sewer main for the purpose of making connection shall be done only by authorized personnel of the Town. Distribution or collection mains shall be provided at the discretion of the Town Board, in streets, avenues or alleys abutting the property to be served. Utility facilities for hookups shall be provided, unless otherwise specified by the Town Board, to the curb line from the distribution or collection main. Extension of

distribution or collection mains shall be only as specified by the Board in its discretion.

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

- 8.0115 Hookup Fees. An initial hookup fee for water and sewer service shall be set by the Town Board. The applicant shall also pay all costs, including piping, fixtures, digging and appurtenances necessary to produce the connections, as well as the costs of a qualified plumber making the installation. Payments to the Town for water hookups shall be made prior to turning on such service. Persons shall give notice of desire to tap any main at least twenty-four (24) hours before the tap is to be made except in an emergency. All new connections for water and sewer service shall be inspected and approved by the Utility Manager.
- 8.0116 Extension of Lines. The Town may serve a water and sewer customer outside the municipal corporate limits solely at the discretion of the Town Board. Said water and sewer lines shall be constructed and maintained by the customer with all parties connecting onto such lines being regulated and charged connection fees and other fees as set forth and regulated by the Town.
- 8.0117 Private Lines. Private water and sewer mains shall not be installed in the Town unless authorized by the Town Board. For the purpose of this Section the phrase "private water and sewer mains" shall be construed to include any rural water pipelines, pipes or waterlines or any individual sewage disposal systems.
- 8.0118 Payment for Moving Utility. Homeowner/business owner agrees to pay the cost of relocating any portion of Utility's facilities made to accommodate their needs or required because of alterations to the property.
- 8.0119 Responsibility of Property Owners. Persons served by Town water and sewer shall keep all piping, fixtures, stop valves, heaters and other apparatus for the use of water and sewer (including meters) in good repair and protected from freezing. The property owner shall be responsible for and pay the charges for replacement of any corroded or damaged piping, fixtures, stop valves, heaters or other apparatus for the use of water and sewer and for any charges for the repair or replacement of meters, occasioned by the negligence of the property owner or user, or the freezing, overheating or other external damage to any meters. The property owner and/or utility user shall place and maintain a brass stop inside the basement of any building where utility is to be used at the lowest point practicable on the service pipe entering the building and as close as practicable to the wall through which the pipe enters, and easily accessible so that the utility may be turned on or off by the user or occupant. Service connection repairs to the curb stop shall be the responsibility of the property owner.
- 8.0120 Excavation Requirements. All excavations required for the installation of water and sewer facilities shall be open trench work or ditch, unless otherwise approved by the Town Board. Persons shall give notice (SD ONE CALL 1-800-781-7474) of

excavations forty-eight (48) hours in advance of said work. Town Personnel shall be allowed to inspect the work at any stage of construction and in any event, the applicant for the permit shall notify the Utility Manager when the work is ready for final inspection and before underground portions are covered.

- 8.0121 Liability of Town. The Town shall not be liable for any damage to the property of any customer of any water and sewer service furnished by the Town due to backflow of the sewage system, failure of water supply, interruption of services or from any cause outside the direct control of the Town.
- 8.0122 Right of Entry. Any person authorized by the Town shall have free access at any time to all premises supplied with any water and sewer service by the Town for the purpose of examination in order to protect the utility service from abusive use.
- 8.0123 Damages, Trespass of Equipment. It shall be unlawful for any persons not having authority to do so, to open any water hydrant or tamper with any water and sewer service furnished by the Town to consumers, or to in any other way molest, damage or trespass upon any equipment or premises belonging to the Town connected with any such service.
- 8.0124 Unlawful Use. No person, other than authorized Personnel of the Town, shall connect, turn on, turn off or disconnect any water and sewer service offered by the Town, or remove, replace or repair any equipment connected to any such service.
- 8.0125 Violations. The Town may, in its discretion, notify any person violating any provision of this Title with written notice stating the nature of the violation and providing a reasonable time for the correction thereof, but such notice shall not be necessary for the prosecution of any violators hereof. Any person, whether receiving such notice or not, violating any provision of this Title shall be liable to the Town for any expense, loss, or damage, occasioned by the Town by reason of such violation, all provisions of this Title shall be subject to applicable state and federal law. (SDCL 9-47 & SDCL 9-48)
- 8.0126 Punishment. Any person(s) violating any provision of this Title shall, upon conviction thereof, be punished by a fine not exceeding five hundred (500) dollars, or by imprisonment not to exceed thirty (30) days, or both such fine and imprisonment. In addition, if such violation(s) is of any provision involving a license, the Town Board may permanently revoke the license of any licensee so convicted after notice and opportunity for hearing.
- 8.0127 Unlawful to Interfere with Utility Meters or Connections. It shall be unlawful for any person to do any of the following acts:
- A. break or deface any seal attached to the meter or its appendage
 - B. obstruct, alter, injure or prevent the action of any meter
 - C. make any connection by any means with the supply side of the meter in such a manner as to take the commodity without its passage through the meter, or use any commodities so obtained with intent to defraud, or turn on or off, or in any manner interfere with any switch valve connected.

- 8.0128 Selling or Supplying Utility Service to Others Prohibited: Exception. No occupant or owner of any premises to which water and sewer is supplied is allowed to supply or shall supply to any person or families any service from the Town water and sewer system or permit the same to be taken except upon special permit from the Town Board. Any consumer violating this provision will be charged the additional amount that such user or users would be charged if the water and sewer service was billed to the user or users by the Town. This amount is to be collected in the same manner and at the same rate as other water and sewer service.

CHAPTER 8.02 – WATER PROVISIONS

- 8.0201 Water Meters. All water services being supplied from the distributions systems of the Town shall be provided with a meter of a kind, size and type meeting the approval of the Utility Manager. All meters must be procured from the Town or approved by the Town and installed under the supervision of parties designated by the Town Board. The costs of the meter and installation are to be borne by the owner of the property upon which meter is to be installed.
- 8.0202 Sealing of Water Meters. Upon the installation of meters, the meters shall be sealed at the register box and couplings with a form of seal designated by the Town Board. The seals shall not be broken except upon authority of the Town Board or upon authority of its duly authorized agent. The residents of the property upon which meter is installed will be held responsible for the intactness of the seals and a fine will be imposed upon the resident of any property where the seal or seals may be found to be broken.
- 8.0203 Inspection of Meters. Any person authorized by the Town Board to read water meters or make inspections shall be allowed free access at all reasonable hours to any building or premises where water is used. If such persons are not allowed such access, the Town, in its discretion, may estimate the water use, shut off the water, make additional charges, or take other action not inconsistent with the law.
- 8.0204 Estimate of Water Charges. If any meter fails to register for any cause, the amount charged for water during such period shall be estimated by the Town Board or Finance Officer, such estimate to be based on the average amount registered during a like period.
- 8.0205 Water Lines How Laid. All service lines shall be at least six (6) feet below the established grade of the street, avenue or alley in which they shall be laid, and in all places at least six (6) feet below the surface of the ground, unless otherwise authorized by the Town Board. All plumbing fixtures, piping or apparatus shall be installed with such material as to withstand safely the perils surrounding their conditions of operation and use.

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

placement of water lines well above sewer lines to prevent subsequent possible contamination of water mains.

- 8.0206 Water Line Requirements. All water mains shall be at least four (4) inch PVC with gasketed joints; service lines shall be a minimum of one inch copper to the property line and three quarter (¾) inch copper or PVC to the meter, and hydrants shall be at least four (4) inch, with two or three way openings unless otherwise approved by the Town Board.
- 8.0207 Meter Reading. Meters will be read by parties designated by the Town Board and meters must be accessible for reading at all times.
- 8.0208 Payment. Payment of all water, sewer and natural gas bills shall be due upon receipt by the consumer. Failure to pay by the consumer within the time specified shall result in penalties and termination of service as set forth in Section 8.0211 of the Humboldt Municipal Ordinances.
- 8.0209 Responsibility for Payment. The owner of the property, where water, sewer and natural gas is supplied by the Town, will be held responsible for the payment of all utility bills.
- 8.0210 Delinquent Bills: Procedures and Penalties. A billing shall be delinquent if payment is not received before the close of business on or before the fifteenth (15th) day of the month of billing at the Finance Office. If the fifteenth (15th) day of the month falls on a weekend or other day on which the Finance Office is closed for business, a billing shall be considered delinquent if payment is not received by the close of business on the next regular business day of the Finance Office immediately following the fifteenth (15th). If a billing is considered delinquent as hereinbefore set forth, a penalty of ten (10) dollars shall apply and be added to the next bill.

In addition to the penalties imposed above, the Town Finance Officer and/or Assistant and the Utility Manager shall take the following action with regard to delinquent billings:

- A. If payment is not received by the Finance Office as set above, the Town Finance Officer or Assistant Finance Officer shall send a Notice on the next regular business day following the fifteenth (15th) to the consumer, and to the owner of the property, notifying them of the date of disconnection. The date of disconnection shall be ten (10) days from the 15th of the month.
- B. If payment of all utilities or arrangements for payment of all utilities is not made by the consumer or the owner, if such person be a different person than the consumer, the Utility Manager shall terminate utility service to the property as set forth in Section 8.0111, 8.0112 and 8.0113. Such action shall not relieve the consumer or owner of the property of the duty to pay any delinquent amounts and penalties owed.
- C. In accordance with South Dakota Codified Law 34A-6-29 the Town of Humboldt may certify delinquent balance on past due utility bills not paid prior to September 30th plus interest, to the County Treasurer to be collected as assessments and will be collected by the County Treasurer in the following

year as a condition precedent to the payments of the real property tax on the lot or parcel with respect to which the charge was made.

- 8.0211 Water Rates. Rates for water service shall be established by Resolution by the Town Board and kept on file in the office of the Town Finance Officer.
- 8.0212 Meters Read Monthly: Billing Procedure. Water meters shall be read and billing for water, sewer and natural gas shall be handled as follows:
- A. All meters shall be read on or before the twenty-seventh (27th) of each month or as soon thereafter as may be practical.
 - B. A billing shall be sent to consumers on or before the first (1st) day of the month immediately following the date the meters are read.
 - C. Amounts shall be immediately due and payable upon receipt of the billing by the consumer.
 - D. The billing shall be delinquent as set forth in Section 8.0210.
- 8.0213 Reconnection After Termination. In the event that any water service is terminated and shut off for nonpayment of a bill, every property owner shall have the right to have the same reconnected only upon the payment of the amount due, and in addition to a reconnection fee of fifty (50) dollars.
- 8.0214 Voluntary Discontinuance of Service. Persons wishing to discontinue the use of utility service shall give a five (5) day notice thereof to the Finance Officer. Failure to do so shall render them liable for the payment of all bills until such notice has been given.
- 8.0215 Interruption of Service. The users of any utility service furnished by the Town may be notified the supply of any utility may be temporarily shut off at any time. Notice shall be given, if feasible, of the contemplated shut off and immediately upon finding the supply shut off it becomes the duty of the premises to take prompt precautions to prevent damages.
- 8.0216 Restricting Use. The Town Board reserves the right to at any time restrict or prevent the use of any utility service furnished by the Town during periods of emergency or circumstances demanding such restriction or prevention of use.
- 8.0217 Joint Water Users Liable. In case two (2) 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 Town, the Town reserves the right to shut off the water from the whole service until such charge is paid, or the rules strictly complied with, and it is expressly stipulated that no claim for damage or otherwise may be made against the Town by any user whose water charge has been paid, or who has complied with the rules of the Town, because of such shut off, it being expressly stipulated that the necessity for such shut off shall be deemed to be the joint act of all served through such service.

- 8.0218 Use Assumed. All premises connected to any utility service of the Town shall be assumed to be using such service and the owner or occupant shall be charged therefore as long as such premises shall remain connected to the utility service of the Town.
- 8.0219 Definition. Water user shall be defined as all residential users including all households, apartment dwellers, housing units, industrial and commercial establishments. The term is not to include residents of a nursing home.

CHAPTER 8.03 – SEWER PROVISIONS

- 8.0301 Definitions. The following words and phrases, when used in this Chapter, shall have the meanings respectively ascribed to them:
- A. Biochemical Oxygen Demand (BOD) - The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at twenty (20) degrees Centigrade, expressed in milligrams per liter.
 - B. Building Drain - That part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five (5) feet outside the inner face of the building wall.
 - C. Building Sewer - The extension from the building drain to the public sewer or other place of disposal, also called house connection.
 - D. Combined Sewer - A sewer intended to receive both wastewater and storm or surface water.
 - E. Easement - An acquired legal right for the specific use of land owned by others.
 - F. Floatable Oil - Oil, fat or grease in a physical state such that it will separate by gravity from wastewater by treatment in an approved pretreatment facility. A wastewater shall be considered free of floatable fat if it is properly pretreated and the wastewater does not interfere with the collection system.
 - G. Garbage - The animal and vegetable waste resulting from the handling, preparation, cooking and serving of foods.
 - H. Industrial Wastes - The wastewater from industrial processes, trade or business as distinct from domestic or sanitary wastes.
 - I. Natural Outlet - Any outlet, including storm sewers and combined sewer overflows, into a watercourse, pond, ditch, lake or other body of surface or groundwater.
 - J. pH - Shall mean the logarithm of the reciprocal of the hydrogen concentration. The concentration is the weight of hydrogen, in grams, per liter of solution.

Neutral water, for example, has a pH value of 7 and a hydrogen concentration of 10^{-7} .

- K. Properly Shredded Garbage - Shall mean the wastes from the preparation, cooking and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one half (1/2) inch (1.27 centimeters) in any dimension.
- L. Public Sewer - Shall mean a common sewer controlled by a governmental agency or public utility.
- M. Sanitary Sewer - Shall mean a sewer that carries liquid and water-carried wastes from residences, commercial buildings, industrial plants and institutions together with minor quantities of ground, storm and surface waters that are not admitted intentionally.
- N. Sewage - Is the spent water of a community. The preferred term is 'wastewater.' (See 8.0301 (U))
- O. Sewer - Shall mean a pipe or conduit that carries wastewater or drainage water.
- P. Slug - Shall mean any discharge of water or wastewater which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than fifteen (15) minutes more than five (5) times the average twenty-four (24) hour concentration or flows during normal operation and shall adversely affect the collection system and/or performance of the wastewater treatment works.
- Q. Storm Drain - (sometimes termed 'storm sewer') - Shall mean a drain or sewer for conveying water, groundwater, subsurface water or unpolluted water from any source.
- R. Utility Manager - Shall mean the Utility Manager of Wastewater facilities, and/or of wastewater treatment works, and/or of water pollution control of the Town of Humboldt, or his authorized deputy, agent or representative.
- S. Suspended Solids - Shall mean total suspended matter that either floats on the surface of or is in suspension in water, wastewater or other liquids, and that is removable by laboratory filtering as prescribed in 'Standard Methods for the Examination of Water and Wastewater' and referred to as nonfilterable residue.
- T. Unpolluted Water - Is water of quality equal to or better than the effluent criteria in effect or water that would not cause violation of receiving water quality standards and would not be benefited by discharge to the sanitary sewers and wastewater treatment facilities provided.
- U. Wastewater - Shall mean the spent water of a community. From the standpoint of source, it may be a combination of the liquid and water-carried wastes from residences, commercial buildings, industrial plants and institutions, together with any groundwater, surface water and storm water that may be present.

- V. Wastewater Facilities - Shall mean the structures, equipment and processes required to collect, carry away and treat domestic and industrial wastes and dispose of the effluent.
- W. Wastewater Treatment Works - Shall mean an arrangement of devices and structures for treating wastewater, industrial wastes and sludge. Sometimes used as synonymous with 'waste treatment plant' or 'wastewater treatment plant' or 'water pollution control plant.'
- X. Watercourse - Shall mean a natural or artificial channel for the passage of water either continuously or intermittently.

8.0302 Use of Public Sewers Required.

- A. It shall be unlawful for any person to place, deposit or permit to be deposited in any unsanitary manner on public or private property within the Town, or in any area under the jurisdiction of Town, any human or animal excrement, garbage or other objectionable waste.
- B. It shall be unlawful to discharge to any natural outlet within the Town, or in any area under the jurisdiction of said Town, any sewage or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this Ordinance.
- C. Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool or other facility intended or used for the disposal of wastewater.
- D. The owner(s) of all houses, buildings or properties used for human occupancy, employment, recreation or other purposes, situated within the Town and abutting on any street, alley or right-of-way in which there is now located or may in the future be located a public sanitary or combined sewer of the Town, is hereby required at the owner(s) expense to install suitable toilet facilities therein and to connect such facilities directly with the proper public sewer in accordance with the provisions of this Ordinance, within sixty (60) days after date of official notice to do so, provided that said public sewer is within two hundred (200) feet of the property line.

8.0303 Private Wastewater Disposal. No connection from any private sewage disposal system shall be made with any public sanitary sewer under jurisdiction of the Town.

8.0304 Sanitary Sewers, Building Sewers and Connections.

- A. No unauthorized person(s) shall uncover, make any connections with or opening into, use, alter or disturb any public sewer or appurtenance thereof, without first obtaining a building permit from the Planning & Zoning Board.
- B. All costs and expenses incidental to the installation and connection of the building sewer shall be borne by the owner(s). The owner(s) shall indemnify the Town from any loss or damage that may directly be occasioned by the installation of the building sewer.

- C. A separate and independent building sewer shall be provided for every building; except where one (1) building stands at the rear of another on an interior lot and no sewer is available or can be constructed to the rear building through an adjoining alley, court, yard or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one (1) building sewer, but the Town does not and will not assume any obligation or responsibility for damage caused by or resulting from any such single connection before mentioned.
- D. Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the Utility Manager, to meet all requirements of this Ordinance.
- E. The size, slope, alignment, materials of construction of all sanitary sewers including building sewers, and the methods to be used in excavating, placing of the pipe, jointing, testing and backfilling the trench, shall all conform to the requirements of the building and plumbing code or other applicable rules and regulations of the Town. In the absence of suitable code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the A.S.T.M. and W.P.C.F. Manual of Practice No. 9 shall apply.
- F. Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all building in which any building drains too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer.
- G. No person(s) shall make connection of roof down spouts, foundation drains, or other sources of surface runoff or ground water to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer unless such connection is approved by the Planning & Zoning Board for purposes of disposal of polluted surface drainage.
- H. The connection of the building sewer into the public sewer shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the Town, or the procedures set forth in appropriate specifications of the A.S.T.M. and the W.P.C.F. Manual Practice No. 9. All such connections shall be made gas tight and watertight and verified by proper testing. Any deviation from the prescribed procedures and materials must be approved by the Planning & Zoning Board before installation.
- I. The application for the building permit shall notify the Utility Manager when the building sewer is ready for inspection and connection to the public sewer. The connection and testing shall be made under the supervision or the Utility Manager or his representative.
- J. All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the Town.

All excavations required for the installation of a building sewer shall be by open trench unless otherwise approved by the Utility Manager. No backfill shall be placed until the work has been inspected by the Utility Manager. Backfill shall be compacted to a density at least equal to that of the adjacent subgrade.

8.0305 Use of Public Sewers.

- A. No person(s) shall discharge or cause to be discharged any unpolluted waters such as storm water, surface water, groundwater, roof runoff, subsurface drainage or cooling water to any sewer, except storm water runoff from limited areas, which storm water may be polluted at times, may be discharged to the sanitary sewer by permission of the Superintendent.
- B. Storm water other than that exempted under 8.0305 (A), and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as combined sewers or storm sewers, or to a natural outlet approved by the Utility Manager and other regulatory agencies. Unpolluted industrial cooling water or process waters may be discharged, on approval of the superintendent, to a storm sewer, combined sewer or natural outlet.
- C. No person(s) shall discharge or cause to be discharged any of the following described water or wastes to any public sewers:
 - 1. Any gasoline, benzene, naphtha, fuel oil or other flammable or explosive liquid, solid or gas;
 - 2. Any waters containing toxic or poisonous solids, liquids or gases in sufficient quantity, either singly or by interaction with other wastes to contaminate the sludge of any municipal system, to injure or interfere with any sewage treatment process, constitute a hazard in or have an adverse effect on the waters receiving any discharge from the treatment works;
 - 3. Any waters or wastes having a pH lower than 5.5, or having any other corrosive property capable of causing damage or hazard to structures, equipment and personnel of the wastewater works.
 - 4. Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the wastewater facilities such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, ungrounded garbage, whole blood, paunch manure, hair and fleshing entrails and paper dishes, cups, milk containers, etc. either while or ground by garbage grinders.
- D. The following described substances, materials, waters or waste shall be limited in discharges to municipal systems to concentrations or quantities which will not harm the sewers, wastewater treatment process or equipment, will not have an adverse effect on the receiving stream, or will not otherwise endanger lives, limb, public property, or constitute a nuisance. The Utility Manager may set limitations lower than the limitations established in the regulations below if in

his opinion such more severe limitations are necessary to meet the above objectives. In forming his opinion as to the acceptability the Utility Manager will give consideration to such factors as the quantity of subject waste in relation to flows and velocities in the sewers, materials of construction of the sewers, the wastewater treatment plant, and degree of treatability of the waste in the wastewater treatment plant, and other pertinent factors. The limitations or restrictions on materials or characteristics of waste or wastewater discharged to the sanitary sewer which shall not be violated without approval of the Utility Manager are as follows:

1. Wastewater having a temperature higher than one hundred fifty (150) degrees Fahrenheit (sixty-five (65) degrees Celsius).
 2. Wastewater containing more than twenty-five (25) milligrams per liter of petroleum oil, non-biodegradable cutting oils, or product of mineral oil origin.
 3. Wastewater from industrial plants containing floatable oils, fat or grease.
 4. Any garbage that has not been properly shredded (see 8.0301 (K)). Garbage grinders may be connected to sanitary sewers from homes, hotels, institutions, restaurants, hospitals, catering establishments or similar places where garbage originates from the preparation of food in kitchens for the purpose of consumption on the premises or when served by caterers.
 5. Any waters or wastes containing iron, chromium, copper, zinc and similar objectionable or toxic substances to such degree that any such material received in the composite wastewater at the wastewater treatment works exceeds the limits established by the Utility Manager for such materials.
 6. Any waters or wastes containing odor-producing substances exceeding limits, which may be established by the Utility Manager.
 7. Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Utility Manager in compliance with applicable state or federal regulations.
 8. Quantities of flow, concentrations or both which constitute a 'slug' as defined herein.
 9. Waters or wastes containing substances which are not amenable to treatment or reduction by the wastewater treatment processes employed, or are amenable to treatment only to such degree that the wastewater treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.
- E. If any waters or wastes are discharged, or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in 8.0305 (D), and which in the judgment of the

Utility Manager, may have a deleterious effect upon the wastewater facilities, processes, equipment or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the Utility Manager may:

1. Reject the wastes;
 2. Require pretreatment to an acceptable condition for discharge to the public sewers;
 3. Require control over the quantities and rates of discharge; and/or
 4. Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges under the provisions of 8.0305 (J) of this Chapter. When considering the above alternative the Utility Manager shall give consideration to the economic impact of each alternative on the discharger. If the Utility Manager permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the Utility Manager.
- F. Grease, oil and sand interceptors shall be provided when, in the opinion of the superintendent, they are necessary for the proper handling of liquid wastes containing floatable grease in excessive amounts as specified in 8.0305 (D (3)), or any flammable wastes, sand or other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the Utility Manager, and shall be located as to be readily and easily accessible for cleaning and inspection. In the maintaining of these interceptors the owner(s) shall be responsible for the proper removal and disposal by appropriate means of the captivated material and shall maintain records of the dates, and means of disposal, which are subject to review by the Utility Manager. Any removal and hauling of the collected materials not performed by owner(s) personnel must be performed by currently licensed waste disposal firms.
- G. Where pretreatment or flow-equalizing facilities are provided or required for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner(s) at his expense.
- H. When required by the Town Board, the owner(s) of any property serviced by a building sewer carrying industrial wastes shall install a suitable structure together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling and measurement of the wastes. Such structured, when required, shall be accessibly and safely located, and shall be constructed in accordance with plans approved by the Town Board. The structure shall be installed by the owner at his expense, and shall be maintained by him so as to be safe and accessible at all times.
- I. The Town Board may require a user of sewer services to provide information needed to determine compliance with this Ordinance. These requirements may include:

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

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

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

8.0306 Prohibited Acts. No person(s) shall maliciously, willfully or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment, which is a part of the wastewater facilities. Any person(s) violating this provision shall be subject to immediate arrest under charge of disorderly conduct.

8.0307 Powers and Authority of Inspectors.

A. The Utility Manager and other duly authorized employees of the Town bearing proper credentials and identification shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling and testing pertinent to discharge to the community system in accordance with the provisions of this Ordinance.

B. The Utility Manager or other duly authorized employees are authorized to obtain information concerning industrial processes, which have a direct bearing on the kind and source of discharge to the wastewater collection system. The industry must establish that the revelation to the public of the information in question might result in an advantage to competitors.

- C. While performing the necessary work on private properties referred to in 8.0307 (A), above, the Utility Manager or duly authorized employees of the Town shall observe all safety rules applicable to the premises established by the company, and the company shall be held harmless for injury or death to the Town employees, and the Town shall indemnify the company against loss or damage to its property by Town employees and against liability claims and demands for personal injury or property damage asserted against the company growing out of the gauging and sampling operation, except as such any be caused by negligence or failure of the company to maintain safe conditions as required in 8.0305 (H).
- D. The Utility Manager and other duly authorized employees of the Town bearing proper credentials and identification shall be permitted to enter all private properties through which the Town holds a duly negotiated easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair and maintenance of any portion of the wastewater facilities lying within said easement. All entry and subsequent work, if any, on said easement, shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

8.0308 Penalties.

- A. Any person found to be violating any provision of this Ordinance except 8.0306 shall be served by the Town with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.
- B. Any person who shall continue any violation beyond the time limit provided for in 8.0308 (A), shall be guilty of a misdemeanor, and on conviction thereof shall be fined in the amount not exceeding one hundred (100) dollars for each violation. Each day in which any such violation shall continue shall be deemed a separate offense.
- C. Any person violating any of the provisions of this Ordinance shall become liable to the Town for any expense, loss or damage occasioned the Town by reason of such violation.

8.0309 Validity. All Ordinances or parts of Ordinances in conflict herewith are hereby repealed. The invalidity of any section, clause, sentence or provision of this Ordinance shall not affect the validity of any other part of this Ordinance, which can be given effect without such invalid part or parts.

CHAPTER 8.04 – SEWER AND WATER RATES

8.0401 Purpose. The purpose of this Ordinance shall be to generate sufficient revenue to pay all costs for the operation and maintenance of the complete wastewater system. The costs shall be distributed to all users of the system in proportion to each user's contribution to the total loading of the treatment works. Factors such as strength (BOD and TSS), volume and delivery flow rate characteristics shall be considered

and included as the basis for the user's contribution to ensure a proportional distribution of operation and maintenance costs to each user.

8.0402 Determining the Total Annual Cost of Operation and Maintenance. The Town Board shall determine the total annual costs of operation and maintenance of the wastewater system, which are necessary to maintain the capacity and performance, during the service life of the treatment works, for which such works were designed and constructed. The total annual cost of operation and maintenance shall include, but not be limited to, labor, repairs, equipment replacement, maintenance, necessary modifications, power, sampling, laboratory test and a reasonable contingency fund.

8.0403 Wastes Prohibited From Being Discharged to the Wastewater Treatment System. The discharge of any waters containing toxic or poisonous solids, liquids or gases in sufficient quantity, either singly, or by interaction with other wastes, to contaminate the sludge of any municipal systems, or to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create a hazard in or have an adverse effect on the waters receiving any discharge from the treatment works is hereby prohibited.

Each user which discharges any toxic pollutants which cause an increase in the cost of managing the effluent or the sludge of the sanitary sewer treatment works shall pay for such increased costs.

8.0404 Prohibition of Clear Water Connections. No person shall make a connection of roof down spouts, exterior foundation drains, areaway drains, sump pumps, or other sources of surface runoff or groundwater to a building sewer or building drain, which in turn is connected directly or indirectly to a public sanitary sewer.

8.0405 Rates and Deposits.

A. Establishment of Rates. The utility rates shall be established by Resolution of the Town Board and kept on file in the office of the Town Finance Officer. Rates may be modified at any time during the year and shall be effective on the first day of the billing cycle following the effective date of the Resolution. The utility meter rates shall be structured to provide sufficient funds to cover the following costs:

1. Cost of current operation and maintenance.
2. Amounts necessary for working capital.
3. Amounts necessary to make payments of principal and interest on all obligations.
4. Amounts necessary for a reasonable reserve for depreciation, and which shall be used solely to pay for capital improvements necessary to off-set current depreciation.
5. Amounts necessary to fund a reserve account.
6. Amounts necessary to fund a surplus account.

B. Deposits. All revenue collected from the utility shall be deposited into such utility account pursuant to and in conformance with the Municipal Accounting Standards published by the Department of Legislative Audit.

8.0406 Validity. All Ordinances or parts of Ordinances in conflict herewith are hereby repealed. The invalidity of any section, clause, sentence or provision of this Ordinance shall not affect the validity of any other part of this Ordinance, which can be given effect without such invalid part or parts.

TITLE 9 – NATURAL GAS

CHAPTER 9.01 – Natural Gas Board

CHAPTER 9.02 – Natural Gas Provisions

CHAPTER 9.01 – NATURAL GAS BOARD

- 9.0101 Created. There is hereby created a municipal natural gas board, which shall be referred to as the Natural Gas Board.
- 9.0102 Composition. The Natural Gas Board shall consist of five (5) members appointed by the Mayor and approved by the Town Board. The term of each appointed member shall be for five (5) years. All vacancies occurring on said Board during the term of office shall be filled for the unexpired term in the manner original appointments are made.
- 9.0103 President of the Board. The Board shall adopt rules for its own proceedings which shall provide, among other things, for at least one (1) regular meeting by such Board each month. At the first regular meeting and annually thereafter at its meeting in May it shall choose a President and a Vice President from among its own members.
- 9.0104 Removal. The members of the Natural Gas Board shall be removable during their respective terms of office only under the provisions of SDCL Chapter 3-17.
- 9.0105 Compensation. The members of the Natural Gas Board are to be allowed compensation as set by resolution, which shall be paid in such installments as may be determined by the Town Board (SDCL 9-14-28).
- 9.0106 Powers.
- A. The Board shall have the power to extend, modify or rebuild the natural gas utility under its management and control, and to do anything such Board deems necessary for the proper and efficient operation of such utility. Said Board may enter necessary Contracts for these purposes. The provisions of *S.D.C.L. Chapter 5-18* relating to advertisement for bids and *S.D.C.L. §§6-1-1 to 6-1-4*, inclusive, relative to participation in contracts by members of the governing body, shall apply to contracts of and members of municipal utility boards.
 - B. The Board shall have the power to purchase wholesale gas.
 - C. The Board shall have the power to fix reasonable rates and to adopt reasonable rules and regulations for natural gas service supplied by the municipality within the limits provided by the statutes of this state.
 - D. Nothing herein is to be construed as vesting any power or powers in any such Board or in the town beyond the powers now vested in municipal corporations relative to the management and control of utilities.

9.0107 Finance. A separate fund or a separate account shall be established in the Town Treasury for each utility. Into this fund or account shall be paid all receipts from the utility and from it shall be paid all disbursements attributable to the utility. The Board shall comply with all state and federal laws in the operation of its finances.

9.0108 Reports. The Board shall give an oral report to the Town Board monthly.

CHAPTER 9.02 – NATURAL GAS PROVISIONS

9.0201 Definitions. The following terms shall mean:

- A. Appliance Installation - The act of installing fixtures, equipment and apparatus of less than 60,000 BTU hourly input, using natural or artificial gas, where not more than ten (10) feet of piping is needed to connect the fixtures, equipment or apparatus.
- B. Appliance Installation Contractor - Any person engaged in the business of appliance installation in connection with the installation of gas appliances, apparatus, fixture, fittings, materials and/or supplies in or in connection with any building or structure.
- C. Appliance Installer - Any person who by their knowledge, training and experience is qualified to do appliance installation.
- D. Gas Company - The Humboldt Municipal Gas Utility, its successors or assigns.
- E. Gasfitters - Any person who by their knowledge, training and experience is qualified to do gasfitting and is in direct charge of making gas installations.
- F. Gasfitting - The act of installing fixtures, equipment and apparatus for transporting and using natural gas and includes the venting of gas fixtures where required.
- G. Gasfitting Contractor - Any person engaged in the business of gasfitting in connection with the installation of gas appliances, apparatus, fixtures, fittings, materials and/or supplies, in or in connection with any building or structure or to serve any building or structure with natural gas.

9.0202 Utility Service - Application Required. Any person desiring any utility service furnished by the Town, including water or sewer service shall make application for the same to the Town Finance Officer. Such application shall contain the applicant's name, address and the use(s) for which such service is desired. A separate application shall be made for each premise to be served. The applicant shall abide by the rules and regulations established by the Town Board relative to utility service in effect at the time of such application and as they may be revised from time to time in addition to conditions and agreements as the Town Board shall deem advisable.

9.0203 Utility Deposits. All utility users shall make a deposit as follows before utility services will be connected in the amount of seventy-five (75) dollars. Fifty (50) dollars of said deposit will be held in trust until service has been discontinued at

which time deposits will be refunded or used to pay the final bill. If the account is closed within sixty (60) days of opening the deposit will be forfeited.

Fifty (50) dollars of said deposit may also be refunded prior to discontinuing service after five (5) years of good service and timely payments.

- 9.0205 Gas Meters. All natural gas services being supplied from the distributions systems of the Town shall be provided with a meter of a kind, size and type meeting the approval of the Utility Manager. All meters must be procured from the Town or approved by the Town and installed by a duly authorized agent designated by the Town Board. The costs of the meter and installation are to be borne by the owner of the property upon which meter is to be installed.
- 9.0206 Sealing of Gas Meters. Upon installation of meters, the meters shall be sealed both at the register box and couplings with a form of seal designated by the Town Board. The seals shall not be broken except upon authority of the Town Board or its duly authorized agent. The residents of the property upon which meter is installed will be held responsible for the intactness of the seals and a fine will be imposed upon the residents of any property where the seal or seals may be found to be broken.
- 9.0207 Inspection of Meters. Any person authorized by the Town Board to read natural gas meters or make inspections shall be allowed free access at all reasonable hours to any building or premises where natural gas is used. If such persons are not allowed such access, the Town, in its discretion, may estimate the natural gas usage, make additional charges, or take other action not inconsistent with the law.
- 9.0208 Estimate of Natural Gas Charges. If any meter fails to register for any cause or can not be freely accessed, the amount charged for natural gas during such period shall be estimated by the Finance Officer, such estimate to be set at the discretion of the Natural Gas Board.
- 9.0209 Meter Reading. Meters will be read by parties designated by the Town Board and the meters must at all times be accessible for reading.
- 9.0210 Measurement. Measurement of natural gas shall be in accordance with methods used by the Town's supplier of gas.
- 9.0211 Meter Testing. Any consumer of natural gas provided by the Town shall have the right upon payment of a fee established by Resolution of the Town Board to have their gas meter tested to determine if it is within industrial acceptable limits of correctness, etc. Whenever any meter, upon being tested, shall be found to register incorrectly to the injury of the consumer, the fee paid by said consumer for such inspection shall be repaid to said consumer, and an adjustment shall be made for the period of the inaccuracy known. If the period of inaccuracy is not known, the adjustment shall be for the period since the meter was last tested but not to exceed six (6) months.
- 9.0212 Payment. Payment of all natural gas bills shall be due upon receipt by the consumer as set forth in Section 9.0213. Failure to pay by the consumer within the time specified shall result in penalties and termination of service as set forth in Section 9.0214 of the Humboldt Municipal Ordinances.

- 9.0213 Responsibility for Payment. The renter and/or owner of the property, where water, sewer and natural gas is supplied by the town, will be held responsible for the payment of all utility bills.
- 9.0214 Delinquent Bills: Procedures and Penalties. A billing shall be delinquent if payment is not received before the close of business on or before the fifteenth (15th) day for the month of billing at the Finance Office. If the fifteenth (15th) day of the month falls on a weekend or other day on which the Finance Office is closed for business, a billing shall be considered delinquent if payment is not received by the close of business on the next regular business day of the Finance Office immediately following the fifteenth (15th). If a billing is considered delinquent as hereinbefore set forth, a penalty of ten (10) dollars shall apply and be added to the next bill.

In addition to the penalties imposed above, the Town Finance Officer and/or Assistant and the Utility Manager shall take the following action with regard to delinquent billings:

- A. If payment is not received by the Finance Office as set above the Town Finance Officer or Assistant Finance Officer shall send a Notice on the next regular business day following the fifteenth (15th) to the consumer, and to the owner of the property, if requested by property owner, notifying them of the date of disconnection. The date of disconnection shall be ten (10) days from the date of notice.
- B. If payment of all utilities or arrangements for payment of all utilities is not made by the consumer or the owner, if such person be a different person than the consumer, the Utility Manager shall terminate utility service to the property as set forth in Section 8.0111. In cases where water service is not provided, the natural gas shall be disconnected. Such action shall not relieve the consumer or owner of the property of the duty to pay any delinquent amounts and penalties owed.
- C. In accordance with South Dakota Codified Law 34A-6-29 the Town of Humboldt may certify delinquent balance on past due utility bills not paid prior to September 30th plus interest, to the County Treasurer to be collected as assessments and will be collected by the County Treasurer in the following year as a condition precedent to the payments of the real property tax on the lot or parcel with respect to which the charge was made.

9.0215 Meters Read Monthly: Billing Procedure. Natural gas meters shall be read and billing for water, sewer and natural gas shall be handled as follows:

- A. All natural gas meters shall be read on or before the twenty-seventh (27th) of each month or as soon thereafter as may be practical.
- B. A billing shall be sent to consumers on or before the first (1st) day of the month immediately following the date the meters are read.
- C. Amounts shall be immediately due and payable upon receipt of the billing by the consumer.

- D. The billing shall be delinquent as set forth in Section 9.0214.
- 9.0216 Reconnection After Termination. In the event that any natural gas service is terminated and shut off for nonpayment of a bill, every property owner shall have the right to have the same reconnected only upon the payment of the amount due, and in addition to a reconnection fee of fifty (50) dollars.
- 9.0217 Voluntary Discontinuance of Service. Persons wishing to discontinue the use of utility service shall give a five (5) day notice thereof to the Finance Officer. Failure to do so shall render them liable for the payment of all bills until such notice has been given.
- 9.0218 Interruption of Service. The users of any utility service furnished by the Town may be notified the supply of any utility may be temporarily shut off at any time. Notice shall be given, if feasible, of the contemplated shut off and immediately upon finding the supply shut off it becomes the duty of the premises to take prompt precautions to prevent damages.
- 9.0219 Restricting Use. The Town Board reserves the rights to at any time restrict or prevent the use of any utility service furnished by the Town during periods of emergency or circumstances demanding such restriction or prevention of use.
- 9.0220 Rates and Deposits.
- A. Establishment of Rates. The utility rates shall be established by Resolution of the Town Board and kept on file in the office of the Town Finance Officer. Rates may be modified at any time during the year and shall be effective on the first day of the billing cycle following the effective date of the Resolution. The utility meter rates shall be structured to provide sufficient funds to cover the following costs:
1. Cost of current operation and maintenance.
 2. Amounts necessary for working capital.
 3. Amounts necessary to make payments of principal and interest on all obligations.
 4. Amounts necessary for a reasonable reserve for depreciation, and which shall be used solely to pay for capital improvements necessary to off-set current depreciation.
 5. Amounts necessary to fund a reserve account.
 6. Amounts necessary to fund a surplus account.
- B. Deposits. All revenue collected from the utility shall be deposited into such utility account pursuant to and in conformance with the Municipal Accounting Standards published by the Department of Legislative Audit.
- 9.0221 Owner Responsible for Costs. Cost shall be as follows:

- A. In Town New Services - Humboldt Municipal Natural Gas Utility will pay the first four hundred thirty (430) dollars of any new natural gas service. Any costs above the initial amount paid by the Humboldt Municipal Natural Gas Utility are the responsibility of the property owner. Total cost per service installation is negotiated annually through Northwestern Energy.
- B. On-Route New Services - All costs will be the responsibility of the property owner.

9.0222 Use Assumed. All premises connected to any natural gas service of the Town shall be assumed to be using such service and the owner or occupant shall be charged therefore as long as such premises shall remain connected to the natural gas service of the Town with a minimum charge of twelve (12) dollars per month.

9.0223 Permanent Disconnection of Service. Permanent disconnection of service can be obtained by having the service line removed at the owner's expense. The cost is two hundred (200) dollars.

TITLE 10 – PLANNING, ZONING AND BUILDING REGULATIONS

CHAPTER 10.01 – Planning Commission

CHAPTER 10.02 – Zoning and Subdivision Regulations

CHAPTER 10.03 – Building Code

CHAPTER 10.04 – Flood Damage Prevention

CHAPTER 10.01 – PLANNING COMMISSION

10.0101 Created. There shall be created planning and zoning commission, which shall be referred to as the Planning Commission.

10.0102 Composition. The Planning Commission shall consist of five (5) members appointed by the Town Board. Administrative officials of the Town may be appointed as ex-officio members of the Planning Commission. Members shall serve five-year terms.

At the first regular meeting and annually thereafter at its meeting in May it shall choose a President and Vice President from among its own members. The Planning Commission shall hold one regular meeting each month and such additional meetings as called by the Chairman or Authorized Official. The Planning Commission shall adopt rules for the transaction of business and keep a record of its actions, which shall be a public record.

10.0103 Powers and Duties. The Planning Commission, its members and employees, shall have all such powers as may be necessary to enable it to perform its functions, promote planning and carry out all the purposes and powers enumerated in SDCL 11-4 and 11-6 and acts amendatory thereof.

10.0104 Preparation of Comprehensive Plan. It shall be the duty of the Planning Commission to prepare a comprehensive plan for the development of the Town, including making or causing to be made careful and comprehensive studies of present conditions and future growth of the Town, including any land outside the Town, which bears relation to the comprehensive plan. The comprehensive plan shall be made with the general purpose of guiding and accomplishing coordinated and harmonious development of the Town and its environment. The comprehensive plan shall be put forth to the Town Board for approval.

No amendment to such adopted comprehensive plan shall be made without such proposed change first being submitted to the Planning Commission for its recommendation.

10.0105 Zoning and Subdivision Regulations. It shall be the duty of the Planning Commission to recommend the boundaries of zoning districts and appropriate regulations to be enforced therein, in accordance with the comprehensive plan. The Planning Commission shall prepare regulations governing land uses, building or setback lines within the municipality in accordance with 11-4 and 11-6. All applications and proposals for changes in or amendments to the zoning regulations

shall first be submitted to the Planning Commission for its recommendations before approval by the Town Board.

It shall be the duty of the Planning Commission to recommend regulations governing the subdivision of land within its jurisdiction. No amendments or changes there to shall be made without recommendation by the Planning Commission. All plans, plats, or re-plats of subdivisions of land within the jurisdiction of this Ordinance, or amendments to the regulations, shall first be submitted to the Planning and Zoning Commission for its recommendation before approval by the Town Board.

CHAPTER 10.02 – ZONING AND SUBDIVISIONS REGULATIONS (See Appendix I and II)

CHAPTER 10.03 – BUILDING CODE

10.0301 Adoption. There is adopted by the town those certain codes known as the International Building Code, 2006 edition, and the International Residential Code, 2006 edition, as published by the International Code Council. The minimum building standards in the 2006 edition of the International Building Code and the 2006 edition of the International Residential Code and amendments thereto shall be applied to any building permit issued after November 4, 2009.

A copy of the 2006 International Building Code and the 2006 International Residential Code as adopted is on file with the Finance Officer.

CHAPTER 10.04 – FLOOD DAMAGE PREVENTION

10.0401 Statutory Authorization. The Legislature of the State of South Dakota has in SDCL 9-36 delegated the responsibility of local governmental units to adopt regulations designed to minimize flood losses. Therefore, the Town Board of Humboldt, South Dakota, does ordain as follows:

The Town of Humboldt elects to comply with the requirements of the National Flood Insurance Act of 1968 (P.L. 90-488, as amended). The National Flood Insurance Program, established in the aforesaid act, provides that areas of the town having a special flood hazard be identified by the Federal Emergency Management Agency and that floodplain management measures be applied in such flood hazard areas. The National Flood Insurance Program was broadened and modified with the passage of the Flood Disaster Protection Act of 1973 and other legislative measures. It was further modified by the National Flood Insurance Reform Act of 1994. The National Flood Insurance Program is administered by the Federal Emergency Management Agency, a component of the U.S. Department of Homeland Security.

10.0402 Findings of Fact.

A. The flood hazard areas of Humboldt are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of

commerce and governmental services, and extraordinary public expenditures for flood protection and relief, all of which adversely affect the public health, safety and general welfare.

- B. These flood losses are created by the cumulative effect of obstructions in floodplains which cause an increase in flood heights and velocities, and by the occupancy of flood hazards area by uses vulnerable to floods and hazardous to other lands because they are inadequately elevated, floodproofed or otherwise protected from flood damage.

10.0403 Statement of Purpose. It is the purpose of this Chapter to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- A. Protect human life and health;
- B. Minimize expenditure of public money for costly flood control projects;
- C. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- D. Minimize prolonged business interruptions;
- E. Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains;
- F. Help maintain a stable tax base by providing for the sound use and development of flood-prone areas in such a manner as to minimize future flood blight areas; and
- G. Ensure that potential buyers are notified that property is in a flood area.

10.0404 Methods of Reducing Flood Losses. In order to accomplish its purposes, this Chapter uses the following methods:

- A. Restrict or prohibit uses that are dangerous to health, safety or property in times of flood, or cause excessive increases in flood heights or velocities;
- B. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- C. Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of flood waters;
- D. Control filling, grading, dredging and other development which may increase flood damage;
- E. Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.

10.0405 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 its most reasonable application.

- A. **ALLUVIAL FAN FLOODING** - means flooding occurring on the surface of an alluvial fan or similar landform which originates at the apex and is characterized by high-velocity flows; active processes of erosion, sediment transport, and deposition; and unpredictable flow paths.
- B. **APEX** - means a point on an alluvial fan or similar landform below which the flow path of the major stream that formed the fan becomes unpredictable and alluvial fan flooding can occur.
- C. **AREA OF SHALLOW FLOODING** - means a designated AO, AH, or VO zone on a community's Flood Insurance Rate Map (FIRM) with a one percent chance or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.
- D. **AREA OF SPECIAL FLOOD HAZARD** - is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. The area may be designated as Zone A on the Flood Hazard Boundary Map (FHBM). After detailed ratemaking has been completed in preparation for publication of the FIRM, Zone A usually is refined into Zones A, AE, AH, AO, A1-99, VO, V1-30, VE or V.
- E. **BASE FLOOD** - means the flood having a one percent chance of being equaled or exceeded in any given year.
- F. **BASE FLOOD ELEVATION** - Is the water surface elevation of the one (1) percent annual chance flood. The height in relation to mean sea level expected to be reached by the waters of the base flood at pertinent points in the floodplains of coastal and riverine areas.
- G. **BASEMENT** - means any area of the building having its floor subgrade (below ground level) on all sides.
- H. **CRITICAL FEATURE** - means an integral and readily identifiable part of a flood protection system, without which the flood protection provided by the entire system would be compromised.
- I. **DEVELOPMENT** - means any man-made change in improved and unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.
- J. **ELEVATED BUILDING** - means a non-basement building (i) built, in the case of a building in Zones A1-30, AE, A, A99, AO, AH, B, C, X, and D, to have the top of the elevated floor, or in the case of a building in Zones V1-30,

VE, or V, to have the bottom of the lowest horizontal structure member of the elevated floor elevated above the ground level by means of pilings, columns (posts and piers), or shear walls parallel to the flow of the water and (ii) adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. In the cases of Zones A1-30, AE, A, A99, AO, AH, B, C, X, and D, “elevated building” also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters. In the case of Zones V1-30, VE, or V, “elevated building” also includes a building otherwise meeting the definition of “elevated building,” even though the lower area is enclosed by means of breakaway walls if the breakaway walls met the standards of Section 60.3(e)(5) of the National Flood Insurance Program regulations.

- K. **EXISTING CONSTRUCTION** - means for the purposes of determining rates, structures for which the “start of construction” commenced before the effective date of the FIRM or before January 1, 1975, for FIRMs effective before that date. “Existing construction” may also be referred to as “existing structures.”

- L. **EXISTING MANUFACTURED HOME PARK OR SUBDIVISION** - means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

- M. **EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION** - means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufacturing homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

- N. **FLOOD OR FLOODING** - means a general and temporary condition of partial or complete inundation of normally dry land areas from:
 - 1. The overflow of inland or tidal waters.
 - 2. The unusual and rapid accumulation or runoff of surface waters from any source.

- O. **FLOOD HAZARD BOUNDARY MAP (FHBM)** - means an official map of a community, issued by the Administrator, where the boundaries of the flood, mudslide (i.e., mudflow) related erosion areas having special hazards have been designated as Zones A, M, and/or E.

- P. **FLOOD INSURANCE RATE MAP (FIRM)** - means an official map of a community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

- Q. **FLOOD INSURANCE STUDY** - is the official report provided by the Federal Emergency Management Agency. The report contains flood profiles, water surface elevation of the base flood, as well as the Flood Boundary-Floodway Map.
- R. **FLOODPLAIN OR FLOOD-PRONE AREA** - means any land area susceptible to being inundated by water from any source (see definition of flooding).
- S. **FLOODPLAIN MANAGEMENT** - means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and floodplain management regulations.
- T. **FLOODPLAIN MANAGEMENT REGULATIONS** - means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as floodplain ordinance, grading ordinance and erosion control ordinance) and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.
- U. **FLOOD PROTECTION SYSTEM** - means those physical structural works for which funds have been authorized, appropriated, and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the area within a community subject to a "special flood hazard" and the extent of the depths of associated flooding. Such a system typically includes hurricane tidal barriers, dams, reservoirs, levees or dikes. These specialized flood modifying works are those constructed in conformance with sound engineering standards.
- V. **FLOOD PROOFING** - means any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.
- W. **FLOODWAY (REGULATORY FLOODWAY)** - means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.
- X. **FUNCTIONALLY DEPENDENT USE** - means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.
- Y. **HIGHEST ADJACENT GRADE** - means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.
- Z. **HISTORIC STRUCTURE** - means any structure that is:

1. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
3. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior; or
4. Individually listed on a local inventory or historic places in communities with historic preservation programs that have been certified either:
 - a. By an approved state program as determined by the Secretary of the Interior or;
 - b. Directly by the Secretary of the Interior in states without approved programs.

- AA. **LEVEE** - means a man-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water so as to provide protection from temporary flooding.
- BB. **LEVEE SYSTEM** - means a flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.
- CC. **LOWEST FLOOR** - means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking or vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; **provided** that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirement of Sec. 60.3 of the National Flood Insurance Program regulations.
- DD. **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 connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle".
- EE. **MANUFACTURED HOME PARK OR SUBDIVISION** - means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

- FF. **MEAN SEA LEVEL** - means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.
- GG. **NEW CONSTRUCTION** - means, for the purpose of determining insurance rates, structures for which the “start of construction” commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, “new construction” means structures for which the “start of construction” commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.
- HH. **NEW MANUFACTURED HOME PARK OR SUBDIVISION** - means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.
- II. **RECREATIONAL VEHICLE** - means a vehicle which is:
1. Built on a single chassis;
 2. 400 square feet or less when measured at the largest horizontal projections;
 3. Designed to be self-propelled or permanently towable by a light duty truck; and
 4. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.
- JJ. **START OF CONSTRUCTION** - (for other than new construction or substantial improvements under the Coastal Barrier Resources Act (Pub. L. 97-348)), includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main

structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

KK. STRUCTURE - means a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

LL. SUBSTANTIAL DAMAGE - means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

MM. 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 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, or safety code specifications which have been identified by the local code enforcement official 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.”

NN. VARIANCE - means a grant of relief to a person from the requirement of this ordinance when specific enforcement would result in unnecessary hardship. A variance, therefore, permits construction or development in a manner otherwise prohibited by this ordinance.

OO. VIOLATION - means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in Section 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided.

PP. WATER SURFACE ELEVATION - means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929 (or other datum, where specified), of floods of various magnitudes and frequencies in the floodplains of riverine areas.

10.0406 Lands to Which This Chapter Applies. The Chapter shall apply to all areas of special flood hazard within the jurisdiction of the Town of Humboldt.

10.0407 Basis for Establishing the Areas of Special Flood Hazard. Since areas of special flood hazard have not been identified, water surface elevations have not been

provided, nor has sufficient data identifying the floodway or coastal high hazard area been provided by the Federal Emergency Management Agency (FEMA), the community shall obtain, review, and reasonably utilize data available from other Federal, State or other sources.

- 10.0408 Establishment of Development Permit. A Development Permit shall be required to ensure conformance with the provisions of this Chapter.
- 10.0409 Compliance. No structure or land shall hereafter be located, altered, or have its use changed without full compliance with the terms of this Chapter and other applicable regulations.
- 10.0410 Abrogation and Greater Restrictions. This Chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Chapter and another Chapter, ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.
- 10.0411 Interpretation. In the interpretation and application of this Chapter, all provisions shall be:
- A. Considered as minimum requirements;
 - B. Liberally construed in favor of the governing body; and
 - C. Deemed neither to limit nor repeal any other powers granted under State statutes.
- 10.0412 Warning and Disclaimer or Liability. The degree of flood protection required by this Chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. On rare occasions greater floods can and will occur and flood heights may be increased by man-made or natural causes. This Chapter does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This Chapter shall not create liability on the part of the community or any official or employee thereof for any flood damages that result from reliance on this Chapter or any administrative decision lawfully made thereunder.
- 10.0413 Designation of the Floodplain Administrator. The Finance Officer is hereby appointed the Floodplain Administrator to administer and implement the provisions of this Chapter and other appropriate sections of 44 CFR (National Flood Insurance Program Regulations) pertaining to floodplain management.
- 10.0414 Duties and Responsibilities of the Floodplain Administrator. Duties and responsibilities of the Floodplain Administrator shall include, but not be limited to, the following:
- A. Maintain and hold open for public inspection all records pertaining to the provisions of this Chapter.

- B. Review permit application to determine whether proposed construction or other development, including the placement of manufactured homes, will be reasonably safe from flooding.
- C. Review, approve or deny all applications for development permits required by adoption of this Chapter.
- D. Review permits for proposed development to assure that all necessary permits have been obtained from those Federal, State or local governmental agencies (including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334) from which prior approval is required.
- E. Where interpretation is needed as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the Floodplain Administrator shall make the necessary interpretation.

10.0415 Permit Procedures. Application for a Development Permit shall be presented to the Floodplain Administrator on forms furnished by him/her and may include, but not be limited to, plans in duplicate drawn to scale showing the location, dimensions, and elevation of proposed landscape alterations, existing and proposed structures, including the placement of manufactured homes, and the location of the foregoing in relation to areas of special flood hazard. Additionally, the following information is required:

- A. Elevation (in relation to mean sea level), of the lowest floor (including basement) of all new and substantially improved structures;
- B. Elevation in relation to mean sea level to which any nonresidential structure shall be floodproofed;
- C. A certificate from a registered professional engineer or architect that the nonresidential floodproofed structure shall meet the floodproofing criteria of Section 10.0418 (B);
- D. Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development.
- E. Maintain a record of all such information in accordance with Section 10.0414 (A).

Approval or denial of a Development Permit by the Floodplain Administrator shall be based on all of the provisions of this Chapter and the following relevant factors:

- A. The danger to life and property due to flooding or erosion damage;
- B. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
- C. The danger that materials may be swept onto other lands to the injury of others;

- D. The compatibility of the proposed use with existing and anticipated development;
- E. The safety of access to the property in times of flood for ordinary and emergency vehicles;
- F. The costs of providing governmental services during and after flood conditions including maintenance and repair of streets and bridges, and public utilities and facilities such as sewer, gas, electrical and water systems;
- G. 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;
- H. The necessity to the facility of a waterfront location, where applicable;
- I. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
- J. The relationship of the proposed use to the comprehensive plan for that area.

10.0416 Variance Procedures.

- A. The Appeal Board, which shall be the Town Board, shall hear and render judgment on requests for variances from the requirements of this Chapter.
- B. The Appeal Board shall hear and render judgment on an appeal only when it is alleged there is an error in any requirement, decision, or determination made by the Floodplain Administrator in the enforcement or administration of this Chapter.
- C. Any person or persons aggrieved by the decision of the Appeal Board may appeal such decision in the courts of competent jurisdiction.
- D. The Floodplain Administrator shall maintain a record of all actions involving an appeal and shall report variances to the Federal Emergency Management Agency and the State Office of Emergency Management upon issuing a variance.
- E. 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 the relevant factors in Section 10.0415 of this Chapter have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
- F. Upon consideration of the factors noted above and the intent of this Chapter, the Appeal Board may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this Chapter (Section 10.0403).

- G. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- H. Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
- I. Prerequisites for granting variances:
 - 1. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
 - 2. Variances shall only be issued upon:
 - a. showing a good and sufficient cause;
 - b. a determination that failure to grant the variance would result in exceptional hardship to the applicant, and
 - c. a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
 - 3. Any application to whom a variance is granted shall be given written notice that the structure will be permitted to be built with the lowest floor elevation below the base flood elevation, and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.
- J. Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that:
 - 1. The criteria outlined in Section 10.0416 (A)-(H) are met, and
 - 2. The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

10.0417 Provisions for Flood Hazard Reduction.

- A. General Standards. In all areas of special flood hazards the following provisions are required for all new construction and substantial improvements:
 - 1. All new construction or substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse or

lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;

2. All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;
3. All new construction or substantial improvements shall be constructed with materials resistant to flood damage;
4. All new construction or 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.
5. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
6. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharge from the systems into flood waters; and,
7. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

10.0418 Standards for Subdivision Proposals.

- A. All subdivision proposals including the placement of manufactured home parks and subdivisions shall be consistent with Sections 10.0402, 10.0403, and 10.0404 of this ordinance.
- B. All proposals for the development of subdivisions including the placement of manufactured home parks and subdivisions shall meet Development Permit requirements of Section 10.0408; Section 10.0415; and the provisions of Section 10.0417 and Section 10.0418 of this ordinance.
- C. All subdivision proposals including the placement of manufactured home parks and subdivisions shall have adequate drainage provided to reduce exposure to flood hazards.
- D. All subdivision proposals including the placement of manufactured home parks and subdivisions shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.

10.0419 Penalties for Noncompliance. No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this Chapter and other applicable regulations. Violation of the provisions of this Chapter by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall be punishable by a fine not to exceed the fine established by SDCL 22-6-2(2), by imprisonment not

exceeding thirty days, or by both the fine and imprisonment. Each day in which a violation of this Chapter continues shall constitute a separate offense. Nothing herein contained shall prevent the Town of Humboldt from taking such other lawful action as is necessary to prevent or remedy any violation.

10.0420 Severability. If any section, provision, or portion of this Chapter is adjudged unconstitutional or invalid by a court, the remainder of the Chapter shall not be affected.

TITLE 11 – TAXATION

CHAPTER 11.01 – Municipal Sales and Service Tax and Use Tax

CHAPTER 11.02 – Gross Receipts Tax

CHAPTER 11.01 – MUNICIPAL SALES AND SERVICE TAX AND USE TAX

- 11.0101 Purpose. The purpose of this Chapter is to provide additional needed revenue for the Town, by imposing a municipal retail sales and use tax pursuant to the powers granted to the municipality by the State of South Dakota, by SDCL10-52 entitled Uniform Municipal Non-Ad Valorem Tax Law, and acts amendatory thereto.
- 11.0102 Effective Date and Enactment of Tax. From and after the 1st day of January, 2006, there is hereby imposed as a municipal retail occupational sales and service tax upon the privilege of engaging in business a tax measured by two percent (2%) on the gross receipts of all persons engaged in business within the jurisdiction of the Town, who are subject to the South Dakota Retail Occupational Sales and Service Tax, SDCL 10-45 and acts amendatory thereto.
- 11.0103 Use Tax. In addition, there is hereby imposed an excise tax on the privilege of the use, storage and consumption within the jurisdiction of the Town of tangible personal or services purchased from and after the 1st day of January, 2006, at the same rate as the municipal sales and service tax upon all transactions or use, storage and consumption which are subject to the South Dakota Use Tax Act, SDCL 10-46, and acts amendatory thereto.
- 11.0104 Collection. Such tax is levied pursuant to authorization granted by SDCL 10-52 and acts amendatory thereto, and shall be collected by the South Dakota Department of Revenue and Regulation in accordance with the same rule 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.
- 11.0105 Interpretation. It is declared to be the intention of this Chapter and the taxes levied hereunder that the same shall be interpreted and construed in the same manner as all sections of the South Dakota Retail Occupational Sales and Service Act, SDCL 10-45 and acts amendatory thereto and the South Dakota Use Tax, SDCL 10-46 and acts amendatory thereto, and that this shall be considered a similar tax exempt for the same rate thereof to that tax.
- 11.0106 Penalty. Any person failing or refusing to make reports or payments prescribed by this Chapter and the rules and regulations relating to the ascertainment and collection of the tax herein levied shall be in violation of this Chapter. 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.

- 11.0107 Separability. If any provision of this Chapter is declared unconstitutional or the application thereof to any person or circumstances held invalid the constitutionality of the remainder of the Chapter and applicability thereof to other persons or circumstances shall not be affected thereby.

CHAPTER 11.02 – GROSS RECEIPTS TAX

- 11.0201 Purpose. The purpose of this Chapter is to provide additional needed revenue for the Town of Humboldt, Minnehaha County, South Dakota, by imposing a municipal gross receipts tax pursuant to the powers granted to the municipality by the State of South Dakota, by SDCL 10-52A, and acts amendatory thereto.
- 11.0202 Effective Date. From and after the first day of July, 2006, there is hereby imposed a municipal gross receipts tax of One Percent (1%) upon the gross receipts from the sale of leases or rentals of hotel, motel, campsites or other lodging accommodations within the Town of Humboldt for periods of less than twenty-eight (28) consecutive days, the sale of alcoholic beverages as defined in SDCL 35-1-1, establishments where the public is invited to eat, dine or purchase and carry out prepared food for immediate consumption, and ticket sales or admissions to places of amusement, athletic and cultural events. The tax applies to the gross receipts of all persons engaged in business within the jurisdiction of the Town of Humboldt, Minnehaha County, South Dakota, who are subject to the South Dakota Retail Occupational Sales and Service Tax, SDCL 10-45 and acts amendatory thereto.
- 11.0203 Collection. Such tax is levied pursuant to authorization granted by SDCL 10-52A and acts amendatory thereto, and shall be collected by the South Dakota Department of Revenue and Regulation in accordance with the same rules and regulations applicable to the State Sales Tax and under such additional rules and regulations as the Secretary of Revenue of the State of South Dakota shall lawfully prescribe.
- 11.0204 Interpretation. It is declared to be the intention of this Chapter and the taxes levied hereunder that the same shall be interpreted and construed in the same manner as all sections of the South Dakota Retail Occupational Sales and Service Act, SDCL 10-45 and acts amendatory thereto, and that this shall be considered a similar tax except for the rate thereof to that tax.
- 11.0205 Use of Revenue. Any revenues received under this Chapter may be used only for the purpose of land acquisition, architectural fees, construction costs, payment for civic center, auditoriums or athletic facility buildings, including the maintenance, staffing and operations of such facilities, and the promotion and advertising of the Town, its facilities, attractions and activities.
- 11.0206 Penalty. Any person failing or refusing to make reports or payments prescribed by this Chapter 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 five hundred dollars (\$500.00) or imprisoned 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, are hereby authorized for the collection of these excise taxes by the Department of Revenue.

11.0207 Separability. If any provision of this Chapter is declared unconstitutional or the application thereof to any person or circumstances held invalid, the constitutionality of the remainder of the Chapter and applicability thereof to other persons or circumstances shall not be affected thereby.

TITLE 12 – GENERAL PROVISIONS

CHAPTER 12.01 – Penalties and Repealing Clause

CHAPTER 12.01 – PENALTIES AND REPEALING CLAUSE

- 12.0101 Penalty in General. Except in cases where a different or additional penalty is imposed by this ordinance or by some existing provision of law, every violation of any of the provisions of this ordinance shall be punishable by a fine not to exceed the fine established by SDCL 22-6-2(2), by imprisonment not exceeding thirty days, or by both the fine and imprisonment. Each day in which a violation of this Code or other ordinance continues shall constitute a separate offense. (SDCL 9-19-3)
- 12.0102 Conflicting Ordinances Repealed. All ordinances and parts of ordinances in conflict with the provisions of this ordinance, or relating to the subject matter of this ordinance and not re-enacted as part of this ordinance, are hereby repealed; provided however, that nothing herein shall be construed as repealing any special ordinances, appropriation ordinances, levying ordinances for the issuance of bonds, or other special ordinances of like character, nor shall this ordinance repeal or modify the provisions of any ordinance heretofore adopted by the Town of Humboldt unless provisions of this ordinance in effect, either modify, repeal or amend such ordinances.
- 12.0103 Unconstitutionality. Should any section, paragraph, sentence, clause or phrase of this ordinance be declared unconstitutional or invalid for any reason the remainder of this ordinance shall not be affected thereby.
- 12.0104 Publication and Effect. This ordinance shall take effect upon its adoption and publication of the notice of such adoption as provided by SDCL 9-19-17.