

**MUNICIPAL ORDINANCES**  
**CITY OF TRIPP, SOUTH DAKOTA**

Ordinance No.022024

Effective Date: March 18, 2024

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

Revised under the direction of the City Council of the City of Tripp Prepared by  
the Fink Law Office, Bridgewater, South Dakota

ORDINANCE NO. 022024

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

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

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

First Reading: February 12, 2024

Second Reading and Adoption: February 26, 2024

Publication Date: March 6, 2024

Effective Date: March 18, 2024

Attest:

Kayla Wilson  
Finance Officer

Scott Schelske  
Mayor

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## **TITLE 1 - ADMINISTRATIVE CODE**

**Chapter 1.01 - Municipal Employees**

**Chapter 1.02 - Mayor and City Council**

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**Chapter 1.06 - Finance Officer**

**Chapter 1.07 - Health Officer**

**Chapter 1.08 - Police**

**Chapter 1.09 - Tripp Library Board**

### **CHAPTER 1.01 - MUNICIPAL EMPLOYEES**

- 1.0101 Appointive Officers, Method of Appointment. All appointive officers shall be appointed by the Mayor with approval by a majority vote of the City Council and shall hold office until their successor shall be appointed and qualified. (SDCL 9-14-3)
- 1.0102 Appointive Officers, Salaries, Bonds. The following offices or positions of the City, as hereinafter created, are continued, and the amounts of salaries to and bonds to be furnished by them shall be fixed by resolution of the City Council and shall be adjusted as deemed necessary by resolution of the City Council of the City of Tripp and said amounts shall be on file at the office of the Finance Officer: Finance Officer, Water/Sewer Superintendent, Street Superintendent, Library Director, City Attorney and such other officers as may be prescribed by ordinance or state statute.
- The salaries of such designated officers or employees shall be paid weekly except that of the City Attorney shall be paid an hourly rate on a monthly basis.
- 1.0103 Employees Other Than Appointive. In addition to appointive officers, the Mayor with the majority vote of the City Council shall hire such other personnel, professional and otherwise, required and necessary for municipal purposes. The compensation of such employees shall be fixed by resolution at anytime regardless of the time when any City employee may have been hired.
- 1.0104 Personnel Policies. Vacation, sick leave and other employment policies in effect are on file in the office of the City Finance Officer.

### **CHAPTER 1.02 - MAYOR AND CITY COUNCIL**

- 1.0201 Composition. The City Council shall consist of the Mayor elected at large, who shall hold office for two years, and six aldermen, two elected from each ward, who shall hold office for two years. (SDCL 9-8-1 and 9-8-4)

1.0202 Regular Meetings. On the first Monday of each month at 7:30 p.m., the City Council shall meet at the Tripp City Hall or other designated place, to consider, take under advisement, and act upon such business as may come before it. If a regular meeting day falls upon a City observed holiday, the regular meeting shall be held on the following day or as rescheduled by the City Council. (SDCL 9-8-8)

1.0203 Special Meetings. Special meetings of the City Council may be held at any time on call of the Mayor, or in case of absence or inability to act, then by the President of the City Council; or by three of the Aldermen.

It shall be the duty of the Finance Officer to contact the Aldermen before the time specified for such meetings, and this may be done by telephone or e-mail.

1.0204 Compensation - Mayor and City Council. The Mayor and Councilmen are to be allowed compensation as set by resolution of the City Council. Compensation of the Mayor and Councilmen as herein set forth shall be paid at such times as may be decided upon by the Council.

1.0205 Mayor - Duties. The Mayor shall preside at all meetings of the City Council, but shall have no vote except in case of a tie. The Mayor shall perform such other duties as may be prescribed by laws and ordinances and ensure that such laws and ordinances are faithfully executed, and shall have the power to veto any part or item of an ordinance or resolution appropriating money. (SDCL 9-8-3).

1.0206 President and Vice-President of Council. At the first regular meeting after the annual election in each year and after the qualification of the newly elected aldermen, the council shall elect from among its own members a president and vice-president, who shall hold their respective offices for the municipal year.

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

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

1.0207 Rules of Order. *Robert's Rules of Order Newly Revised*, are adopted as the rules to govern the deliberations of the City Council, insofar as applicable, and as may be amended or interpreted by resolution of the City Council.

1.0208 Attendance may be compelled; penalty for failure to attend. The council may compel the presence of absent members by sending the chief of police or any police officer to require their attendance. If any member refuses to attend after being so notified, said member shall state the reason(s) therefor to the council at its next meeting. If the council deems such reasons insufficient, the council may impose any reasonable penalty which is provided in any bylaws or rules adopted by it.

- 1.0209 Quorum. A majority of the aldermen elected shall constitute a quorum for the transaction of all business, but a less number may adjourn from time to time and may compel the attendance of absentees, as provided by section 1.0208.
- 1.0210 Voting.
- A. No action of the council shall be effective unless upon a vote of a majority of a quorum. No member present shall be permitted to pass his vote on any matter submitted for balloting to any meeting of the council.
- B. The yeas and nays shall be taken by roll call upon the final passage of all ordinances and resolutions and upon any proposal to create a liability against the city or for the expenditure or appropriation of its money, and in all other cases at the request of any member, and shall be entered on the journal of its proceedings. The concurrence of a majority of all the aldermen shall be necessary to the passage of any such ordinance or proposal.
- C. It shall require a two-thirds vote of all the aldermen to sell any city property.

## **CHAPTER 1.04 - FINANCE REGULATIONS**

- 1.0401 Revenues and Special Funds. All money belonging to the City from taxation, licenses, fines, permits, the operation of utilities, or from any other source, shall be paid into the City treasury, and the City Council shall designate by ordinance to what fund or funds such money shall be applied. The Finance Officer shall keep full, true and just accounts of all financial affairs of such form and in such manner from time to time as required by the South Dakota Department of Revenue. (SDCL 9-14-18)
- 1.0402 Records of Retention and Destruction. The City may establish a records of retention and destruction policy by resolution. Copies of the City's ordinances and/or city records will be charged at a rate of \$1.00 per page.
- 1.0403 Finance Officer – Duties. The finance Officer shall in all things perform any duties required by state law to be performed by the city auditor or the city treasurer. Any references in state law to duties, obligations or requirements of the city auditor or city treasurer shall be deemed as reference to and duties of the Finance Officer.
- 1.0404 Bond. The Finance Officer shall furnish a surety bond in such amount as is approved by the Mayor and City Council, said bond to be conditioned on the faithful performance of the Finance Officer's duties. The premium of the bond shall be paid by the City.
- 1.0405 Purchases.
- A. City department heads, officers, authorized to make purchases; when written approval required. There is hereby created authority for city department heads and officers to make purchases on behalf of the city in amounts not exceeding \$500.00. Any purchases in excess of \$500.00 shall have prior approval of the Mayor or city council. Any purchases in excess of \$100.00 and not exceeding \$500.00 shall have

prior written approval of the Mayor or city councilman in charge of the department or office for which such purchase is being made.

B. City not liable for improper purchases. The City shall not be liable for any supplies, materials or equipment, purchased or contracted for in violation of this article.

## **CHAPTER 1.06 - CITY FINANCE OFFICER**

1.0601 Purpose. To prescribe as per SDCL 9-14-27, the additional authority, duties, and responsibilities of the City Finance Officer.

1.0602 Authority, duties, and responsibilities. In addition to all authority, duties, and responsibilities prescribed in South Dakota Codified Law for the position of City Finance Officer, the City of Tripp, pursuant to SDCL 9-14-27 is prescribing the following additional duties to the City Finance Officer:

- A. The City Finance Officer shall be the chief administrative officer of the City and shall be responsible to the Mayor and City Council for the proper administration of the City. The City Finance Officer shall have the powers and shall be required to perform the duties as set forth from time to time by the Tripp City Council.
- B. To serve as recorder for the City Council. To assist the City Council with meeting agendas, prepare all meeting notices, attend all meetings and record minutes, maintain the ordinance book and other Council records, and to handle correspondence for the Council as directed. To arrange for publication of minutes of meetings and other public notices.
- C. To perform other administrative functions as directed by the City Council. To maintain custody of official documents, to join with the Mayor in executing legal documents on behalf of the City, to prepare and distribute copies of notices and resolutions, etc.
- D. To supervise operations of the City office and departments, including effective handling of public calls and visits and coordination with City departments regarding citizens' concerns. This supervision necessitates that the City Finance Officer be out of the office from time to time to properly perform his duties.
- E. As the election official, to supervise registration of voters and the conduct of City and general elections. To prepare notices and materials, arrange polling places, and appoint election officials with Council approval. To collect and tabulate results of City elections for canvass by the City Council.
- F. To coordinate activities concerned with intergovernmental functions. To handle all procedures that pertain to Revenue Sharing, federal or state grants, federal or state regulations, and County zoning and taxes.

- G. In the absence of a separately appointed Zoning Administrator, the Finance Officer may be directed by the City Council to administer City zoning regulations. To answer general and obvious questions from the public as to what is allowed by the codes. To make on-site inspections for compliance with City zoning regulations.
- H. The finance officer may be requested by the city council to maintain and update all personnel records of City employees regarding policies concerning personnel administration as are given in the City Personnel Manual are followed and enforced in all department operations.
- I. The finance officer shall attend all meetings of the city council and keep a record of its proceedings.

**CHAPTER 1.07 – HEALTH OFFICER**

- 1.0701 On the first meeting of the city council in the month of May of each year there shall be appointed by the Mayor one health officer, who shall be a resident of the city and who shall hold office for one year and until his or her successor shall be selected.
- 1.0702 The health officer shall have and exercise a general supervision over the sanitary conditions of the city. He or she shall give the mayor and city council all such advice and information as they may require in regard to the public health. He or she shall enforce all laws of the state relative to sanitary matters and all ordinances of the city bearing on public health.
- 1.0703 For the purpose of carrying out the duties of his or her office, the health officer shall be permitted, at all reasonable times, to enter any building or premises for the purpose of examining the same.
- 1.0704 Compensation for the health officer shall be set by the council by resolution.

**CHAPTER 1.08 – POLICE**

- 1.0801 The office of chief of police, as heretofore created, is hereby continued.
- 1.0802 General Powers and duties of Chief of Police: The chief of police shall have such powers and perform such duties as are prescribed by state law and city ordinances. He shall perform such other duties as are required by the mayor and city council.
- 1.0803 Aiding escape; resisting peace officer: Any person who shall in any way aid or assist any person to resist or escape from any peace officer, or from any lawful confinement in the city or who shall himself resist any peace officer, shall be deemed guilty of a misdemeanor.
- 1.0804 Refusal to aid law enforcement officer: Any person who, after being lawfully commanded to aid any law enforcement officer in arresting any person or in retaking any person who has escaped from legal custody, or in executing any legal process, or in the suppression of any riot or unlawful assembly, or in preventing the commission of any offense against the city or state, intentionally refuses, without lawful cause, to

aid such officer, shall be deemed guilty of a misdemeanor.

- 1.0805 Impersonating police officers: Any person, not duly authorized by law to exercise the duties conferred upon police officers of the city, who shall wear a police officer's badge, or in any way represent himself as being a police officer of the city, shall be deemed guilty of a misdemeanor.

## **CHAPTER 1.09 - TRIPP LIBRARY BOARD**

- 1.0901 Name, Authorization and Membership. This organization shall be Library Board of the City of Tripp, operating under the provisions of SDCL 14-2, and exercising the powers and authority and assuming the responsibilities delegated to it under said statute.

The City Council shall appoint five citizens as members of the Library Board. Such appointments shall be for a term of three years or to complete an unexpired term. In addition to the five members, the City Council may appoint one of its own members to serve as a full voting member of the Library Board, during that member's term on the City Council.

- 1.0902 Meetings. The Library Board shall meet as deemed necessary by Library Board in the Tripp Public Library. The annual meeting of the Library Board shall be held at the time of the regular monthly meeting in July. Special meetings may be called by the President, by the Librarian, or upon the written request of three members, for the transaction of business stated in the call for the meeting.

- 1.0903 Officers. Library Board officers shall be as follows: President and Secretary.

The President shall be elected from among the members by ballot at the end of the annual meeting of the Library Board. The President shall serve a term of one year in such office, and may be re-elected in subsequent years. The President shall preside at all meetings, certify all actions approved by the Library Board, authorize calls for special meetings, and generally perform the duties of a presiding officer. If the President is unable to perform these duties, the Library Board may appoint an Acting President to fulfill the duties of the President, until the President is able to resume these duties.

The Librarian shall serve as Secretary of the Library Board. The Secretary shall keep a true and accurate account of all proceedings of the Library Board; issue notices of all regular meetings, and, on the authorization of the President, issue notices of all special meetings; and have custody of the minutes and the other records of the Library Board.

- 1.0904 Committees. Special committees for the study and investigation of special problems may be appointed by the President, to serve until they have completed the work for which they were appointed.

- 1.0905 Quorum. A quorum for the transaction of business shall be a simple majority of the Library Board.
- 1.0906 Librarian. The Librarian is the Library Board's executive officer, and shall have sole charge of administering the library under the direction and review of the Library Board. The Librarian shall be responsible for employing and directing the staff as approved by the City Council, for selecting library materials, for the care of buildings and equipment, for the efficiency of the library's service to the public, and for operating the library under the financial conditions set forth in the annual budget. The Librarian shall keep exact accounts of all moneys received or expended, and shall report on such receipts and expenditures at each quarterly meeting. The Librarian shall perform the duties of Secretary of the Library Board, and shall attend all Library Board meetings except any executive sessions as provided for by law.
- 1.0907 Compensation for the librarian shall be set by the council by resolution.

## TITLE 2 - BOUNDARIES, WARDS AND VOTING PRECINCTS

### Chapter 2.01 - Boundaries

### Chapter 2.02 - Wards and Voting Precincts

#### CHAPTER 2.01 - BOUNDARIES

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

#### CHAPTER 2.02 - WARDS AND VOTING PRECINCTS

2.0201 Wards and Voting Precincts. The City shall be divided into three wards, which shall be combined and consolidated into one election precinct, and shall be designated respectively as Wards One, Two and Three. The wards shall be described by stating the certain street or avenue designations or other landmarks that divide and border the wards. Any reference to street or avenue below shall mean an imaginary line running down the approximate middle of each street or avenue. The wards of the City of Tripp are as set forth below and, on the map thereof on file in the office of the Finance Officer. Any discrepancies shall be resolved by reference to the map rather than the physical descriptions set forth herein.

First Ward Boundaries. The first ward shall include all that part of the city lying south of West Depot Street starting at the intersection of West Dakota Street and Depot Street. It shall also include that part of the city to North Sloan Street to West Second Street to Main Street north to East First Street including all that part of the city lying south of East Second Street.

Second Ward Boundaries. The second ward shall include all that part of the city lying and being north of Second Street and east of Main Street excluding East Second and First Street (from Main Street to South Dobson Street) and South Dobson Street (from Second Street to East Dakota Street).

Third Ward Boundaries. The third ward shall include all that part of the city lying and being north of Second Street and west of Main Street including East First Street (from Main to South Carpenter Street) South Carpenter Street to East Second Street to South Dobson Street (from Second Street to east Dakota Street).

## TITLE 3 - HEALTH AND SANITATION

### Chapter 3.01 - Nuisances

### Chapter 3.02 - Restricted Use Facility

#### CHAPTER 3.01 - NUISANCES

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

- A. “Garbage” – The animal and vegetable waste resulting from the handling, preparation, cooking and serving of foods.
- B. “Solid Waste” – Any garbage, refuse, sludge from a waste treatment plant, water supply treatment plant or air pollution control facility and other discarded materials, including solid, liquid, semisolid or contained gaseous material resulting from industrial, commercial and agricultural operations, and from community activities including, but not limited to wood and other construction materials, appliances, yard waste, tires, scrap iron, chemicals or fuel. (SDCL 34A-6-1.3)
- C. “Wastewater” – The spent water of a community. From the standpoint of source it may be a combination of the liquid and water-carried wastes from residences, commercial buildings, industrial plants and institutions, together with any groundwater, surface water and storm water that may be present.
- D. “Abandoned property” – Any junk car, car bodies or equipment of any type, except in an authorized junk yard, or any accumulations of other unsightly trash or junk which would constitute a health hazard, a rodent harborage, a breeding area for insects or rodents, a dangerous place for children to play in and around or which tends to be unsightly and which does or tends to lower the value of adjacent real property because of its unsightliness.
- E. “Abandoned vehicle” – Any vehicle that is left unattended or stored on any public property in the same or substantially same place within the City for a longer period than 24 hours.
- F. “Inoperable vehicle” – Any vehicle which is not in operating condition due to damage, removal or inoperability of one or more tires and/or wheels, the engine or other essential parts required for the operation of the vehicle, or which does not have lawfully affixed thereto unexpired license plates, or which constitutes an immediate health, safety, fire or traffic hazard.
- G. “Nuisance” – Unlawfully doing an act, or omitting to perform a duty, which act or omission either: (1) annoys, injures, or endangers the comfort, repose, health, or safety of others; (2) offends decency; (3) unlawfully interferes

with, obstructs, or tends to obstruct, or renders dangerous for passage, any lake or navigable river, bay, stream, canal, or basin, or any public park, square, street, or highway; (4) in any way renders other persons insecure in life, or in the use of property; and in addition the specific acts, conditions and things listed in Section 3.0102 are hereby declared to constitute public nuisances, but such acts, conditions and things shall not be deemed to be exclusive. (SDCL 21-10-1)

- H. “Private property” – Any real property within the City that is privately owned and which is not public property.
- I. “Public property” – Any street, alley or highway which shall include the entire width between the boundary lines of every way publicly maintained for the purposes of vehicular travel, and also means any other publicly owned property or facility.
- J. “Removal agency” – Any public body, private or nonprofit organization authorized, hired or appointed by the City to remove and salvage vehicles.
- K. “Unsightly trash or junk” – Property which is deteriorated, wrecked or derelict property in unusable condition, having no value other than nominal scrap or junk value, if any, and which is left outside of a permanent, enclosed structure and which shall include, without limitation, motors, lawn mowers, campers, refrigerators and other household appliances, furniture, household goods and furnishings, scrap metals or lumber or other similar articles in such condition.
- L. “Vehicle” – Any conveyance, whether or not self-propelled, and which is designed to travel along the ground or in or on the water and shall include, but not be limited to, automobiles, buses, motorbikes, motorcycles, motor scooters, trucks, tractors, pull trailers, go-karts, golf carts, boats, jet skis, campers and trailers.
- M. “Litter” – Garbage, rubbish, waste material or animal waste improperly disposed of by discarding, abandoning, allowing to accumulate, scattering or depositing the same outside an approved container.
- N. “Yard waste” – Grass clippings, garden waste, and leaves.

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

- A. Depositing, accumulating, or permitting to be accumulated upon any public or private property, any household wastewater, sewage, garbage, refuse, rubbish,

offal, excrement, decaying fruit, vegetables, fish, meat, bones; any fowl, putrid, or obnoxious liquid substance; any chemical or hazardous material; or putrescible and 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, and welfare. (SDCL 9- 32-10, SDCL 34A-7-9)

- B. The accumulation of manure, garbage, or anything whatsoever which may be breeding areas for flies, mosquitoes, or rodents. (SDCL 9-32-10)
- C. For the owner of a dead animal to permit it to remain undisposed of longer than twenty- four hours after its death. (SDCL 9-29-13)
- D. Any excavation, trench, or open basement in which stagnant water is permitted to collect or which may jeopardize the life, limb, or safety of the general public. (SDCL 9-29-13)
- E. Throwing or letting fall on or permitting to remain on any street, alley, or public ground any manure, garbage, rubbish, filth, fuel or wood while engaged in handling or removing any such substance. (SDCL 9-32-10)
- F. Disposing of garbage, waste, or refuse by open burning, or causing, allowing, or permitting the conducting of a salvage operation by open burning in the City. The following types of open burning shall be permissible for a specific purpose when conducted in conformity with the subsections set forth below:
  - 1. Fires set for the elimination of a fire hazard, which cannot be abated by any other means when authorized by the City Council.
  - 2. Fires purposely set by the City employees for the purposes as authorized by the City Council.
  - 3. Fires purposely set by the Tripp Fire Department personnel and authorized by the Fire Chief for the purpose of training and conducted in accordance with live fire-training standards.
  - 4. Campfires and other fires used solely for recreational purposes, for ceremonial occasions and for outdoor preparation of foods.
    - a. A recreational fire is the burning of cut trees, charcoal, or commercial fire logs, with a total fuel area of three (3) feet or less in diameter and two (2) feet or less in height for pleasure, religious, ceremonial, cooking, or similar purposes.
    - b. A recreational fire must be contained in an earthen pit with sidewalls, fireplace, or other device with a ¼ or small holed screen on top, which must be capable of containing the fire.

- c. A recreational fire may not be located within ten (10) feet from any structure and may not be located within ten (10) feet from any property line.
  - d. Commercially produced outdoor fireplaces may be used for recreational fires provided manufacturer's recommendations are followed.
  - e. The provisions of this subsection shall not be deemed to apply to any commercially operated campground or any campground licensed by the South Dakota Department of Health or operated by the State of South Dakota.
  - f. Commercial gas, propane or charcoal grills, when used for cooking purposes, are not considered recreational fires for the purposes of this ordinance.
5. Recreational fire must be constantly attended by a responsible adult knowledgeable in extinguishing fires; and a fire extinguisher, garden hose or other instrumentation capable of immediately extinguishing a recreational fire must be available at all times during burning.
  6. Recreational fire does not generate smoke which results in a complaint by one or more neighbors.
  7. Recreational fire is immediately extinguished upon notification by law enforcement personnel that in his/her opinion such fire constitutes a hazardous condition.
  8. Recreational Fire on City owned property. All recreational fires are banned on city owned property unless permission is granted from the city council.
  9. Emergency ban by the City Council. All recreational fires may be banned by the City Council because of dry climatic conditions or other such emergencies.
  10. Penalty. If any recreational fire results in a sustainable complaint by adjacent residents or property owners; or poses a threat to persons or property, the Fire Department or other law enforcement personnel may order the property owner to extinguish the fire. In the event the property owner refuses or fails to obey a lawful command to extinguish any fire, the Fire Department may extinguish the fire and a citation may be issued. Any person violating the provisions of this chapter shall be a \$500.00 fine and thirty (30) days in jail.

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

1. Upon public streets or property except on an emergency basis.
2. Upon the private property of any person owning, in charge of, or in control of any real property within the City, whether as an owner, tenant, occupant, lessee or otherwise, for longer than fourteen days unless it is within a fully enclosed building or structure. A carport, tarpaulin, tent or other similar temporary structure shall not be deemed to satisfy the requirements of this section.
3. In no event shall an inoperable vehicle that constitutes an imminent health, safety or fire hazard be kept or located on any real property.

H. The requirements of paragraph G shall not apply to the following:

1. Filling stations, automobile repair shops or any other motor vehicle related businesses in compliance with applicable City ordinances may place inoperable vehicles being repaired or offered for sale on the premises.
2. Junkyards operated and maintained in compliance with applicable City ordinances.
3. One vehicle specifically designed and used for operation on drag strips or raceways that remains on private property.
4. Any vehicle in an appropriate storage place or depository maintained in a lawful place and manner by the City or authorized by the City.

3.0103 Diseased Vegetation. Any owner, occupant, or person in charge of any property under the jurisdiction of the City shall remove at his own expense any trees, dead trees, brush, wood, or debris infected with Dutch Elm disease or other infestations or infectious disease found thereon when so notified by the City to do so. The City Council shall cause to be mailed by certified mail, return receipt requested, or by personal service to such owner, occupant, or person, or by posting on the property, written notice that they may appear before the said City Council at an appointed time not less than seven days from the date of mailing or personal service of said written notice to show cause why said trees, brush, wood, or debris should not be declared a public nuisance. Failure by any person to actually receive any document sent to him by certified mail or to sign and return any receipt card acknowledging receipt by certified mail shall not invalidate service made upon such person by certified mail. Such notice is deemed completed at the time it is mailed, hand delivered or posted,

and any period to reply or abate begins to run from the date of mailing, personal service or posting.

At said meeting the City Council may resolve and declare the same to be a public nuisance and may order its removal by said owner, occupant, or person within seven days from the date of service of said resolution and order on said owner, occupant, or person.

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

3.0104 Vegetation Nuisance.

A. Definitions. For the purposes of this section, the following terms, phrases, words, and their derivations shall have the meanings given herein.

1. “Developed lot or area” means a lot or area with a finished building or building under construction.
2. “Noxious weeds” means all actively growing plants declared to be statewide noxious weeds by the South Dakota Weed and Pest Control Commission. “Undeveloped lot or area” means a vacant lot or area with no structure on it.
3. “Weeds” means any plants growing uncultivated and out of context with the surrounding plant life when such plant has a seed head formed or forming and with a height of eight inches or more, except as otherwise provided in this section.

B. Nuisances.

1. Each owner and each person in the possession or control of any land shall cut or otherwise destroy, in whatever manner prescribed by the City, all noxious weeds thereon and shall keep said lands free of such growth.
2. Each owner and each person in possession or control of any property shall be responsible to keep said lot, place, or area or upon any sidewalk abutting the same free of any noxious weeds and to keep grasses and weeds on said lot mowed so that grass and weeds are less than eight inches in height. However, grass and weeds located on undeveloped and unplatted property located more than one hundred feet from developed or platted property shall be mowed so that grass and weeds are less than

twelve inches in height. This does not apply to vegetation which is being grown as a crop, livestock pasture or wildflower display garden.

3. Each owner and each person in the possession or control of any lands shall not allow any plant growth of any sort to remain in such a manner as to render the streets, alleys or public ways adjoining said land unsafe for public travel or in any manner so as to impede pedestrian or vehicular traffic upon any public place or way.
  4. Each owner and each person in possession or control of any land shall comply with all zoning ordinances related to the parking of vehicles, trailers, boats, and campers on private property.
- C. Notice to Abate and Abatement by City. The Finance Officer shall annually on or before May 1<sup>st</sup> of each year publish once a week for two consecutive weeks a Notice to Property Owners generally setting forth the duty to control weeds and other vegetation which might be a nuisance in violation of this Section. The Finance Officer or his or her designee may cause a Notice to Abate Nuisance to be served, by posting of notice on such property within view of the public, upon any property owner who fails to comply with the published notice or any person who at any other time has weeds or other vegetation. Upon failure, neglect or refusal of any owner, agent or occupant so notified to comply with said notice within five days, thereof the Finance Officer or his or her designee is hereby authorized and empowered to provide for the cutting, spraying, destroying or removal of the weeds, grass or other noxious matter and stabilize the soil if necessary. The City may defray the cost of the work, including administrative costs and supplies used, by special assessment against the property as set out in Section 3.0104 (D).
- D. Costs Recovered. The Finance Officer shall cause an account to be kept against each lot upon which work is done pursuant to Section 3.0104 (C) and shall after completion of the work, bill the owner of the property for such work and if not paid within thirty days thereafter, the Finance Officer shall thereupon add such assessment to the general assessment against said property. The Finance Officer shall certify such special assessment together with the regular assessment to the Hutchinson County Auditor to be collected as municipal taxes for general purposes.
- Said assessment shall be subject to review and equalization the same as assessments or taxes for general purposes. In lieu of special assessment, the City Council may institute a civil action against the owner or occupant of such property to recover said account.
- E. Habitual Violators. If the owner or person in control of any land that has previously received a notice to abate nuisance relating to weeds and/or grass within the preceding twenty-four months, then, the notice to abate nuisance

may include notice that such owner or person in control of said property will be considered to be an habitual violator of this section and that if the nuisance is not abated within the allowed time, the City will consider the property to be subject to having a contract let by the City for mowing or spraying the property as needed up to a weekly basis for the next following twenty-four month period of time and that the full cost of said contract together with an administrative fee of two hundred dollars (\$200.00) will be assessed against the property.

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

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

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

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

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

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

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

- 3.0107 Disposition of Unclaimed Vehicles. The removal agency shall have the rights and obligations conferred upon it by SDCL Ch. 32-36 in regard to titling or disposition of such unclaimed, abandoned or inoperable vehicle, except that, if not otherwise provided by state law, it shall have a possessory lien upon any vehicle removed under provisions for this article for the costs in taking custody of and storing such vehicles.
- 3.0108 Notice Procedure. A written notice shall be placed on the abandoned or inoperable vehicle by the City or by any law enforcement officer for the City requesting the removal of such motor vehicle in the time specified in this Chapter. Written notice shall also be placed on the front door of any dwelling located on the private property requesting the removal of such motor vehicle in the time specified in this article. In the event the owner and the occupant or tenant of the real property are not the same person, written notice shall be given to the owner by certified mail, return receipt requested, requesting the removal of such motor vehicle in the time specified in this Chapter. In the event the private property is not occupied, written notice shall be given to the owner by certified mail, return receipt requested, requesting the removal of such motor vehicle in the time specified in this Chapter. Failure by any person to actually receive any document sent to him by certified mail or to sign and return any receipt card acknowledging receipt by certified mail shall not invalidate service made upon such person by certified mail. Such notice is deemed completed at the time it is mailed, and any period to reply or abate begins to run from the date of mailing.
- 3.0109 Responsibility for Removal. Upon notice having been given, the owner of the abandoned or inoperable vehicle and the owner or occupant of the private property on which the vehicle is located, either or all of them, shall be responsible for its removal.
- 3.0110 Content of Notice. The notice in section 3.0108 shall request removal of the abandoned or inoperable vehicle within five days after the date of the posting, mailing or personal service of such notice, and the notice shall advise that failure to comply with the notice to remove shall be a violation of this Chapter, that the City may take steps to abate the same, and that in addition to abatement directly or by civil action, the City may pursue criminal fines and penalties against the owner, occupant, tenant or other person in charge of the real property as provided in this Chapter.
- 3.0111 Public and Private Nuisance Defined. A public nuisance is one that affects at the same time an entire community or neighborhood, or any considerable number of persons, although the extent of the annoyance or damage inflicted upon the individuals may be unequal. Every other nuisance is private. (SDCL 21-10-3)
- 3.0112 Remedies Against Nuisances. The remedies against any nuisance shall be: (1) A civil action;(2) Abatement; and (3) In cases of public nuisance only, the additional remedy

of indictment or information as prescribed by the Ordinance or by the South Dakota Codified Laws, and the rules relating thereto. (SDCL 21-10-5)

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

3.0114 Notice.

- A. Initial notice. The Finance Officer or his or her designee, is authorized and empowered to notify, in writing, the owner of any lot, place or area within the City, or the agent of the owner, or the occupant of the premises, to remedy or abate a public nuisance on the property and to prevent future violation of this Chapter. The notice may be hand delivered or sent by certified mail, return receipt requested, addressed to the owner of record, agent or occupant at his or her last known address, and said notice shall notify the owner, agent, or occupant to remedy or abate a public nuisance within five days of the date the notice was hand delivered or mailed. Failure by any person to actually receive any document sent to him by certified mail or to sign and return any receipt card acknowledging receipt by certified mail shall not invalidate service made upon such person by certified mail. Notice is deemed completed at the time it is mailed and said period to reply or abate begins to run from the date of mailing.
- B. Subsequent notices. Upon any subsequent violation of this Chapter in the same calendar year after notice has been given as provided above, notice of a second or subsequent violation of the same or similar nature as the first violation, shall require the owner to remedy the nuisance within three days of personal service or mailing.

3.0115 Public Nuisance Penalty and Remedy. Any person who creates, commits, maintains or fails to abate a public nuisance as required under the provisions of this Ordinance shall be subject to up to thirty (30) days in jail and a five hundred dollar (\$500.00) fine, unless otherwise specifically provided. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues. In

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

## **CHAPTER 3.02 - RESTRICTED USE FACILITY**

3.0201 Definitions. For the purposes of this Chapter, the following terms are hereby defined:

- A. "Restricted Use Facility" shall mean any facility which has received authorization under the General Permit for Restricted Use Solid Waste Disposal, as defined and issued by the State of South Dakota.
- B. "Restricted Use Waste" shall mean any materials which are allowed by the State of South Dakota to be disposed, temporarily stored or composted at a site which is operating under the General Permit for Restricted Use Solid Waste Disposal.

3.0202 Location. The City Council shall select and establish a site for the operation of a Restricted Use facility.

3.0203 Use of Facility. The City's Restricted Use facility may be used only for the following purposes:

- A. Disposal of trees, tree branches, brush and untreated wood;
- B. Periodic burning, under direction of the City, of trees, tree branches, brush and untreated wood;
- C. Composting of garden waste and leaves.
- D. Household Items such as furniture, beds, and toys

Painted, stained, glued or chemically treated wood is considered treated.

No person living outside the City and no firm or corporation located outside of the City, shall use said Restricted Use facility, unless a permit to do so is secured in advance from the City Finance Officer.

Residents of the City of Tripp or customers delivering their yard wastes for disposal to the restricted use site compost area shall be delivered in a covered or tarped vehicle, or bagged in biodegradable bags designated for yard waste, if in plastic bags the bags must be emptied and removed from the site by the resident. Trees, branches and untreated lumber delivered to the open burn area shall be delivered in a covered or tarped vehicle, or be secured so as not to allow material to fall or be blown off the vehicle while in transit. Each customer or resident availing him or herself of the disposal site shall deliver and empty the bags to a restricted use site as designated.

- 3.0204 Hours of Operation. The hours of operation shall be as set by resolution of the City Council from time to time.
- 3.0205 Rate Schedule. The rate schedule shall be as set by resolution of the City Council from time to time, and is on file in the Municipal Finance Office.
- 3.0206 Signs. At the Restricted Use Facility, the City shall erect adequate signs stating types of acceptable refuse and directing places where refuse shall be deposited and the manner in which it shall be disposed. Any disregard of such signs shall be considered a violation of this Chapter.
- 3.0207 Penalty. Anyone disposing of prohibited materials in the City's Restricted Use Facility are in violation of the regulations set forth by the City of Tripp and the South Dakota Department of Environment and Natural Resources. The City shall impose no more than thirty days in jail and a fine of five hundred dollars (\$500.00) for anyone found guilty of such violation; and for any non-resident person, firm or corporation who without proper authorization, use the City's Restricted Use Facility to dump refuse. The City of Tripp may charge patrons of the restricted use facility any and all costs associated with the patron's failure to follow the facilities rules and procedures.

## TITLE 4 - LICENSES

### Chapter 4.01 - General Provisions

### Chapter 4.02 - Peddlers

### Chapter 4.03 - Alcoholic Beverages

### Chapter 4.04 - Garbage Haulers

#### CHAPTER 4.01 - GENERAL PROVISIONS

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

4.0102 Application for License. Any person, persons, firm or corporation wishing to obtain a license as herein provided, shall make written application to the City Council stating the name of the applicant, address, purpose of the activity, the length of time for which said license is wanted, and the particular place at which said license is to be used.

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

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

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

4.0105 Issuance of License. Except as otherwise provided, all licenses shall be issued by the Finance Officer after it has been approved by the City Council and the applicant shall have complied with all requirements for issuance of such license. Unless otherwise provided, all licenses shall be signed by the Finance Officer and shall have affixed thereto the official seal of the City.

4.0106 Record of Licenses. The Finance Officer shall keep a record of all licenses issued by the City stating when and to whom issued, for what purpose and for what length of time, the amount of money paid for said license, and the place where such activity is to be carried on. (SDCL 9-34-1)

## CHAPTER 4.02 - PEDDLERS

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

- A. "Peddler" – any person, whether a resident of this City or not, traveling from place to place, from house to house, or from street to street for the purpose of selling, or soliciting for sale goods, wares, merchandise, or services, including food and beverages, and shall also mean and include any person transacting a temporary business within the City.
- B. "Temporary business" - means the sale of goods, wares, merchandise, or services, including food and beverages, sold by a person, business, or other entity for fewer than ninety days within any period of twelve consecutive months, or from a car, truck, other motor vehicle, trailer, or any structure other than a permanent building.

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

- A. Solicitations, sales or distributions made by charitable, educational, or religious organizations.
- B. Traveling salespersons doing business exclusively with retail merchants, manufacturers, jobbers or public officials.
- C. Persons selling juice products, jams, jellies, baked goods, vegetables, fruits, or flowers grown or ag products produced by them and not purchased by them for resale.
- D. Bona fide garage, rummage, yard, or moving sales which do not occur at the same location more than four times per year, for more than four days each time.
- E. Concession stands sales or food trucks related to sporting events.
- F. Local residents selling produce purchased for resale.

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

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

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

the purpose of inducing another to purchase the goods, wares, merchandise, or services.

- 4.0206 Hours of Operation. No peddler shall peddle door-to-door between the hours of 9:00 p.m. and 9:00 a.m. the following morning, except by specific appointment with or invitation from the prospective customer.
- 4.0207 Prohibited Conduct. Any peddler selling or soliciting for sale goods, wares, merchandise or services by traveling from place to place, house to house, or street to street shall not remain in any one place for a period longer than necessary to make a sale after having been approached or stopped for that purpose.
- 4.0208 Permit Required. It shall be unlawful for any person to engage in business as a peddler within this City without first obtaining a permit to do so from the City Finance Officer.
- 4.0209 Application for Permit. The application for a permit required by the provisions of this article shall specify:
- A. A statement as to whether or not the applicant has been convicted of any crime, whether state or federal law or municipal ordinance or code other than minor traffic offenses; the nature of the offense; the punishment or penalty assessed therefore, if previously convicted; and the place of conviction.
  - B. Whether the applicant, upon any sale or order, shall demand, accept or receive payment, or deposit of money in advance of final delivery.
  - C. The period of time the applicant wishes to engage in business within the City.
  - D. The local and permanent addresses of the applicant.
  - E. The local and permanent addresses and the name of the entity, if any, that the applicant represents.
  - F. The kind of goods, wares, merchandise, or services the applicant wishes to peddle within the City.
  - G. The last five cities or towns wherein the applicant has worked before coming to this City.
  - H. The applicant shall provide proof of liability insurance in the amount of \$1,000,000.
  - I. Proof of a current South Dakota Sales Tax License.

- 4.0210 False Information. No person shall give any false or misleading information in connection with his or her application for a permit required by this chapter.
- 4.0211 Fee. Before any permit shall be issued under the provisions of this Chapter, the applicant shall pay a fee of one hundred dollars (\$100.00). This fee may be adjusted by resolution by the City Council.
- 4.0212 Issuance Restricted. No peddler's permit shall be issued to a corporation, partnership or other impersonal legal entity, unless that entity is operating a temporary business at a fixed location, but each individual person engaging in the business of peddling from door-to-door or street-to-street within the City shall be required to have a separate permit, whether acting for himself or herself or as an agent or representative of another.
- 4.0213 Display. Every peddler having a permit issued under the provisions of this chapter and doing business within the City shall display his permit upon the request of any person, and failure to do so shall be a violation of this Chapter.
- 4.0214 Revocation. Any permit issued under the provisions of this chapter may be revoked for the violation by the permittee of any provision of this Title, state law, or City ordinance by the City Finance Officer. Upon such revocation, such permit shall immediately be surrendered, and failure to do so shall be a violation of this Chapter.

### **CHAPTER 4.03 - ALCOHOLIC BEVERAGES**

- 4.0301 Definitions. Terms used in this Chapter shall have the meanings as set forth at SDCL 35-1-1 unless a different meaning is set forth within this Chapter.
- 4.0302 License Required. No person shall sell, offer for sale, keep for sale, exchange, distill, manufacture, produce, bottle, blend or otherwise concoct, within the City of Tripp, any alcoholic beverages defined by statute without having a license as required by South Dakota law. It shall be unlawful for any person or persons within the City of Tripp to engage in the business of selling or offering for sale any intoxicating liquors or malt beverages without first having procured a license therefore.

No licensed retailer may make any delivery of alcoholic beverages outside of the premises authorized by the license. No licensed retailer with any type of on-sale license shall serve alcoholic beverages outside the premises authorized by the license, unless otherwise provided.

- 4.0303 Application for License. All applications for alcoholic beverage licenses shall be made in accordance with South Dakota Codified Laws, Chapter 35.
- 4.0304 The Number of On-Sale Licensees to be Issued May Not Exceed the Maximum as Set Forth at SDCL 35-4-10 and SDCL 35-4-11. The maximum number of off-sale licenses and on-sale licenses that may be issued to operate within the City of Tripp

shall be established as the maximum number as authorized by SDCL 35-4-10 and SDCL 35-4-11 as they may from time to time be amended based upon population of the City of Tripp. Nothing contained herein requires the City of Tripp to issue the maximum number of on-sale and off-sale licenses available.

The fees to be charged by the City of Tripp for the various licenses shall be as established for the maximum fees per each class of license as set forth at SDCL 35-4-2. The fee for off-sale licenses issued to municipalities, under local option, shall be three hundred twenty-five dollars (\$325.00).

4.0305 Hours of Business - Sales Restricted to Premises.

- A. Wine and Malt Beverage Retailer and Package Dealer. It shall be unlawful for any wine or malt beverage retailer and package dealer to sell, serve or allow to be consumed on the licensed premises any malt beverage, wine, or other alcoholic beverages between the hours of 2:00 A.M. and 7:00 A.M. on the same day.
- B. On Sale and Off Sale Liquor Licenses. It shall be unlawful for any On Sale and Off Sale licensee to sell, serve or allow to be consumed on the premises covered by the license, alcoholic beverages between the hours of 2:00 A.M. and 7:00 A.M. or, on Memorial Day after 2:00 A.M. or at any time on Christmas Day.
- C. Unlawful to Remain on Premise After Closing. It shall be unlawful for any person including employees, managers and owners to remain in an on-sale liquor establishment or an on-sale malt beverage establishment after 2:30 a.m., without permission of a law enforcement officer.

4.0306 Sales of Alcoholic Beverages. It shall be unlawful for any person within the City limits of the City of Tripp to give away, sell or in any manner provide alcoholic beverages to any person under the age of 21 years or to sell, any alcoholic beverage to any person who is obviously intoxicated at the time.

No on sale licensee may permit any person less than 21 years old to loiter on the licensed premise or to sell, serve, dispense or consume alcoholic beverages on such premises.

Furthermore, an on-sale licensee licensed pursuant to SDCL 35-4-2(4), (12), (16), (20), may permit persons 18 years old or older to sell and serve or dispense alcoholic beverages if less than 50% of the gross business transacted by that establishment is from the sale of alcoholic beverages and provided the licensee or an employee that is at least 21 years of age is on the premises when the alcoholic beverage is sold or dispensed. For the purposes of this Section, the term to "sell and serve alcoholic beverages" means to take orders for alcoholic beverages and to deliver alcoholic beverages to customers as a normal adjunct to waiting tables. The term does not include tending bar or drawing or mixing alcoholic drinks.

No off-sale licensee licensed under SDCL 35-4-2(3)(5), or (17) may permit any person less than 21 years old to sell, serve or dispense alcoholic beverages on the licensed premise, unless that sale of alcoholic beverage constitutes less than 50% of the gross business transacted by that establishment. In that event, the licensee may permit persons 18 years old or older to sell, serve or dispense alcoholic beverages.

Notwithstanding, an on-sale licensee issued a malt beverage retailers license, being both package dealers and on-sale dealers issued pursuant to SDCL 35-4-2 (16) whose sale of alcoholic beverages constitutes more than 50% of the gross business transacted by that establishment, may erect a physical barrier to allow for multiple uses of the premises by persons of all ages provided persons under the age of 21 are not permitted access to the area reserved for the sale of malt beverages.

- 4.0307 Possession of Alcoholic Beverages. Unless a special permit license shall be obtained from the City pursuant to this Chapter, it shall be unlawful to possess in any public place, street, alley, sidewalk, public park, place of amusement, or business establishment, not authorized to sell alcoholic beverages, pursuant to South Dakota law and the ordinances of the City of Tripp, any bottle whether or not containing alcoholic beverages on which the seal has been broken and which bottle either did or does contain alcoholic beverages, or any glass, can or other container, containing alcoholic beverages.

It shall be unlawful for any on-sale alcohol and malt beverage establishment of any employees, managers, or owners thereof to allow any person to leave the licensed premises within the City of Tripp, with a container of alcoholic beverage in their possession except for the sale of unopened containers of alcohol and malt beverages, where the licensee has sold the same under an off-sale license.

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

- 4.0308 Permit - Public Location. Notwithstanding Section 4.0308, the City Council of the City of Tripp may permit the consumption, but not the sale of any alcoholic beverage on property owned by the public or by a non-profit corporation within the city limits of the City of Tripp. A permit for the consumption must be obtained from the City. The permit period may not exceed 24 hours and the hours of authorized consumption may not exceed those permitted for on-sale licenses. A permit fee to be established by resolution of the City Council and/or a security deposit may, at the discretion of the City of Tripp, be charged. The City of Tripp may permit the sale of alcoholic beverages on publicly owned property or property owned by a non-profit corporation. If it is during a special event for which a temporary license has been issued, pursuant to Section 4.0309 of this Chapter.

- 4.0309 Special Permit Licenses. The City of Tripp may issue:

- A. A special permit malt beverage retailers license in conjunction with a special event within the municipality or county to any civic, charitable, educational,

fraternal, or veterans' organization or any licensee licensed pursuant to subdivision SDCL 35-4-2(4) or (16) in addition to any other licenses held by the special events license applicant;

- B. A special permit on-sale wine retailers license in conjunction with a special event within the municipality or county to any civic, charitable, educational, fraternal, or veterans' organization or any licensee licensed pursuant to subdivision SDCL 35-4-2(4);
- C. A special permit on-sale license in conjunction with a special event within the municipality or county to any civic, charitable, educational, fraternal, or veterans' organization or any licensee licensed pursuant to subdivision SDCL 35-4-2(4) or (16) in addition to any other licenses held by the special events license applicant; or
- D. A special permit off-sale package wine dealer's license in conjunction with a special event within the municipality or county to any civic, charitable, educational, fraternal, or veterans' organization or any licensee licensed pursuant to subdivision SDCL 35-4-2(5), in addition to any other licenses held by the special events license applicant.

Any special permit license issued pursuant to this Section may be issued for a period of time established by the municipality. However, no period of time may exceed fifteen consecutive days.

Any special permit license issued pursuant this Section shall be issued to the person and the location specified on the application. The governing body of the municipality shall determine the fee for this special permit license. Each application shall be accompanied by the fee prior to consideration by the Finance Officer of the municipality. The fee provided for in this Section shall be retained by the Finance Officer of the municipality issuing the special permit license. The issuance of the special permit license is limited and restricted as follows:

- A. Alcoholic beverages for the purposes of this Section include, malt beverages, wines, and distilled spirits.
- B. Applications for a special permit license shall be submitted in writing to the Finance Officer and shall be submitted at least 20 days prior to the day on which the permit is to be effective.
- C. The special, permit license period may not exceed 15 days, and hours of authorized, consumption may not exceed those permitted for on-sale licenses.
- D. Permit fees are established at an amount to be set by council resolution of the council of not less than \$30.00 for each special permit license. The permit fee may be waived by the Finance Officer for civic, charitable, educational and governmental groups.

- E. Such application shall be accompanied by a payment in cash or guaranteed funds of such special permit license fees and security deposits as the Finance Officer shall establish from time to time, the special permit license fee to be retained by the City to cover the expenses of processing the application and the security deposit to be returned to the applicant organization if the property affected by issuance of such special permit license shall be returned to the condition thereof which existed at the time special permit license was issued, and if this is not done within two days after expiration of such special permit license, the City shall retain the security deposit in partial payment of its expenses in connection therewith, which shall be in addition to any other recourse the City may have by way of criminal proceedings or civil action for the damage of public property or the violation of any law.
- F. Special permit license requests and or applications may be obtained from the Finance Officer.

4.0310 Conditions. As a condition of being granted a liquor license, and a malt beverage license all such licensees agree to the conditions of this Chapter and that their premises, for the purposes of search and seizure laws of the State and any ordinances of the City of Tripp are considered public premises. In addition, it is agreed:

- A. The premises and all buildings, safes, cabinets, lockers, and store rooms on the premises are at all times on demand of the Secretary of the Department of Revenue, the Attorney General, or law enforcement officers of the City of Tripp, open to inspection;
- B. All of their records and books dealing with the sale and ownership of alcoholic beverages are open to the person specified above for such inspection;
- C. The application and license issued on the application, constitutes a contract between the licensee and the State of South Dakota and the City of Tripp entitling them, for the purposes of enforcing the law, rules and ordinances, to inspect applicant's premises and books at any time.

4.0311 Authority of Law Enforcement to Close Establishment. If in the opinion of a law enforcement officer, the conduct of individuals in an on-sale liquor establishment or malt beverage establishment constitutes a threat to the peace and safety of the citizens of the City of Tripp, such law enforcement officer may close said establishment for the remainder of the operating day. Such action and the reasons therefore must be promptly reported to the Mayor and the City Attorney.

4.0312 Penalties. Any person or any licensee hereunder found to have violated the licensing sections of this Chapter shall be subject to the following penalties.

- A. The City Council of the City of Tripp may by majority vote, find that this Chapter has been violated and may recommend to the South Dakota Secretary

of Revenue that the license of any alcoholic beverage licensee/establishment, found to have violated said Chapter may be suspended or revoked pursuant to SDCL 35-2-10 and/or that, civil penalties as provided by SDCL 35-2-10.1 be imposed.

1. Said findings and recommendations shall be made only after a hearing has been held by the City Council of the City of Tripp.
2. The licensee shall have received at least 30 days notice of said hearing and shall be informed in writing of the alleged charges against said licensee.
3. Notice of such hearing shall be published in the official legal newspaper for two weeks prior to such hearing to allow those citizens concerned, to be present and be heard.

## **CHAPTER 4.04 - GARBAGE HAULERS**

4.0401 Definitions. For the purposes of this ordinance, the following terms shall have the meanings indicated, unless the context clearly indicates otherwise:

- A. Chief Elected Official. The Mayor or Acting Mayor of the City of Tripp.
- B. Commercial Garbage Hauler. Any individual, corporation, organization or business that collects or transports any type of solid waste for other parties. Entities which transport their own solid waste are not included in this definition.
- C. Commercial Garbage Hauler License or License. A license issued by the City of Tripp under the terms of this ordinance.
- D. Governing Board. The City Council of the City of Tripp.
- E. License Holder or Licensee. Any commercial garbage hauler which holds a Commercial Garbage Hauler License.
- F. Rate Structure. The structure of charges made by a Commercial Garbage Hauler to its customers. This term is not intended to include the level of the rates charged; rather, it is intended to include the overall structure of the rates charged. This term is intended to refer to the relationship between rates charged by a particular hauler (a) to different customers, and / or (b) for different volumes of waste, and / or (c) for different types of waste.
- G. SDCL. South Dakota Codified Law.
- H. Solid Waste (SDCL 34A-6-1.3). 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, semi-solid or contained

gaseous material resulting from industrial, commercial and agricultural operations, and from community activities, but does not include mining waste in connection with a mine permitted under Title 45, hazardous waste as defined under Chapter 34A-11, solid or dissolved materials in domestic sewage or dissolved materials in irrigation return flows, or industrial discharges which are point sources subject to permits under Section 402 of the Federal Water Pollution Control Act, as amended to January 1, 1989, or source, special nuclear or by-product material as defined by the Atomic Energy Act of 1954, as amended to January 1, 1989.

- I. Volume Based. The property of providing financial incentives to encourage source reduction, re-use, and recycling. Specifically, this term refers to garbage collection rate structures which provide for user fees which increase as the volume of waste collected increases.

4.0402 License Required. It shall be unlawful for a commercial garbage hauler to use the streets or roads within the City of Tripp for the collection, removal or disposal of any solid waste, without first having obtained a Commercial Garbage Hauler License from the City.

4.0403 Application for License. The form for application for a Commercial Garbage Hauler License and renewal thereof, as required by the provisions of this ordinance, shall be available from the Municipal Finance Officer. Upon completion of the application, the applicant shall return it to the Municipal Finance Officer for review. For an application to be considered complete, the applicant must also submit:

- A. Proposed rate structure, as described in the Performance Standards (see 4.0408 [D]);
- B. Payment of an application fee in accordance with the following schedule:

|             |          |
|-------------|----------|
| New License | \$100.00 |
| Renewal     | \$100.00 |
| Transfer    | \$100.00 |

4.0404 Approval of Application by Governing Body Required Prior to Licensure. Before any Commercial Garbage Hauler License shall be issued, renewed or transferred under the provisions of this ordinance, the Governing Board must approve the Application for License. The Governing Board may require the applicant to furnish additional information related to the provisions of this ordinance, prior to approval of an application. Upon approval of the application, the Municipal Finance Officer shall issue a Commercial Garbage Hauler License to the applicant. Once issued, licenses shall be conditional upon the license holder complying with the Performance Standards in Section 4.0408 of this ordinance.

4.0405 Duration of License. Upon approval, a Commercial Garbage Hauler License shall be valid until the end of the calendar year for which it has been approved. Except in cases of renewal (Section 4.0406) or transfer (Section 4.0407), no such license shall

be valid for more than one calendar year. Sale of a business holding a Commercial Garbage Hauler License shall render such license invalid immediately upon consummation of the sale, unless said license is transferred under the provisions of Section 4.0407 of this Chapter.

- 4.0406 Renewal of License. A holder of a currently valid Commercial Garbage Hauler License may apply for renewal of a such license in the same manner of application described in Section 4.0403 of this Chapter.
- 4.0407 Transfer of License. A holder of a currently valid Commercial Garbage Hauler License, in conjunction with a party wishing to receive such a license, may apply for transfer of a such license in the same manner of application described in Section 4.0403 of this Chapter. In such cases, the payment of the applicable fee shall be the responsibility of the party to receive the transferred license. For an application for a transfer to be considered complete, the signatures of an authorized representative from each party must be present on the application form.
- 4.0408 Performance Standards. For any Commercial Garbage Hauler License to be effective, the holder of such license shall comply with the following performance standards:
- A. Frequency and Location of Collection. Each holder of a Commercial Garbage Hauler License shall collect solid waste from its customers at least once per week. The dates of pickup shall be at the discretion of the individual Commercial Garbage Hauler business. In cases where a customer of a license holder produces a type or quantity of solid waste which requires more frequent collection to protect public health, sanitation or safety, the Governing Board may direct the license holder to collect solid waste from that particular customer on a more frequent basis. Solid waste subject to recycling shall be picked up no less than once per month. The City may, by resolution, establish specific conditions and methods for license holders to collect solid waste and recyclables.
  - B. Duty of License Holder. Each Commercial Garbage Hauler shall be required to dispose of all collected materials in accordance with any statutes and regulations of the State of South Dakota and its agencies; and any ordinances or regulations of the City of Tripp, or Hutchinson County or its agencies.
  - C. Rate Structure. Each applicant for a Commercial Garbage Hauler License shall provide, as an attachment to the application, a schedule of the rates which the applicant is proposing to charge its customers. The rate structure shall demonstrate that the applicant's proposed rates are volume based, as defined in Section 4.0401 of this Chapter. If applicable, charges shall be categorized as to residential, commercial, and any other special charges. If the application is approved, the rate structure identified in the application shall remain in effect during the term of the license. A license holder may change the rate structure during the term of the license only upon approval by the Governing Board. The Governing Board may approve a requested change only after a written

request from the license holder, and only if the request appears to maintain the principles of volume based rates.

- D. Fees Subject to Regulation by the City. Each Commercial Garbage Hauler shall furnish a list to the City of Tripp of those persons and businesses with whom the Commercial Garbage Hauler has contracted. The maximum fee allowed to be charged by a Commercial Garbage Hauler to a residence shall be set from time to time by resolution by the City of Tripp. All Commercial Garbage Hauler fees charged businesses are subject to regulation by the City of Tripp who may set Commercial Garbage Hauler fees from time to time by resolution. In addition, Commercial Garbage Hauler fees must be incorporated into a volume-based rate structure, as described in part D above.
- E. Rubble, Bulky Items, Trees and White Goods. Each Commercial Garbage Hauler shall be required to transport rubble, bulky items, trees and parts thereof weighing less than 40 pounds, and white goods on a regular basis for all contracted customers. The regular basis shall be no less than quarterly. The fee for hauling and disposal of rubble, bulky items, trees or white goods, is not included in the regular monthly fee for hauling garbage, commercial solid waste, or household waste.
- F. Landfill Fees. All Commercial Garbage Haulers shall be responsible for whatever fees are connected with the disposal of collected materials.
- G. Equipment. Each Commercial Garbage Hauler shall provide equipment which is capable of properly collecting and disposing of garbage, rubble, commercial solid waste, bulky items, household waste, trees and parts thereof weighing less than 40 pounds and white goods in accordance with applicable ordinances, state statutes, or regulations, and said equipment shall be maintained so as to keep it clean and free of accumulation of offensive materials.

4.0409 In lieu of licensed and contracted garbage collectors, the City may itself provide for the collection of garbage and rubbish within the city and the charges for garbage collections supplied by the City shall be as set by resolution by the council from time to time.

## TITLE 5 - OFFENSES

### Chapter 5.01 - Offenses Against Public Welfare

### Chapter 5.02 - Animals

### Chapter 5.03 - Fireworks and Firearms

### Chapter 5.04 - Minors

#### CHAPTER 5.01 - OFFENSES AGAINST PUBLIC WELFARE

- 5.0101 Interfering with Public Improvements, Etc. It shall be unlawful for any person to hinder or obstruct the City or any employee or agent of the City in lawfully making any improvements in any street, road, alley or on any other public ground in the City or in performing any other official duty.
- 5.0102 Intentional Damage to Property. It shall be unlawful for any person to intentionally injure, damage or destroy public property without the lawful consent of the appropriate governing body having jurisdiction thereof, or private property in which other persons have an interest, other than by arson under SDCL 22-23, without the consent of the other person.
- 5.0103 Disorderly Conduct. A person shall be guilty of disorderly conduct if, with the purpose of causing public danger, alarm, disorder, nuisance, or if his conduct is likely to cause public danger, alarm, disorder or nuisance, he willfully does any of the following acts in a public place:
- A. Engages in fighting or in violent or threatening behavior, including, but not limited to, the use of obscene or profane language directed at a person present;
  - B. Makes unreasonable noise;
  - C. Operates amplified sound equipment at an unreasonably high volume;
  - D. Disturbs any lawful assembly or meeting of persons without lawful authority;
  - E. Obstructs vehicular or pedestrian traffic;
  - F. Resists or obstructs the performance of duties by a law enforcement officer or other authorized official;
  - G. Addresses abusive language or threats to any law enforcement officer, or any other authorized official of the City who is engaged in the lawful performance of his duties, or any other person when such words have direct tendency to cause acts of violence. Words merely causing displeasure, annoyance or resentment shall not be prohibited; or

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

5.0104 Open Containers. It shall be unlawful to consume any beer or alcoholic beverage or to possess any glass, can or other container containing beer or any alcoholic beverage on which the seal has been broken, in any public place, vacant building, automobile, street, alley, sidewalk or place of amusement or business establishment not authorized to sell beer or alcoholic beverages, unless approved by the City Council. (SDCL 35-1-5.3, SDCL 35-1-9.3)

5.0105 Indecency. No person shall willfully and lewdly expose his or her person, or the private parts thereof, in any public place where there are present other persons to be offended or annoyed thereby.

5.0106 Public Urination and Defecation Prohibited. Any person who urinates or defecates on any public street, alley, sidewalk, or floor of any public building or of any building where the public gathers or has access, or in any other place, whether public or private, where the act could be observed by any member of the public, except in the place that has been designated as a restroom is guilty of an offense and in violation of this section.

5.0107 Bikes, Roller Skates and Skateboards Prohibited in the Business District. No person shall ride upon, by means of bikes, roller skates, coasters, go-karts, skateboards or other similar wheeled device upon a sidewalk in any business district. (SDCL 9-32-1)

A. Definition as used in this Section:

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

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

1. Physically handicapped persons who have been disabled in such a manner as to make it difficult and burdensome to walk and who use a wheelchair or other wheeled device on the sidewalk.
2. A wheeled vehicle used to transport a person under five years of age.

## **CHAPTER 5.02 - ANIMALS**

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

- A. At Large.
  1. An animal when off or away from the premises and not under the control of the owner, possessor, keeper, agent, servant, or a member of his immediate family by a leash.
  2. An animal when on the premises of the owner, possessor, keeper, agent, or servant if not attended by a competent person unless the animal is chained, restrained, enclosed, or confined in a manner preventing it from leaving the premises.
- B. Leash. A cord, thong, or chain, not to exceed six feet in length, by which an animal is controlled by the person accompanying it.
- C. Owner. Any person harboring or keeping an animal and who is the head of the household of the residence or the owner or manager in charge of the establishment or premises at which an animal remains or returns to.

5.0202 Running at Large Prohibited. It shall be unlawful for any person to have any animal which is owned, kept, harbored, or allowed to be habitually in or upon the premises occupied by him or under his or their control to be at large and to go in or upon the private premises of others or upon any public property.

Allowing an animal to run at large as defined in the provisions of this section, shall also constitute a violation of this Ordinance. Notwithstanding any other provision, any animal not having a visible tag and running at large may be deemed a stray and destroyed immediately.

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

An owner reclaiming an impounded animal shall pay the actual cost of impoundment plus the following fee: First impoundment shall be \$100.00; second impoundment within a twelve-month period shall be \$200.00; any subsequent impoundment within a twelve-month period shall be \$300.00. Upon impounding, the owner of such animal may at any time within five working days after the same shall have been impounded, reclaim the animal by paying the expense of keeping such animal in addition to the fee prescribed by this section. If any animal so impounded shall not be reclaimed within five working days and reasonable efforts to locate the owner have failed, the City is authorized to destroy, sell, or otherwise dispose of such animal.

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

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

Any owner acquiring a dog, cat or other animal by purchase, gift, birth or otherwise, shall have such animal vaccinated against rabies within one month following acquisition or when the animal reaches the age of six months. Failure to do this shall be prosecuted as a municipal offense.

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

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

5.0205 Responsibility of Owner to Place Animal for Observation. When any person owning or harboring a dog, cat, or other animal has been notified that the animal has bitten or attacked any person, the owner shall within twenty-four hours place the animal under the care and observation of the animal control officer or a licensed veterinarian for a period of not less than ten days.

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

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

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

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

Whenever the animal control officer, a law enforcement officer or other authorized official shall have determined that there is danger of the existence or spread of rabies

in the City, such facts shall be made known to the City Council in writing. The City Council, upon receipt of said facts, may by proclamation, in the interest of public safety and general welfare of the citizenry, order all animals muzzled when off the premises of the owner. Forty-eight hours after the proclamation is issued, all animals found off the premises of the owner unmuzzled shall be seized and impounded or may be immediately destroyed if all reasonable efforts to seize said animals fail. All animals seized and impounded shall be held for observation as hereinbefore provided for, not less than ten days, and if cleared by a licensed veterinarian, may be claimed by the owner upon paying the expenses incidental thereto. Any animal not claimed may be disposed of as hereinbefore provided.

5.0206 Vicious Animals.

- A. An animal may be declared to be vicious by the animal control officer, a law enforcement officer or other authorized official, under the following guidelines:
  - 1. An animal which, in a vicious or terrorizing manner approaches in an apparent attitude of attack, or bites, inflicts injury, assaults or otherwise attacks a person or other animal upon the streets, sidewalks, or any public grounds or places; or
  - 2. An animal which, on private property, in a vicious or terrifying manner, approaches in an apparent attitude of attack, or bites, or inflicts injury, or otherwise attacks a mailman, meter reader, serviceman, journeyman, delivery person, or other employed person, or any person or animal who is on private property by reason of permission of the owner or occupant of such property or who is on private property by reason of a course of dealing with the owner of such private property.
  - 3. No animal may be declared vicious if the injury or damage is sustained to any person or animal who is committing a willful trespass or other tort upon premises occupied by the owner or keeper of the animal, or who was teasing, tormenting, abusing or assaulting the animal or was committing or attempting to commit a crime.
- B. When the animal is declared to be vicious, the City shall notify the owner of such declaration in writing. Said notice shall be sent by certified mail, return receipt requested, or by personal service to such owner, occupant or person, or by posting on the property. Failure by any person to actually receive any document sent to him by certified mail or to sign and return any receipt card acknowledging receipt by certified mail shall not invalidate service made upon such person by certified mail. Such notice is deemed completed at the time it is mailed, hand delivered or posted, and any period to reply or abate begins to run from the date of mailing, personal service or posting.

- C. Any mammal, reptile or fowl which is not naturally found in a domestic setting, and because of its size or other characteristic would constitute danger to human life or property is automatically deemed vicious.
- D. The owner of an animal that has been deemed vicious shall comply with the following:
  - 1. Register the animal as vicious with the City and present proof of rabies vaccination within five days of receiving the notice and presenting proof of rabies vaccination on or before March 1<sup>st</sup> of each and every year thereafter.
  - 2. Whenever the animal is outdoors and attended, the animal shall be muzzled, on a leash no longer than six feet, and under the control of a person over sixteen years of age.
  - 3. When the animal will be outdoors and unattended, the animal must be locked in an escape-proof kennel approved by the City. Minimum standards shall include the following:
    - a. Fencing materials shall not have openings with a diameter of more than two inches.
    - b. Any gates within such pen or structure shall be lockable and of such design to prevent the entry of children or the escape of the animal.
    - c. The required pen or structure shall have secure sides and a secure top. If the pen or structure has no permanent bottom secured to the sides, the sides shall be imbedded into a concrete pad.
    - d. The pen or structure may be required to have double exterior walls to prevent the insertion of fingers, hands or other objects.
  - 4. A universal sign denoting a vicious animal shall be displayed on the kennel or enclosure and on a place visible from the sidewalk or road adjacent to the property where the animal is kept.
- E. The vicious animal shall be impounded by animal control at the owner's expense until all provisions of Section 5.0206(D) are complied with. If the conditions in Section 5.0206(D) are not complied within ten days after receiving notice, the animal shall be euthanized in a humane manner and proof of euthanasia filed with the City.
- F. If a vicious animal is allowed to run at large, or bites a person or bites another animal, the animal control officer, a law enforcement officer or other authorized official shall seize the animal by using such means as are necessary

and summon the owner to appear in court to show cause why this animal shall not be destroyed. If the animal cannot be captured, it may be destroyed.

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

- 5.0207 Cruelty to Animals. No person shall maltreat or abuse or neglect any animal or fowl. Any animal control officer, law enforcement officer or authorized official finding an animal or fowl mistreated as described in this section shall have the power to lawfully enter the premises where the animal is kept and demand to examine such animal and to take possession of such animal, when in his opinion, the animal requires humane treatment.
- 5.0208 Poisoning Animals. It shall be unlawful for any person to willfully or maliciously administer or cause to be administered, poison of any sort whatsoever to any animal, the property of another, with the intent to injure or destroy such animal, or to willfully or maliciously place any poison or poisoned food where such is accessible to any such animal. (SDCL 9-29-11)
- 5.0209 Stray, Abandoned, or Unkept Animals. No person shall harbor or keep any stray animals or abandon any animal within the City. Animals known to be strays shall be immediately reported to the animal control officer, a law enforcement officer or authorized official. (SDCL 9-29-12)
- 5.0210 Number of Pets Limited. It shall be unlawful for any person to have or to keep more than four (4) domestic pets over the age of six months, except birds and fish, on any lot or premises in the City, unless such person residing on or in the lot or premises has a valid kennel license issued by the City. Humane societies, veterinarian offices, and retail pet stores are exempt from the provisions of this section.

Every household within the corporate limits of the City owning or possessing a dog of the age of three (3) months or more shall pay an annual license fee as follows:

(a) For all canine breeds, except those breeds listed in paragraph (b), the licensing fee shall be as follows

\*One dog – the annual license fee shall be \$10.00;

\*Two dogs – the annual license fee shall be \$10.00 for the first dog, and \$12.50 for the second dog; and

\*Three dogs – the annual license fee shall be \$10.00 for the first dog, \$12.50 for the second dog, and \$25.00 for the third dog.

\*Four dogs – the annual license fee shall be \$10.00 for the first dog, \$12.50 for the second dog, \$25.00 each for the third and fourth dog.

(b) All annual license fees shall be paid on or before the first day of July each year and shall be remitted to the City Finance Officer or any person who may be designated by the city council. Upon payment of the necessary licensing fees, there shall issue to the owner of the dogs a license tag for each dog. Such license tag shall be immediately attached to the appropriate dog by means of a collar or

other reasonable permanent method. If tags are not purchased by the first day of July of each year, there is a \$25.00 late fee per dog and cat.

(c) The City of Tripp does have a leash law. All dogs must be on a leash in City limits when leaving your property. Dogs that are not on a leash will be apprehended and appropriate measures will be taken.

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

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

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

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

|     |         |
|-----|---------|
| Cat | \$10.00 |
|-----|---------|

The most current fee schedule specifically addresses dog and cat licenses. The City Council may revise any or all license fees by resolution. The City Council may in special instances, after a hearing, exempt the license fee in individual cases.

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

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

5.0216 General Prohibitions and Duties. No person shall aid or cause any animal, whether owned by such person or not, to escape confinement or impoundment, whether such confinement or impoundment be upon the such person's property or that of another, by opening any gate, door or window, by making an opening in any fence, enclosure or structure, or by unleashing such animal.

- A. It shall be prohibited for any person to permit or allow an animal owned by that person or under that person's custody or control to defecate upon public property, park property, public right-of-way, or the property of another.
- B. It shall be the duty of every person owning or having the custody or control of an animal to clean up, remove and dispose of the feces deposited by such animal upon public property, park property, public right-of way, or the property of another. Anyone walking an animal on public or private property other than his own must carry with him visible means of cleaning up any fecal matter left by the animal. Failure to comply with this section is a municipal offense.
- C. It shall be the duty of every person owning or having the custody or control of an animal to physically restrain the animal within an enclosure or upon a leash when such animal is left unattended outside or is not at heel. The animal must be restrained so as to prevent the animal from leaving the premises of its owner or from coming in contact with public right-of-way or the property of another.
- D. It is unlawful for a person, owning or having the care or custody or control of an animal to permit such animal to disturb the peace and quiet of the neighborhood by barking, howling, whining, or making any other loud or unusual noise. Leaving an animal unattended who subsequently disturbs the peace and quiet of the neighborhood shall be in violation of this Chapter.
- E. In the event an animal is making any noise to the disturbance of the peace and quiet of the neighborhood and the person owning or having the care or custody or control over the animal cannot be found to remedy the situation or if found refuses to do so, the animal may be impounded. A notice of the impoundment must be left with the person or in an obvious place on the premises where the dog was removed. A written notice of impoundment must also be sent by certified mail, with return receipt requested, as soon as possible to the licensed owner of the animal if known; or the lessee of the premises upon which the animal was found, if known; or the record owner of the premises. Such notice is deemed completed at the time it is mailed, and any period to reply or abate begins to run from the date of mailing. The animal may be claimed on any regular work day during regular work hours. The impoundment fee will be assessed prior to release of the animal.
- F. It shall be prohibited for any person in any manner to interfere with any employee or designated representative of the City so as to hinder, delay or prevent his or her executing his or her duties pursuant to this Chapter.

- G. No person may set traps in the City for the purpose of apprehending wild or domesticated animals. This section does not prohibit:
1. Trapping mice, rats or other household vermin;
  2. The setting of traps to destroy moles and other underground pests so long as the traps used may be triggered only by subsurface action; or
  3. The setting of traps in the line of duty by an animal control officer or with written permission from and under supervision of an animal control officer or licensed pest-control operators.
  4. The City Council or authorized official authorizing residents to set traps.

5.0217 Noisy animals. It shall be unlawful for any person to harbor or keep any animal or fowl which disturbs the peace by loud noises at any time of the day or night.

It shall be unlawful for any person knowingly to keep or harbor any dog which habitually barks, howls, or yelps to the great discomfort of the peace and quiet of the neighborhood or in such manner as to disturb or annoy persons in the neighborhood who are of ordinary sensibilities.

Upon signed complaint to the finance officer, city employee, or police department that any person is keeping or harboring any dog(s) which disturbs the peace as herein set forth, it shall be the duty of said police department to notify the owner of said dog(s) in writing of said complaint, and after such owner has been given forty-eight (48) hours' notice of such violation and the violation is continuing, any police officer or person of proper authority is hereby authorized and empowered to go up on the premises and impound any such dog or animal so disturbing the peace. In addition to the costs of impounding such animal, including the costs of kenneling, or other penalties prescribed, the owner shall be subject to a fine not to exceed five hundred dollars (\$500.00) and thirty (30) days in jail.

### **CHAPTER 5.03 - FIREWORKS AND FIREARMS**

5.0301 Period and Time to Discharge Fireworks. It shall be lawful for a person to discharge fireworks for the following period and time:

10:00 am to 10:00 pm on June 27<sup>th</sup> to the first Sunday after July 4<sup>th</sup>

10:00 am to 12:00 pm on July 3<sup>rd</sup> and 4<sup>th</sup>

10:00 am to 12:30 am on December 31<sup>st</sup> extending thru January 1<sup>st</sup>

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

The following uses are exempt from this section:

- A. Proper use of weapons in a licensed shooting range.
- B. Use by law enforcement or animal control officers in the discharge of their official duties, or to persons who are authorized by the City Council or authorized official.
- C. Use by persons engaged in instructional courses using air guns, BB guns, or bows and arrows if the course has obtained approval from the City Council, is conducted by a certified instructor, is covered by adequate liability insurance, and has been approved by the supervising unit if conducted on City property. The City Council or its authorized official may establish conditions for granting a permit to protect the health, safety, and well-being of the general public.
- D. The owner or inhabitant, over 18 years of age, of a parcel of real estate within the City of Tripp may use air guns or BB guns to control predators or pests on such property, provided all such activities comply with South Dakota Statute.

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

## **CHAPTER 5.04 - MINORS**

- 5.0401 Imposed. It shall be unlawful for any minor under the age of seventeen years to be on or present upon any streets, avenues, alleys, parks, playgrounds or other public grounds or places of amusements or entertainment, or places of business or vacant lots in the City before 5:00 a.m. or after 11:00 pm. on any days of the week, unless such minor is accompanied by his parent, guardian or other adult person having the care or custody of such minor.
- 5.0402 Parents and Guardians Not to Permit Violations. It shall be unlawful for any parent, guardian or other person having the legal care or custody of any minor under seventeen years of age to allow or permit such minor, while in such legal care, custody, or control, to go or be in or upon any of the places and during the hours set forth in Section 5.0401.
- 5.0403 Owners or Managers of Places of Amusement or Business Not to Permit Violations. It shall be unlawful for the owner, manager or person in charge of any show or other place of amusement or business to permit any minor under the age of seventeen years to enter or remain in such show or other place of amusement or business during the hours specified in Section 5.0401, unless such minor shall be accompanied by his parent, guardian or other adult person having the care and custody of such minor.

## **TITLE 6 - STREETS, SIDEWALKS, AND PUBLIC PLACES**

### **Chapter 6.01 - Street Names and Addresses**

### **Chapter 6.02 - Streets, Sidewalks, Curb and Gutter**

### **Chapter 6.03 - Snow Removal**

### **Chapter 6.04 - Moving Buildings**

### **Chapter 6.05 - Building Demolition/Excavation**

### **Chapter 6.06 - Municipal Trees**

### **Chapter 6.07 - Municipal Parks**

### **Chapter 6.08 - City Cemetery**

## **CHAPTER 6.01 - STREET NAMES AND ADDRESSES**

- 6.0101 Names of Streets. The names of all streets in the City shall be fixed and adopted in accordance with the official map of the City on file in the office of the Finance Officer. Any such act of naming, establishing, or vacating any street, alley or other public way in the City shall be so designated on the map. (SDCL 9-45-2)
- 6.0102 Numbering Plan. A street numbering plan for residences and businesses shall be maintained by the City. A listing of the assigned numbers and a map showing the location of addresses shall be maintained and filed in the office of the Finance Officer. The Finance Officer shall be responsible for assigning new numbers and updating the listing of such numbers and the location map. (SDCL 9-45-2)
- 6.0103 Duty of Numbering. That all houses and lots within the corporate limits of City of Tripp, South Dakota, shall be numbered in accordance with the provisions of Chapter 6.01. It shall be the duty of the owner of such houses and lots to so place and construct such numbers as to be easily visible from the street and said numbers shall be not less than four inches in height. If the owner of any dwelling house, building, business establishment or lot fronting on a street or avenue within the City shall fail, refuse or neglect to place the number, or replace the number, when necessary, an authorized agent of the City may cause to be mailed by certified mail, return receipt requested, or by personal service to such owner, occupant or person, or by posting on the property a notice to the last known address ordering him to do so. Failure by any person to actually receive any document sent to him by certified mail or to sign and return any receipt card acknowledging receipt by certified mail shall not invalidate service made upon such person by certified mail. Such notice is deemed completed at the time it is mailed, hand delivered or posted, and any period to reply or abate begins to run from the date of mailing, personal service or posting. In case of failure of such owner to comply with such notice within ten 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. The hard surfacing of streets shall be at the expense of the owners of the property abutting the street(s) to be surfaced, with materials to be approved by the City. Total cost of the street improvements including legal, engineering, grading and any other costs related to the improvement, shall be assessed against the property on a frontage foot basis. The cost of each street or alley intersection shall be assessed on a front footage basis to all lots or property included within a project area. (SDCL 9-45-31)
- 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 therefrom without first having called One Call and having obtained approval from the Street Superintendent. 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 City Council to ensure proper replacement and refilling of any such excavation or to cover the costs of any damages which may be caused by such excavation. Any required deposit shall be paid to the City before approval of an application is made and any unused portion of said deposit shall be refunded to the applicant.
- 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 City, and shall restore the pavement or surfacing, as the case may be, to its former condition. The City may adopt and amend as necessary such requirements which shall set forth the manner in which various types of excavations shall be backfilled or refilled and the manner in which any street surfacing shall be replaced. Applicant shall be responsible to the City for any such excavation for a period of two years.
- 6.0205 Excavation Inspections. It shall be the duty of Street Superintendent or his or her designee to inspect all authorized excavation work at any stage of construction and to ensure compliance with approved requirements. If all backfilling, refilling, or surfacing is not completed in accordance with approved requirements, notice thereof in writing shall be given to the applicant, who shall put the same in proper order within a maximum of ten days. If the applicant fails after such notice to complete all requirements, the City Council may authorize the necessary repairs and such applicant shall pay the costs thereof.
- 6.0206 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 signs, fences, or signals so as to prevent injury to persons, animals, or vehicles on

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

- 6.0207 Sidewalks. Unless otherwise determined by the City Council, the inside of the sidewalk shall be the property line. Sidewalk construction shall include base material of three inches in thickness, of approved materials and two half inch steel rebar in the sidewalk spaced one foot in from each side. Sidewalks shall be no less than four inches in thickness, of Portland Cement Construction, and not less than four feet nor more than five feet wide in residential areas, with slope toward street of one-fourth inch per foot. When considered necessary and advisable for the peace, welfare, and safety of the people, the City Council may direct that new sidewalk be constructed and assessed to any abutting property owner in accordance with SDCL 9-46. The property owner of any new structure constructed in or moved into the City of 1996, at a location which does not have sidewalks and in accordance with the construction standards established in this section. In the event that a property owner wishes to remove an existing sidewalk, the property owner shall replace the sidewalk in accordance with the specifications described in this section. As established in SDCL 9-46-2, property owners are responsible for the maintenance and condition of abutting sidewalks. As provided for under SDCL 9-46-3 through 9-46-8, the City Council may require a property owner to construct a sidewalk or declare a particular sidewalk to be in need of repair or replacement, and may require the abutting property owners to cover the costs of such repair or replacement. The City Council may also from time to time by Resolution, declare that certain areas of the City are exempt from the requirements of this Ordinance.
- 6.0208 Driveway Approaches. No driveway approaches shall protrude or extend into the streets beyond the curb line, unless otherwise so authorized by the City Council. Concrete driveway approaches shall be of five -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.
- 6.0209 Curb and Gutter. Curb and gutter shall be of Portland Cement Construction, not less than three thousand PSI, with curb six inches in width, and extending six inches above the gutter. Gutter shall be of six- and one-half-inch thickness, extending twenty-four inches into the street and shall include two No. 4 Steel Rebar centered on pan. The City Council may direct that curb and gutter be constructed and the cost assessed against any abutting property owner. (SDCL 9-45-5)
- 6.0210 Permits. When constructed separately from an overall construction project, property owners or their agents shall submit applications for permits for approval by the Street Superintendent for sidewalks, driveway approaches, curbs, or curb and gutter. When these improvements are constructed simultaneously or as one project, only one application is necessary to include all improvements, and where any or all are part of new construction projects, only one permit for the overall construction shall be issued. All improvements, installations, and engineering recommendations shall be in conformance with specifications or recommendations approved by the City Council or its Engineer.

- 6.0211 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 or according to Americans with Disabilities Act specifications.
- 6.0212 Permission to Deposit Materials. No person shall deposit, place, store, or maintain, upon any public place of the municipality, including street rights-of-way, any dumpster, container, stone, brick, sand, concrete or any other materials, unless approved by the City.
- 6.0213 Council Permission for Parades or Public Gatherings on Streets or Sidewalks. It shall be unlawful for any person to hold or conduct any parade, meeting or public gathering on the streets or sidewalks of the City, without first obtaining permission to do so from the City Council.

### **CHAPTER 6.03 - SNOW REMOVAL**

- 6.0301 Duty to Remove. It shall be the duty of the owner, tenant, or person in possession of any property abutting on any sidewalk to keep such sidewalk and boulevard free from snow and to cause any accumulated snow to be removed within twenty-four hours in the downtown area and forty-eight hours in the rest of the City after the termination of any snowfall, or snow accumulation. When it is impossible to take snow and ice from such walk by reason of its being frozen to the sidewalk, the owner or occupant or person in charge of such lot shall sprinkle or spread some suitable material upon the same to prevent the walk from becoming slippery and dangerous to travel.
- 6.0302 Disposal of Snow. It shall be the duty of the property owner, tenant, or person in possession of any public or private driveway, parking lot, parking area or boulevard to dispose of accumulated snow upon such property in such manner that any snow when removed shall not be deposited upon any sidewalk, within or upon any public street or alley, after such public street or alley has been cleared of snow by grading of such snow away from the curb or picking up and carrying away of such snow by the City or in a manner that will obstruct or interfere with the passage or vision of vehicle or pedestrian traffic.
- 6.0303 Removal Costs Assessed. In the event any owner, tenant, or person in possession of any property shall neglect or fail to or refuse to remove such snow or ice within the time provided, the City may issue a citation for such violation and may authorize such removal with the costs to be assessed against the abutting property owner.  
(SDCL 9-30-5)

## CHAPTER 6.04 - MOVING BUILDINGS

- 6.0401 Permit Required. No person shall move any building or part of building into, along or across any public street, alley or grounds in City without having obtained a moving permit. (SDCL 9-30-2)
- 6.0402 Applications. Written application for a moving permit shall be filed with the Finance Officer, and shall include the name of the applicant, the name of the owner of the building, a description of the lot on which such building is standing and the lot to which it is to be moved, if such location shall be within the City. The application shall also specify the route along which it is proposed to move the building, and the length of time likely to be consumed in such moving. Any application so filed shall be considered by the City Council for approval, and any other conditions to be complied with by the applicant, shall be stated.
- 6.0403 Surety Bond. No permit shall be granted until the applicant shall file with the Finance Officer a bond in favor of the City in the penal sum to be established by the City Council, with sufficient surety, and conditioned on the applicant promptly repairing and making good, to the satisfaction of the City Council, any and all damage to any pavement, sidewalk, crosswalk, hydrant, street, alley, above ground or underground utility facility, or other property, done or caused by the applicant or the applicant's employees, in moving such building or part thereof, or in connection with the moving thereof. The applicant shall indemnify and save harmless the City against any and all liability for damages, costs and expenses, arising or which may arise or be incurred in favor of any person by reason of any conduct by the applicant or applicant's agents or employees, in connection with the moving of such building or part thereof, or the use of any public ground for such purpose.
- 6.0404 Standing Buildings. No building or part of a building being moved, shall be allowed to stand still in any public street or any public ground for more than twenty-four consecutive hours.
- 6.0405 Permission of Property Owners. No moving permit granted by the City shall authorize the holder thereof to break, injure, or move any telephone, electric light, power or cable TV wire or pole, or to cut, trim or otherwise interfere with any property without the written permission of the owner or owners thereof.
- 6.0406 Removal, Demolition or Relocation of Structures. Upon the removal, demolition or relocation of structures from or on any lot within the City of Tripp, the foundation of such structure removed, demolished or relocated must be removed from the property and the basement or excavation remaining after removal of the foundation must be filled with good, clean, fill dirt. If a house is removed from the property then all other outbuildings and other structures which are not being used must be removed together with all sidewalks (except along the street). Upon removal, demolition or relocation of the house or other structures, the lot shall be leveled and left in a good, clean, sanitary condition. Upon the property owner's failure to comply with the provisions of this Section, the property shall be deemed a public nuisance which may be abated

and the cost thereof assessed against the property pursuant to laws of the State of South Dakota.

- 6.0407 Approval and Fee. No moving permit shall be issued unless the appropriate nonrefundable fee, established by resolution of the City Council, is paid to the Finance Office.
- 6.0408 Safeguards. It shall be the duty of the person, firm or corporation moving any building through the streets to do the same with proper care for the safety of persons and property. Warning barricades and lights shall be maintained wherever necessary for the protection of pedestrians or traffic
- 6.0409 Protecting Pavement. Where a building or structure is being moved over a street, but is not carried on another vehicle or on a unit equipped with tires, the street surface shall be protected by planking or other device effective to prevent injury to the roadway.

## **CHAPTER 6.05 - BUILDING DEMOLITION/EXCAVATION**

- 6.0501 Permit Required. No person shall dismantle, destroy, demolish or remove any building or structure in the City without having obtained a demolition permit. An application for such permit shall be filed in the same manner as a building permit. Such permit, when issued, shall state the date by which such building or structure shall be dismantled, destroyed, demolished or removed. Any such application shall be accompanied by the required application fee, in the same amount of the fee required for a building permit.
- 6.0502 Reasonable Completion Time. It shall be the duty of the owner of the property and/or the person to which the permit is issued to act with due diligence to remove all debris from the area of dismantling, destruction, demolition, or removal. In the event such action leaves any excavations, digging, opening, or pit, such areas shall be promptly filled and leveled as is necessary to restore and maintain a level terrain.
- 6.0503 Time Extension. In the event the activity covered by the permit is not completed within the time stated in the permit, the City Council may, upon proper application and good cause shown, issue an extension of time in which the activity stated in the permit shall be done.
- 6.0504 Debris Removal and Filling Required. Such permit shall be issued conditional upon the permit holder acting with due diligence to remove all debris from the area of dismantling, destruction, demolition or removal. In the event that such action leaves any excavations, diggings, openings or similar areas, such areas shall be promptly filled and leveled as necessary to restore and maintain the original grade.
- 6.0505 City May Complete Work and Charge Owner. In the event the owner of the property and/or the person to whom the permit was issued fails or refuses to remove any debris, materials, or fill, and/or fails to level and restore the premises within the time

specified in the permit, and in the further event no extension of time under Section 6.0503 has been granted, the City Council may direct that the property be cleared of all debris and that all excavations, diggings openings or pits be filled and shall charge the cost of the removal and restoration against the owner of the property.

6.0506 Publication and Notice. Upon presentation to the City Council of a statement for removal, leveling, or restoration as described in Section 6.0504 above, the City Council shall publish in the official newspaper for two (2) consecutive weeks a notice of the time and place that the Council shall meet for approval of such expense and shall send the same to the record owner of the property and applicant at their last known address.

6.0507 Collection of Expenses. Upon due notice given, the City Council shall approve or modify such statement and file the same with the Municipal Finance Officer. As of the date of such approval and filing of the same, such sum, together with all costs of publishing the notices referred to in Section 6.0506, shall be a special lien against the parcel of property described and such assessment shall be collected in like manner as special assessments are now collected for city improvements.

## CHAPTER 6.06 - MUNICIPAL TREES

6.0601 Authority and Jurisdiction. The City Council shall have the authority and to regulate the planting, maintenance, and removal of trees on streets and other publicly owned property to ensure the public safety and to preserve the aesthetics of such public sites. The City Council shall also have the authority to determine the type and kind of trees to be planted upon municipal streets or in parks; and may assist in the dissemination of news and information regarding the selection, planting, and maintenance of trees within the corporate limits or within the area over which the City has jurisdiction, whether the same be on private or public property, and to make recommendations from time to time as to desirable ordinances concerning the tree program and activities for the City.

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

- a. The city lists the following trees as acceptable for planting within the city:  
Small Trees: flowering crabapples, Hawthorn, Apricot, Ginnala maple.  
Flowering pear, May Day tree, chokeberry  
Medium Trees: Kentucky coffee-tree, Ohio buckeye, European Mt Ash, Amur cork tree  
Large Trees: Hackberry tree, Silver maple, White poplar, Honey locust, Basswood, Green ash, Bur oak
- b. Other species may also be planted from time to time as the board permits. Recommended plantings shall be spaced according to the following: Small trees: 25 feet, Medium trees: 35 feet, Large trees: 45 feet. In addition, no tree shall be planted 20 feet from any street corner, ten feet from fire hydrants or

utility poles, or 25 feet from any existing tree, whether it is city or private. No trees shall be planted where the distance between curb and sidewalk is less than four feet. Small trees may be planted at four feet, medium trees at six feet, and large trees at eight feet or more. No trees except small trees may be planted under or within ten lateral feet of overhead utility wires, or over or within five lateral feet of any underground water, sewer or other utility line.

Any person or persons planting prohibited trees or shrubs in street right of way area shall be given notice to remove the trees or shrubs, within 15 days of written notice of such nuisance, shall be corrected by the responsible owner of such tree. Failure to remove within the specified time shall constitute a violation of this Chapter, and in such case, in addition to any other penalty provided by law, the City is authorized to remove such plants and assess the owner of the property for the removal costs.

- 6.0602 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 feet over all sidewalks and fourteen feet over all streets, unless otherwise determined by the City Council.
- 6.0603 Abuse of Trees. Unless otherwise specifically authorized by the City Council, no person shall intentionally damage, cut, carve, transplant, or remove any tree; attach any rope, wire, nails, advertising posters, or other contrivance to any tree, allow any gaseous liquid or solid substance which is harmful to such tree to come in contact with them, or set fire or permit any fire to burn when such fire or the heat thereof will injure any portion of any tree, for any tree located on public property or right-of-way.
- 6.0604 Tree care and removal. No tree shall be allowed to harbor any safety hazard to the general public, whether that tree be public or private, or to harbor any insect, disease or other pest that would be injurious or fatal to any other tree in the city. Such trees include those injurious to sewer, water, electrical or gas lines, those interfering with traffic and traffic-control devices and signs, those obstructing light from any street light, and those that are dead, or have broken or dead limbs that are unsafe.
- 6.0605 Removal of Hazards. Where any tree branches or hedges protrude or overhang on any thoroughfare within the City so as to be determined as in violation with this Chapter or affecting motor vehicle traffic and good maintenance practices, notification shall be given by the Public Works Director to the property owner to remove such obstructions or undesirable branches or hedges within seventy-two hours. The notification shall be sent by certified mail, return receipt requested, or by personal service to such owner, occupant or person, or by posting on the property. Failure by any person to actually receive any document sent to him by certified mail or to sign and return any receipt card acknowledging receipt by certified mail shall not invalidate service made upon such person by certified mail. Such notice is deemed completed at the time it is mailed, hand delivered or posted, and any period

to reply or abate begins to run from the date of mailing, personal service or posting. (SDCL 9-38-2)

- 6.0606 Removal Costs Assessed. In the event any owner, tenant, or person in possession of any property shall neglect or fail to or refuse to remove such obstructions or undesirable branches or hedges within the time provided, the City may issue a citation for such violation and may authorize such removal with the costs to be assessed against the abutting property owner. (SDCL 9-30-5)
- 6.0607 Interference with city council. No person shall prevent or interfere with the city council or its agents or employees or anyone assisting the city council while performing their duties.

## **CHAPTER 6.07 - MUNICIPAL PARKS**

- 6.0701 City Park. The City Park of Tripp, South Dakota, shall consist of and include all lands, rights of way, pool and structures used and enjoyed by the citizens of Tripp and others for many years owned and maintained by said City.
- 6.0702 Unauthorized Entry. It shall be unlawful for any person to trespass upon or enter any property designated as a park unless said entry is in accordance with City ordinances, resolutions or policies governing the times of operation for said park or unless said person has permission to enter from an authorized municipal official.
- 6.0703 Lawful Manner. Any person using or occupying such City Park or any of its facilities shall conduct him or herself in a carefully, prudent, peaceable and lawful manner, shall honor and respect the rights and privileges of other visitors in the park, and shall at all times maintain and take every precaution to prevent the injury of persons and property in the park.
- 6.0704 Unnecessary Acts. Any person using or occupying such City Park or any of its facilities shall not do or commit any unreasonable or unnecessary acts that may unreasonably annoy other visitors in the park or unreasonably prevent such visitors in the park from the full use and enjoyment of the park.
- 6.0705 Protection to Water Areas. It shall be unlawful for any person to enter into or upon any water retention ponds located on any property designated as a park unless said entry is authorized by an authorized municipal official. Entry shall be deemed to include swimming, ice skating, boating, fishing or other entry onto the waters.
- 6.0706 Alcoholic Beverages. No person shall consume any alcoholic beverages in any City Park, except upon approval by the City Council.
- 6.0707 Glass Containers. No glass beverage containers are permitted in any City Park.

## **CHAPTER 6.08 – CITY CEMETERY**

- 6.0801 Rates. \$200.00 per grave lot.

6.0802 In order to better maintain the cemetery these rules shall apply:

- A. Footings for monuments and foot stones must be 8 inches larger than the monument or foot stone and must be placed flush with the ground.
- B. The footings for the monument base must be 10 inches in depth.
- C. The monument must be placed so that it on the lot, but on the cemetery plot and in line with other monuments.
- D. Ornamental items will not be allowed on the lot.
- E. Trees and bushes will not be allowed on the lot.
- F. Flowers/decorations must be removed 14 days after placement, if not removed by the end of the 14 days the City will remove the items.
- G. Cremation urns will need to have a single plot and a vault.

## TITLE 7 - TRAFFIC CODE

- Chapter 7.01 - General Provisions**
- Chapter 7.02 - Operation of Vehicles**
- Chapter 7.03 - Vehicle Equipment**
- Chapter 7.04 - Speed Restrictions**
- Chapter 7.05 - Parking, Stopping**
- Chapter 7.06 - Trucks**
- Chapter 7.07 - Snowmobiles**
- Chapter 7.08 - Golf Carts**
- Chapter 7.09 - 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 Chapter or Title.
- A. Authorized Emergency Vehicle - Vehicles of any fire department, law enforcement vehicles and such ambulances and emergency vehicles of municipal department or public service corporations as are designed or authorized by law enforcement.
  - B. Crosswalk - That portion of a roadway ordinarily included within the prolongation of curb and property lines at intersection, whether marked or not, or any other portion of a roadway clearly indicated for pedestrian crossing by lines or other markings on the surface of the street.
  - C. Curb - The extreme edge of lateral boundary of a roadway, whether marked by curbing or not.
  - D. Department - The law enforcement department of the City of Tripp.
  - E. Double Parking - The standing of a vehicle upon a street at the rear of another vehicle which is parked diagonally at the curb, or the standing of a vehicle upon the street alongside and parallel at the curb.
  - F. Driver or Operator - Any person who is in actual physical control of a vehicle.
  - G. Left Hand Side of a Street - The side to the left of the vehicle as it moves forward.
  - H. Motor Vehicle - Every vehicle which is self-propelled.

- I. Parking - The standing of a vehicle, whether attended or unattended upon a roadway, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading passengers.
- J. Pedestrian - Any person afoot.
- K. Private Road or Driveway - Every road or driveway not open to the use of the public for vehicular travel.
- L. Right Hand Side of Street - The side on the right of the vehicle as it moves forward.
- M. Right-of-Way - The privilege of the immediate use of the street.
- N. Roadway - That portion of a street devoted to vehicular traffic.
- O. Semitrailer - Every vehicle of the trailer type so designed and used in conjunction with a motor vehicle that some part of its own weight and that of its own load rests upon or is carried by another vehicle.
- P. Sidewalk - That portion of the street between the curb line and the adjacent property lines.
- Q. Street - The term street shall mean any street, avenue, boulevard, alley, highway, or public place set apart for the public vehicular traffic.
- R. Street Intersection - That portion of a street where it joins another at an angle, whether or not it crosses the other street, and shall include the full width of the street between the curb lines, extended, of the intersection streets.
- S. Through Streets - Streets, or parts thereof, that have been so designated and marked, by order of the City Council.
- T. Trailer - Every vehicle without motive power designed for carrying property or passengers wholly on its own structure and for being drawn by a motor vehicle.
- U. Vehicle - Every device in, upon, or by which any person or property is or may be transported or drawn upon a street, provided that for the purpose of this title a bicycle or an animal that is being ridden, driven, or led shall be deemed a vehicle.

7.0102 Duty to Enforce. It shall be the duty of law enforcement to enforce all the regulations and requirements of this Title. (SDCL 9-29-19)

7.0103 Directing Traffic. Law enforcement shall direct traffic in conformance with traffic laws and ordinances, provided that in the event of a fire or other emergency, or to

expedite traffic or safeguard pedestrians, members of law enforcement or fire department may direct traffic as conditions may require. (SDCL 9-29-19)

- 7.0104 Obedience to Law Enforcement. It shall be unlawful for any person to refuse or fail to comply with any lawful order, signal, or direction of the law enforcement department. (SDCL 9-29-19)
- 7.0105 Exemptions to Authorized Emergency Vehicles. The provisions of this Title regulating the movement, parking and standing of vehicles shall not apply to authorized emergency vehicles while the operator of such vehicle is operating the same in an emergency in the necessary performance of public duties. This exemption shall not, however, exempt the driver of any such vehicle from the consequence of a reckless disregard of the safety of others.
- 7.0106 Application to Workers and Equipment. The provisions of this Title shall not apply to persons, motor vehicles and other equipment while actually engaged in work upon the surface of a street, but shall apply to such persons and vehicles when traveling to or from such work; provided however, such persons and vehicles shall not indiscriminately block traffic, but shall allow reasonable room on the traveled portion of the street for other vehicles to pass.
- 7.0107 Authority to Install Traffic Control Devices. The City Council shall place and maintain traffic control signs, signals and devices when and as required under this Title to make effective the provisions of said Title, and may place and maintain such additional traffic control devices as may be necessary to regulate traffic. When or where necessary the Street Superintendent and the City Engineer shall utilize the Manual on Uniform Traffic Control Devices (MUTCD) guidelines. (SDCL 32-14-5)
- 7.0108 Obedience to Traffic Control Devices. The operator of any vehicle shall obey the instructions of any official traffic control device applicable thereto placed or held in accordance with the provisions of this Title unless otherwise directed by a law enforcement officer subject to the exceptions granted the driver of an authorized emergency vehicle in this Chapter.

## **CHAPTER 7.02 - OPERATION OF VEHICLES**

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

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

- 7.0202 Overtaking and Passing. The driver of any vehicle overtaking another vehicle proceeding in the same direction shall first give audible warning of his intention to pass and shall then pass within the speed limit and at a safe distance to the left thereof, but only when such left side is clearly visible and is free from oncoming traffic for a sufficient distance ahead to permit such overtaking and passing to be made in safety and shall not cut in front of the overtaken vehicle until safely clear of same, and in no case shall a vehicle pass another vehicle in a street intersection. The driver of a vehicle shall move to the right of the roadway a sufficient distance to allow passing when so signaled from a vehicle behind desiring to pass, and shall not increase the speed of his vehicle until completely passed by the overtaking vehicle. Vehicles shall not travel two abreast on any street.
- 7.0203 Motor Vehicles Left Unattended, Brakes to be Set. No person driving or in charge of a motor vehicle shall allow such vehicle to stand on any street unattended without first setting the brakes or placing an automatic transmission in park. When standing upon any grade, the front wheel shall be turned to the curb or side of the roadway.
- 7.0204 Backing Around Corners or into Intersection Prohibited. It shall be unlawful for the operator of any vehicle to back such vehicle around a corner at an intersection or into an intersection of public streets. (SDCL 32-30-20)
- 7.0205 Right-of-Way at Intersection. Subject to the exception stated in the next succeeding Section, the right-of-way rule as between vehicles at intersections is hereby declared as follows:
- A. The operator of a vehicle approaching an intersection shall yield the right-of-way to a vehicle which has fully entered the intersection;
  - B. When two vehicles approach an intersection at approximately the same time, the operator of the vehicle on the left shall yield the right-of-way to the vehicle on the right;
  - C. The operator of any vehicle traveling at an unlawful speed shall forfeit any right-of- way which he may otherwise have hereunder.
- 7.0206 Exceptions to Right-of-Way. The operator of a vehicle entering a public street shall yield the right-of-way to authorized emergency vehicles when the latter are operated upon official business and the operators thereof sound audible signal by bell, siren, or exhaust whistle.  
This provision shall not relieve the operator of an emergency vehicle from the duty to drive with due regard for the safety of all persons, nor shall it protect the operator of any such vehicle from the consequences of an arbitrary exercise of such right-of-way.
- 7.0207 Stop Required Before Operator Entering From Alley or Private Driveway. The operator of a vehicle emerging from an alley, driveway, or garage shall stop such vehicle immediately prior to driving onto a sidewalk or onto the sidewalk area extending across such alleyway. (SDCL 32-29-2.2)

- 7.0208 Turning Around at Intersections Prohibited. At any intersection where traffic is controlled by traffic control signals or by a law enforcement officer, or where warned by an official traffic control sign displaying the words "No U Turn," or "No Left Turn," it shall be unlawful for the operator of a vehicle to turn such vehicle at the intersection in a complete circle, or so as to proceed in the opposite direction or to make a left turn.
- 7.0209 Right-of-Way, Left Turn. The operator of a vehicle within an intersection intending to turn to the left shall yield the right-of-way to any vehicle approaching from the opposite direction which is within the intersection or so close thereto as to constitute an immediate hazard. The operator having so yielded and having given a signal when and as required may make such left turn and the operators of all other vehicles approaching the intersection from said opposite direction shall yield the right-of-way to the vehicle making the left turn. (SDCL 32- 26-18)
- 7.0210 Turning Around in Midblock Prohibited. No person shall make a U-turn by operating a motor vehicle in the middle of a block to change direction of travel or to obtain parking on the opposite side of the roadway, or at any other place other than at an intersection where said U-turns are not prohibited.
- 7.0211 Action Required at Stop Sign. Except when directed to proceed by a law enforcement officer or traffic control signal, every operator of a vehicle approaching a stop intersection indicated by a stop sign shall come to a full stop at a clearly marked stop line, but if none, before entering the crosswalk on the near side of the intersection or if none, then at the point nearest the intersection roadway where the driver has a view of approaching traffic on the intersecting roadway before entering the intersection. After having stopped, the operator shall yield the right-of-way to any vehicle which has entered or is approaching the intersection from another highway and shall not proceed into the intersection until certain that such intersecting roadway is free from oncoming traffic which may affect safe passage. (SDCL 32-29-2.1)
- 7.0212 Action Required at Yield Sign. The operator of a vehicle approaching an authorized sign bearing the word "Yield" or "Yield Right-of-Way" shall in obedience to such sign slow down to a speed reasonable for the existing conditions or shall stop if necessary and shall yield the right-of-way to any pedestrian legally crossing the roadway on which such operator is driving, and to any vehicle in the intersection or approaching on another highway so closely as to constitute an immediate hazard. Said operator having so yielded may proceed and the operators of all other vehicles approaching the intersection shall yield to the vehicle so proceeding. (SDCL 32-29-3)
- 7.0213 Pedestrian's Right-of-Way. The operator of any vehicle shall yield the right-of-way to a pedestrian crossing the roadway within any marked crosswalk or within any unmarked crosswalk at the end of a block, except at intersections where the movement of traffic is being regulated by law enforcement officers or traffic control signals. Whenever any vehicle has stopped at a marked crosswalk or at any

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

### **CHAPTER 7.03 - VEHICLE EQUIPMENT**

- 7.0301 Lights Required. A motor vehicle upon a highway within the state during the period from a half hour after sunset to a half hour before sunrise and at any other time when there is not sufficient light to render clearly discernible any person on the highway at a distance of two hundred feet shall be equipped with at least two lighted lamps on the front and two on the rear of such motor vehicle, such lamps to conform to SDCL 32-17, provided that a motorcycle or motor bicycle shall be required to display but one lighted lamp in front and one in the rear.
- 7.0302 Head Lights Dimmed. No person shall use head lights or side lights upon any vehicle on any street unless the same are dimmed in such a way as to prevent the light being blinding to persons using the streets.
- 7.0303 Brakes. Every motor vehicle, trailer, semitrailer, and pole trailer, and any combination of such vehicles shall be equipped with brakes in compliance with the requirements of SDCL 32-18.
- 7.0304 Muffler, Excessive Smoke and Noise. No person shall operate or drive any motor vehicle unless such motor vehicle is provided with an adequate muffler, which shall at all times be kept closed so that the exhaust is effectively muffled. No person shall operate a motor vehicle in such manner as to emit unnecessary or excessive smoke or noise from the motor of such vehicle or to needlessly sound the horn or other noise-making device.
- 7.0305 Vehicles with Lugs Prohibited. No person shall operate or move any tractor or vehicle equipped with mud lugs, ice spurs, or spikes upon or across any street that is surfaced with Portland cement concrete or surfaced with bituminous material or any other hard surfacing material without first laying planks at least two inches in thickness over the surface of such street in a manner so as to protect such street surface from any damage.
- 7.0306 Pneumatic Tires with Metal Studs Prohibited. It shall be lawful to operate, upon the streets of the City of Tripp, motor vehicles equipped with pneumatic tires in which there are embedded metal studs or wires of tungsten or other similar metal from October 1 to April 30 as provided by the state law.
- 7.0307 Projecting Loads. No person shall drive any vehicle upon any street with any load or part of a load projecting more than four feet beyond the rear end or front ends or more than two feet beyond the sides of the body, or carrying part of such vehicles unless there be attached to the extreme ends and sides of such projecting load some warning sign or signal plainly discernible to other drivers and clearly indicating the projecting parts of such load.

- 7.0308 Protection of Load. No motor vehicle shall be driven or moved on any street unless such vehicle is so constructed or loaded as to prevent any of its load from dripping, sifting, leaking or otherwise escaping there from except that sand may be dropped for the purpose of securing tractions or water or other substances may be sprinkled on a roadway in cleaning or maintaining such roadway. No person shall operate on any street any vehicle with any load unless said load and any covering is securely fastened so as to prevent said covering or load from becoming loose, detached or in any manner a hazard to other users of the highway.
- 7.0309 Dynamic braking devices. No motor vehicle shall operate with a dynamic braking device engaged except for the aversion of imminent danger. A dynamic braking device (commonly referred to as Jacobs Brake) means a device used primarily on trucks for the conversion of the engine from an internal combustion engine to an air compressor for the purpose of braking without the use of wheel brakes.

## **CHAPTER 7.04 - SPEED RESTRICTIONS**

- 7.0401 General Restrictions. Any person driving a vehicle on a street or highway shall drive the same at a careful and prudent speed not greater than is reasonable and proper, having due regard to the traffic, surface, and width of the street or highway and to any other conditions existing.
- 7.0402 Speed Limitations. It shall be unlawful for any driver to drive any vehicle upon a highway or streets of the City or in any municipal park at a greater rate of speed than the following:
- A. Fifteen miles an hour when approaching within fifty feet of a railroad grade crossing when the driver's view is obstructed. A driver's view shall be deemed to be obstructed when at any time during the last two hundred feet of his approach to such crossing he does not have a clear and uninterrupted view of such crossing and of any traffic on such railway for a distance of four hundred feet in such direction from such crossing.
  - B. Fifteen miles an hour when passing a school during a school recess or while children are going to or leaving school during the opening or closing hours.
  - C. Fifteen miles an hour when approaching within fifty feet and in traversing an intersection of streets when the driver's view is obstructed. A driver's view shall be deemed to be obstructed when at any time during the last fifty feet of his approach to such intersection he does not have a clear and uninterrupted view of such intersection for a distance of two hundred feet from such intersection.
  - D. Except as provided above, twenty-five miles per hour on all streets, or as otherwise designated.
  - E. Fifteen miles per hour in the City parks.

- F. No person shall drive any vehicle at an unnecessarily slow rate of speed as to hinder or retard traffic.

## CHAPTER 7.05 - PARKING, STOPPING

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

- A. Within an intersection;
- B. On a crosswalk;
- C. Within fifteen feet of a fire hydrant;
- D. In front of a private driveway;
- E. Within fifteen feet of the driveway entrance to any fire station or EMS building, or directly across the street from such entrance, except personal vehicles of emergency personnel;
- F. On a sidewalk;
- G. Within fifteen feet of inside boundary line of the sidewalk, or if no sidewalk is in place, within twenty-five feet of the intersecting roadway, except that this provision shall not apply to alleys;
- H. Parking in alley or against direction of traffic on through streets;
- I. Parking of any vehicle on any City street for the purpose of camping or sleeping;
- J. No person shall park any recreational vehicle on any street within the City for a period longer than forty-eight (48) hours. Recreational vehicle(s) shall be tagged by a law enforcement officer and a warning issued to remove within forty-eight (48) hours. Failure to do so will result in removal by the City at the owner's expense. For purposes of this Section, recreational vehicle is defined to include, but shall not be limited to, the following:
  - 1. Cargo trailers;
  - 2. Travel trailers;
  - 3. Pickup campers or coaches;
  - 4. Motorhomes;
  - 5. Camping trailers;
  - 6. Boats and boat trailers;
  - 7. Snowmobiles and snowmobile trailers;
  - 8. Jet skis and jet ski trailers;
  - 9. Golf carts and golf cart trailers;
  - 10. All-terrain vehicles and all-terrain vehicle trailers;

11. Dirt bikes and dirt bike trailers; and
12. Any other recreational equipment or cases, boxes or items used to store or transport such recreational equipment.

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

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

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

7.0504 Towing. The offending automobile or other vehicle will be tagged with a ticket, listing the date of the offense, license number of the vehicle, make, violation number, and location of offense with reference to street.

Any vehicle parked in violation of this Chapter may be removed from the streets by law enforcement, or a private towing company at the direction of the city, and placed in public or private storage and the owner thereof, in addition to the fines and penalties provided in this Ordinance, shall pay the charges for towing and storage of said vehicle so removed by law enforcement or the towing company.

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

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

7.0507 Parking During Snow Removal Alert Prohibited. It shall be unlawful to park any vehicle or motor vehicle upon any street within the City of Tripp after a snow removal alert has been declared.

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

1. Snow Removal Alert. Such times as there is a snow accumulation on the public streets of two inches or more, or such times as the Street Superintendent or his or her designee declares that snow removal operations on the public streets will commence and that the provision of this Chapter in regard to parking on public streets during snow removal operations are effective and will be enforced.
2. Street. The entire width of any public roadway within the City, and it shall not be limited to those roadways designated as a *Street* but shall include all other names by which public roadways are designated.

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

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

D. Violation of Snow Removal Alert. Parking contrary to and in violation of this Section shall be deemed municipal offense.

7.0508 Ticketing and Towing Vehicles. Any authorized City official or law enforcement officer shall be authorized to ticket and tow away, or have removed and towed away by any commercial towing service, any car or vehicle illegally parked in any place where such parked vehicle creates or constitutes a traffic hazard, blocks the use of a fire hydrant, or obstructs or may obstruct the movement of any emergency or snow removal vehicle, or in any way is in violation with the provisions of this Chapter. Cars towed away for illegal parking shall be stored in a place designated by the City

Council and shall be returned to the owner or operator of such vehicle upon payment of the penalty under Section 7.0504. (SDCL 32-30-13, 14)

- 7.0509 Abandoned Vehicles. The abandonment of a motor vehicle or other vehicle or any part thereof on any street in the City shall be subject to action and penalties as provided for in this Title and under Chapter 3.01. The abandonment of a motor vehicle or other vehicle or any part thereof on private or public property, other than a street, in view of the general public, anywhere in the City shall be prohibited except as specifically allowed under Chapter 3.01. (SDCL 32-30-12.1)
- 7.0510 Parking and Storage of Certain Vehicles. Automotive vehicles or trailers of any kind or type without current license plates shall not be parked or stored on any residentially zoned property or any street in the City other than in a completely enclosed building.
- 7.0511 Towing Costs. When a vehicle is removed from either public or private property as authorized by order of the City Council or Authorized Officer of the court, the owner of the vehicle shall be responsible for all towing costs in addition to the penalty for violation. In addition the City shall not be liable for any damages to property or persons incurred as a result of such towing or storage.

## **CHAPTER 7.06 - TRUCKS**

- 7.0601 Definitions. When in this Title the following terms are used, they shall have the meanings respectively ascribed to them in this Section.
- A. Person - Any individual, association, company, corporation, firm, partnership or organization.
  - B. Truck - Any motor vehicle designated or operated for the transportation of property which has a body weight or body and load weight which exceeds three (3) tons per axle.
  - C. Motor Vehicle - All machines propelled by any power other than muscular used upon the streets or highways for the transportation of property.
  - D. Trailer - A vehicle of the trailer type, without a power unit of its own, designed and used in conjunction with a motor vehicle for the transportation of property.
  - E. Truck Route - Streets and highways designated as truck routes by the City Council.
  - F. Streets - All other streets with the City which are not designated as truck routes.
- 7.0602 Truck Routes. The City Council, by resolution, may designate streets and highways within the City of Tripp as truck routes.

- 7.0603 Detours. Trucks may operate on any officially established detour of a truck route or street unless such detours are posted prohibiting such operation by trucks.
- 7.0604 Operation of Trucks. All trucks, as defined, may not operate on any City street or highway other than designated truck routes, unless otherwise permitted by this article.
- 7.0605 Owner's Responsibility. In addition to the driver or operator, the owner of any truck being operated with such owner's permission and/or consent is liable for any violation of this Ordinance.
- 7.0606 Load Limits. If load limits have to be imposed with weather changes, these load limits would coincide with state and/or county, whichever is lesser, load limits when they are necessary.
- 7.0607 Exceptions to Use of Truck Routes. There shall be the following exceptions to the use of truck routes:
- A. A truck arriving at the end of any designated truck route may be driven over the most direct course to the nearest truck route which extends in the same general direction.
  - B. The provisions of this Ordinance relating to the operation of trucks shall not apply to emergency vehicles of law enforcement, Fire Department or to any public utility vehicles when actually engaged in the performance of emergency duties necessary to be performed by said public departments or public utilities, nor to any vehicle owned by or performing work for the City, the United States of America or the State or any of its political subdivisions.
  - C. Any contractor, or material supplier, while engaged in the repair, maintenance, and construction of improvements within the City.
  - D. Whenever any truck route has been established and identified, any person driving a truck having a gross weight of or more than ten thousand pounds shall drive such truck on such routes and none other, except when it is impracticable to do so or where it becomes necessary to traverse another street or streets to a destination for the purpose of loading or unloading commodities, or for the purpose of towing a disabled or damaged motor vehicle to or from public or private property, and then only by such deviation from the nearest truck route as is reasonably necessary.
- 7.0608 Truck Route Signs. The Street Superintendent shall cause all truck routes to be clearly marked to give notice that this Chapter is in effect.
- 7.0609 Enforcement of Truck Routes. Law enforcement shall keep and maintain accurate maps setting out truck routes and streets upon which traffic is permitted. The maps shall be kept on file in the office of the Finance Officer and made available to the public.

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

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

## **CHAPTER 7.07 - SNOWMOBILES**

- 7.0701 Definitions. The following words and phrases, when used in this Chapter, shall have the meanings respectively ascribed to them:
- A. Operate - to control the operation of a snowmobile.
  - B. Owner - any person, other than a lienholder, having the property in or title to a snowmobile and entitled to the use or possession thereof.
  - C. Private Property - means and includes any and all real property, or land within the City, which has not been opened or dedicated for public use or as a public thoroughfare.
  - D. Snowmobile - any engine-driven vehicle of a type, which utilizes sled type runners, wheels or skis with an endless belt tread or similar means of contact with the surface upon which it is operated.
- 7.0702 Operators License Required. No driver shall operate a snowmobile on a public street in the City without having in his or her possession a valid driver's license.
- 7.0703 Traffic Laws Applicable. The operator of a snowmobile is required to obey the same traffic laws of the state and Ordinances of the City, including street and road signs, as the operators of all other motorized vehicles are required to obey.
- 7.0704 Hours of Operation. No person shall operate a snowmobile on private property of their own or another or upon public highways, streets and alleys within the City between the hours of 11:00 p.m. and 7:00 a.m. the following day.
- 7.0705 Permission of Property Owner Required for Operation. No person shall operate a snowmobile on private property of another without the express permission to do so by the owner or occupant of such property.
- 7.0706 Operation on Public Ground and Streets Prohibited. No person shall operate a snowmobile on any public-school grounds, public sidewalks, park property, park,

roads, playgrounds and recreational areas within the City. Snowmobiles may be operated over snow-covered highways, streets and alleys within the City limits but only for emergency use as defined in 7.0711 or when the operator must travel upon such for purposes of leaving the City and/or when returning to his residence from outside the City. The operator when using any public street, highway or alley in accordance with the above restrictions, shall use the most expeditious and direct route.

- 7.0707 Crossing Streets at Right Angles. Persons operating snowmobiles are permitted to cross streets at right angles but only may do so after stopping and yielding the right-of-way to all approaching traffic and crossing as closely as possible to an intersection or approach.
- 7.0708 Speed. No person shall operate a snowmobile at a speed greater than is reasonable or proper, under all existing circumstances. But in no event shall the speed be greater than the maximum limits allowed in Section 7.0402.
- 7.0709 Careless, Reckless or Negligent Operation Prohibited. No person shall operate a snowmobile in a careless, reckless or negligent manner so as to be likely to endanger the person or property of another or cause injury or damage thereto.
- 7.0710 Loud Noises Prohibited. No person shall operate a snowmobile in such manner as to create any loud unnecessary or unusual noise likely to disturb or interfere with the peace and quiet of any other person.
- 7.0711 Emergency Use.
- A. The City Council may declare that road or weather conditions are such as to constitute emergency travel conditions authorizing use of a snowmobile.
  - B. A snowmobile may also be used when such vehicle is necessary as an emergency vehicle to protect the health, safety and welfare of any individual.
  - C. The operator of a snowmobile under emergency conditions shall be subject to all existing traffic ordinances of the City and traffic laws of the State.
- 7.0712 Equipment Required. All snowmobiles operated in the City shall have the following equipment.
- A. Mufflers which are properly attached and which reduce the noise of operations of the vehicle to the minimum noise necessary for operating the vehicles and no person shall use a muffler cutout, bypass or similar device on such vehicle.
  - B. Adequate brakes in good working condition.

- C. A safety or “deadman” throttle in operating condition such being a device which when pressure is removed from the accelerator the throttle causes the motor to disengage from the driving tract.
  - D. At least one headlight and one tail light in good working condition.
  - E. A brightly colored vehicle flag hung or suspended at least six feet high and is firmly attached to the snowmobile.
- 7.0713 Unattended Vehicles. No owner or operator of a snowmobile shall leave or allow the snowmobile to be or remain unattended on public property or streets while the motor is running, or where the keys for starting the vehicle are left in the ignition.
- 7.0714 Sidewalk Operation Prohibited. No person shall operate a snowmobile upon any public sidewalk in the City or bike/walking trail.
- 7.0715 Operation Under the Influence. The operator of a snowmobile shall be deemed the driver or operator of a motor vehicle and be subject to South Dakota law relating to driving while under the influence of intoxicating liquor, drugs or otherwise therein provided and such operator shall be punishable for any violation of such laws.
- 7.0716 Towing. No person operating a snowmobile shall tow any person or object behind such snowmobile except when such person or object is situated upon a conveyance, which is attached to such snowmobile by means of a rigid hitch or tow bar.

## **CHAPTER 7.08 - GOLF CARTS**

- 7.0801 Definitions. For purposes of this Chapter, the following words shall have the following meanings:
- A. “Golf Cart” - A four wheeled vehicle originally and specifically designed and intended to transport one or more individuals and golf clubs for the purpose of playing the game of golf on a golf course. (SDCL 32-14-13)
  - B. “Operator” - Every person who operates or is in actual physical control of a golf cart.
- 7.0802 Golf Cart Operation. Golf carts shall not be allowed to operate within the City except as authorized by state statute or by this Chapter. Golf carts properly permitted pursuant to this Chapter shall be allowed to travel on the roadway portion of public streets, alleys and other roadways within the City except those highways where golf carts are prohibited by state statute. An operator of a golf cart shall comply with all City and state traffic rules and regulations applying to vehicles generally, and except that a golf cart shall not be required to have a bell, horn or directional signals.

- 7.0803 Operation of Golf Cart on State or County Highway or Bike/Walking Trail Prohibited. No person may operate a golf cart on a state or county highway except for crossing from one side of the highway to the other or on the bike/walking trail. A golf cart may cross the state or county highway at a right angle, but only after stopping and yielding the right-of-way to all approaching traffic and crossing as closely as possible to an intersection or approach. (SDCL 32-14-15)
- 7.0804 Operator's License and Insurance. No person may operate a golf cart on the streets, alleys, roadways or other public places within the City limits unless the operator has a valid driver's license and proof that the golf cart is covered by a policy of liability insurance.
- 7.0805 Permit. It shall be unlawful to operate a golf cart within the City, unless the same is permitted in the City of Tripp. Upon submitting of proper application, the Finance Officer, shall issue a sticker that shall be displayed in a readily identifiable location on the golf cart and a fee of \$25.00 shall be assessed. If ownership of the vehicle changes, the new owner shall be required to apply for a license. Permit fees and durations may be adjusted by resolution of the City Council.
- 7.0806 Slow-Moving Vehicle Emblem or White or Amber Warning Lights. Golf carts permitted by the City shall display a slow-moving emblem in accordance with SDCL 32-15-20 or a white or amber warning light in accordance with SDCL 32-17-46.
- 7.0807 Violation of Golf Cart Operation. Operating contrary to and in violation of this Chapter shall be deemed prohibited and any operator in violation shall be subject to a fine of \$25.00. The operator of the golf cart found in violation of this Section may, within 72 hours of the time when the notice of violation was given, pay to the office of the City Finance Officer, as a fine for and in full satisfaction of the violation, the sum. If the operator fails to pay the sum within the 72-hour period, he or she may pay to the office of the City Finance Officer, within the next two weeks from the date of violation, as a fine for and in full satisfaction of the violation, the sum of one hundred (\$100.00). Upon failure of the owner or operator to pay either of the sums to the office of the City Finance Officer within the time periods indicated, and upon conviction of a violation of this Section, the owner or operator shall be fined not less than two hundred dollars (\$200.00) nor more than three hundred dollars (\$300.00) plus court costs, which fine shall be collected by the Magistrate Court. The penalties in this Section may be adjusted by resolution of the City Council.

## **CHAPTER 7.09 - MISCELLANEOUS PROVISIONS**

- 7.0901 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.
- 7.0902 Manner of Arrest. Except in cases of driving while intoxicated or under the influence of intoxicating liquor or any exhilarating drug and except in the more serious and aggravated cases of speeding or careless and reckless driving, and except when reasonably necessary to secure appearance, a person charged with a violation of this

Chapter by law enforcement 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.

- 7.0903 Notice to Appear. A person charged with violation of a traffic ordinance shall be given a summons to appear before the circuit court or magistrate court or the county clerk of courts at the time stated in such summons.
- 7.0904 Appearance and Deposit for Fine. A person who has received a summons of a traffic violation as provided in this Ordinance shall appear at the time and place specified in such summons.
- 7.0905 Stealing Rides and Trailing Sleds. No person shall cause to be attached or to permit any sled of any kind to be trailed behind any vehicle, and no person shall ride, trespass upon, seize hold of, or drag, slide, or in any manner trail behind any vehicle.

## TITLE 8 - MUNICIPAL UTILITIES

### Chapter 8.01 - General Provisions

### Chapter 8.02 - Water Provisions

### Chapter 8.03 - Sewer Provisions

#### CHAPTER 8.01 - GENERAL PROVISIONS

- 8.0101 Application. Any consumer desiring any utility service furnished by the City, including water, sewer or electric, shall make application for the same to the utility office. Such application shall contain the applicant's name, address, and the uses for which such service is desired. A separate application shall be made for each premises to be served. The applicant shall abide by the rules and regulations established by the City relative to utility service in effect at the time of such application and as revised from time to time in addition to conditions and agreements as the City Council shall deem advisable.
- 8.0102 Deposit. Any applicant for City utility service shall make a deposit in an amount set by resolution by the City Council. The deposit is also an indemnity against theft, misplacement, or injury to City equipment. Deposits to assure payment for water, sewer, garbage collection, or other utility service shall be as required by resolution of the council from time to time. The deposit shall be returned when the applicant has given due notice of discontinuing utility service and is free from indebtedness to the City.
- 8.0103 Rates. Rates for the use of utilities furnished by the City shall be established by resolution by the Tripp City Council.
- 8.0104 Consumer's Bills. All utility bills rendered are net, due and payable on receipt and delinquent if not paid by the twentieth day of the month. If bills are not paid by the due date, a \$25.00 penalty shall be assessed. Provided, however, when a due date falls on a weekend or holiday, bills will not be delinquent until the close of business the next following work day. Bill payments mailed to the City must be received by the City at 12:00 noon on the day after the due date. Postmarks shall not be considered.
- 8.0105 Unpaid Bills. If a bill for utility services is not paid in full as provided in 8.0104, the customer shall be given notice. Notices may be sent regular mail or certified mail at the discretion of the Finance Officer. Also, a telephone call may be made instead of a written notice at the discretion of the Finance Officer unless the customer shall:
- A. Pay the amount in full;

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

The following shall be the grounds upon which utility and garbage services will be discontinued:

- A. Failure to pay bill within five days from date of notice; or
- B. Failure to pay bill within 24 hours of personal visit to the premises.

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

- A. Failure to pay all charges and penalties;
- B. Default on an agreement to liquidate a continuing debt;
- C. Failure to grant the City access to read and inspect meters;
- D. Customer tampering.

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

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

8.0109 Owner, Lessee Liable. The owner of property, which is serviced by municipal utilities from the City, shall be liable to the City for all rents, charges or rates as they apply to water, sewer and garbage service furnished by the City of the premises. In the event the occupant vacates the property without final payment to the City, service will not be restored to those premises until all charges, rates or rents are paid in full.

8.0110 Tampering with City Equipment. It shall be unlawful for any person to, in any manner, tamper with any equipment or facilities of the City of Tripp utilities including, but not limited to water lines or sewer lines, water meters other equipment utilized for the benefit of the municipal utilities of the City of Tripp. Should the City discover damage to its equipment or an attempt to tamper with

such equipment or an attempt to falsify the amount of water or sewer used, or the amount due the City for utility service, the City may serve notice upon the consumer of a hearing that is to be held where the consumer may show cause why service should not be discontinued. This notice shall state the reason for the hearing and the time and place it is to be held.

Should the City Council find that a violation of this section has occurred and that there is no justification for said violation, the City Council may order immediate termination of service and service shall be reinstated only upon conditions established by the City Council. In addition to any criminal penalty, the City of Tripp, should be entitled to collect a civil penalty of five hundred dollars (\$500.00) if the person has obstructed with or tampered with any of the municipal owned utilities whether or not such person received additional services without payment or whether or not the City of Tripp sustained any actual damages as a result of the obstruction or tampering.

- 8.0111 User Responsible for Operation and Maintenance of Water and Sewer Lines. Each occupied residence must have a usable City domestic water and sanitary sewer service. The City of Tripp shall be responsible for the maintenance and proper operation of the domestic water mains, sanitary sewer mains and domestic water service line from the main to the curb stop. Any domestic water service line past the curb stop or sanitary sewer service line from the sanitary sewer main to the structure, shall be the exclusive responsibility of the property owner. Owners at their own expense must keep and maintain their sanitary sewer service lines, from the point of connection at the main line, and all other equipment in good working order and properly protected from frost and other damage. Owners at their own expense must keep their domestic water service line from the point of connection at the curb stop to the structure in good working order and properly protected from frost and other damage. Thirty days after written notice from the City, if the repair has not been replaced, the City shall cause such repairs to be made and the cost of these repairs shall be assessed against the property. In the event that a property owner must excavate to repair a line, it shall be his sole responsibility to fill in such excavation to the satisfaction of the City. It shall be the responsibility of the City to replace the gravel base course and asphalt pavement displaced by such excavation at the cost of the property owner. In case of disrepair or waste, water may be shutoff.
- 8.0112 City Not Liable for Damage. No claim shall be made against the City by reason of the breaking of any service pipe or equipment, or for any other damage that may result from shutting off water or electricity for repairing or any other purpose, or for any variation in pressure, or ram of water from mains, and no reduction will be made from regular rates because of leaking pipes or fixtures.
- 8.0113 Construction of Sewer and Water Connections. Whenever a property owner or developer shall deem it necessary to construct sewer and water service connections from the mains to the curb line on any street, highway, alley or public place, in

advance of the permanent improvement of such street, highway, alley or public place, it shall be the duty of the owners of property fronting thereon to make such service connections at the cost of the property owner. If no mainline sanitary sewer or domestic waterlines exist in front of said property, it is and shall be the sole responsibility of the property owner to pay for all costs of extending said utilities. All costs associated with the extension and connection of utilities including but not limited to surveying, engineering, road replacement, pipe materials, valves, and miscellaneous items will be the sole responsibility of the property owner.

- 8.0114 Written Notice for Owners. Whenever the City Council shall have ordered, by resolution, any such connections to be made, it shall serve written notice on the owners of said property, either by personal service or by certified mail, return receipt requested, or by posting on the property, to make said connections by a date fixed, which shall not be less than ten days after such notice is given, or to show cause in writing, filed with the City Finance Officer within said time, why such connections should not be made. At the expiration of the time fixed, the City Council shall consider all the objections so filed and if over-ruled, shall thereupon, by resolution, order the making of such connections as they shall deem necessary. Failure by any person to actually receive any document sent to him by certified mail or to sign and return any receipt card acknowledging receipt by certified mail shall not invalidate service made upon such person by certified mail. Such notice is deemed completed at the time it is mailed, hand delivered or posted, and any period to reply or abate begins to run from the date of mailing, personal service or posting.
- 8.0115 City Initiated Work and Assessment of Property Owners. When any such connections are ordered, as herein provided, the City Council shall cause the work to be done, and the cost thereof shall be collected from the owners of the property where such connections are made or assessed as a special tax against such property in the manner provided for assessing the cost of constructing sidewalks, so far as applicable.
- 8.0116 Unoccupied Property. The City of Tripp will maintain water and sewer lines for all patrons. When property is not occupied, there will be a minimum monthly charge for water and sewer as set by the council. If the account is unpaid, service will not be restored to those premises until all charges, rates or rents are paid in full.

## **CHAPTER 8.02 - WATER PROVISIONS**

- 8.0201 Connection With City Watermain. No person shall make any connection with any City watermain or tap the same or conduct water therefrom upon his premises or use any water therefrom without first making application therefore to the City.

Two or more premises shall not be supplied from the same water service pipe. The owner or person in control of the property which is supplied with water

from the city mains shall be required to connect the meter in the property with the city water main by a three-fourths-inch Type K copper pipe or any other pipe approved by the American Water Works Association and shall install same to a depth of not less than five feet from the main to the meter. No water pipe laid under the ground shall be covered and the trenches filled until after the water has been turned into such pipe and the pipe shall have been tested by a certified employee of the city water department and found to be tight and below the frost line, except when otherwise specially permitted by the water department.

- 8.0202 City Prescribing Connections. All connections hereafter made with the City water mains shall be at the expense of the person desiring the same and shall be made under the supervision of the City. The City may prescribe the place where and the manner in which the connection shall be made, the size of the service pipe to be used, the place where the valve box and fire hydrant shall be placed and the manner and materials in which the plumbing shall be done.
- 8.0203 Meter Installation. All persons hereafter making application to be furnished with water shall be required to install a meter for the measurement of the amount of water used and shall pay for such water used at the rate hereinafter specified but two or more premises will not be supplied with water measured by the same meter unless one person is liable for the payment for the whole of such water furnished; such meter shall be so placed as to measure all water used. When a meter is placed on a pipe connected to a boiler or other hot water apparatus a check valve must be placed between such meter and boiler or other hot water apparatus to protect meter from back pressure of steam or hot water; in case of the breakage of any pipe or meter or if there be a leak in the same, the water shall be shut off until such breakage or leak is repaired.
- 8.0204 Meter Requirements. All meters shall be of the kind prescribed by the City and shall be placed as to be easily read. Costs for larger than standard meter shall be borne by the property owner.
- 8.0205 Meter Tests. Customers may have their meters tested upon payment of the actual cost for test. If the meter is found to be in error, the fee shall be refunded. If the test of the meter shows that it fails to register correctly within two percent, the City shall make a charge or allow a credit in proportion to the error, for all water registered in excess of the minimum amounts allowed by the established rates, the same to be retroactive for three billing periods only.
- 8.0206 Unnecessary Waste of Water. It shall be the responsibility of all consumers of water paying the rates mentioned to prevent unnecessary waste of water and to keep all water outlets closed when not in actual use; impermissible uses; not to permit other persons or families to use water from any of their faucets, hydrants or pipes.

- 8.0207 Connection to Water Mains. It shall be unlawful for any person, firm or corporation to connect any water pipe or pipe of any kind to any of the water mains of the municipal water works system of the City of Tripp or to in any manner tamper with or bore into said water mains for any purpose whatever, except as hereinafter provided.
  
- 8.0208 Exceptions. The City may but need not allow connections to the water mains of said system upon application of any person desiring the same. Connections shall only be made on streets where water mains are located and in order to bring the water to the curb along said street in which said water mains are located and shall be at the expense of the applicant desiring connection. The City will review and approve plans and specifications for the utility extension. The applicant shall be responsible for all construction and engineering costs associated with the project.
  
- 8.0209 Standard Workmanship. The connections made to the City of Tripp water system shall be of standard workmanship of pipe and made according to the provisions of the ordinances of said City heretofore enacted as to size and quality of pipe, material and workmanship, including curb box and other attachments as approved by the City.
  
- 8.0210 Private Well Drilling. No private well drilling is allowed within the city limits of Tripp, South Dakota.
  
- 8.0211 Fire hydrant usage.
  - A. It shall be the policy of the City that only authorized personnel of the City shall operate fire hydrants throughout the city on the routine basis for operation, maintenance or testing. The City may authorize certain other authorized personnel to operate hydrants for special purposes.
  
  - B. The member of the fire department shall operate the fire hydrants during fire or other emergency situations.
  
- 8.0212 Right of entry to Inspect Water Pipes, Fixtures and Meters. Any officer or agent of the City shall be permitted, at all reasonable times, to enter the premises of the consumers of city water and examine the pipes, fixtures and meters.

**CHAPTER 8.03 - SEWER PROVISIONS**

- 8.0301 Definitions.
  - A. “Biochemical oxygen demand (BOD)” shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at 20° degrees Centigrade, expressed in milligrams per liter.
  
  - B. “Building drain” shall mean that part of the lowest horizontal piping of a drainage system which receives the discharge from the soil, waste and other

drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five feet (1.5 meters) outside the inner face of the building wall.

- C. “Building sewer” shall mean the extension from the building drain to the public sewer or other place of disposal also called house connection.
- D. “Combined sewer” shall mean a sewer intended to receive both wastewater and storm or surface water.
- E. “Director of Public Works” shall mean the superintendent of wastewater facilities and/or of wastewater treatment works and/or of water pollution control of the City of Tripp, or his authorized deputy, agent or representative.
- F. “Easement” shall mean an acquired legal right for the specific use of land owned by others.
- G. “Floatable oil” is oil, fat or grease in a physical state such that it will separate by gravity from wastewater by treatment in an approved pretreatment facility. A wastewater shall be considered free of floatable fat if it is properly pretreated and the wastewater does not interfere with the collection system.
- H. “Garbage” shall mean the animal and vegetable matter resulting from the handling, preparation, making of foods.
- I. “Industrial wastes” shall mean the wastewater from industrial processes, trade or business as distinct from domestic or sanitary wastes.
- J. “Natural outlet” shall mean any outlet, including storm sewers and combined sewer overflows, into a watercourse, pond, ditch, lake or other body of surface or groundwater.
- K. “May” is permissive (see “shall”, S).
- L. “Person” shall mean any individual, firm, company, association, society, corporation or group.
- M. “pH” shall mean the logarithm of the reciprocal of the hydrogen ion concentration. The concentration is the weight of hydrogen ions, in grams, per liter of solution. Neutral water, for example, has a pH value of 7 and a hydrogen ion concentration of  $10^{-7}$ .

- N. “Properly shredded garbage” shall mean the wastes from the preparation, cooking and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than ½ inch (1.27 centimeters) in any dimension.
- O. “Public sewer” shall mean a common sewer controlled by a governmental agency or public utility.
- P. “Sanitary sewer” shall mean a sewer that carries liquid and water-carried wastes from residences, commercial buildings, industrial plants and institutions together with minor quantities of ground, storm and surface waters that are not admitted intentionally.
- Q. “Sewage” is the spent water of a community. The preferred term is “wastewater” see Subsection Y.
- R. “Sewer” shall mean a pipe or conduit that carries wastewater or drainage water.
- S. “Shall” is mandatory (see “may”, K).
- T. “Slug” shall mean any discharge of water or wastewater which is concentration of any given constituent or in quantity of flow exceeds for any period of duration than fifteen minutes more than five times the average twenty-four-hour concentration or during normal operation.
- U. “Storm drain” (sometimes termed “storm sewer”) shall mean a drain or sewer for conveying water, groundwater, subsurface water or unpolluted water from any source.
- V. “Superintendent” shall mean the superintendent of wastewater facilities and/or of wastewater treatment works and/or of water pollution control of the City of Tripp, or his authorized deputy, agent or representative.
- W. “Suspended solids” shall mean total suspended matter that either floats on the surface of or is in suspension in water, wastewater or other liquids and that is removable by laboratory filtering as prescribed in “Standard Methods for the Examination of Water and Wastewater” and referred to as non-filterable residue.
- X. “Unpolluted water” is water of quality equal to or better than the effluent criteria in effect or water that would not cause violation of receiving water quality standards and would not be benefited by discharge to the sanitary sewers and wastewater treatment facilities provided.

- Y. “Wastewater” shall mean the spent water of a community. From the standpoint of source, it may be a combination of the liquid and water-carried wastes from residences, commercial buildings, industrial plants and institutions together with any groundwater, surface water and storm water that may be present.
- Z. “Wastewater facilities” shall mean the structures, equipment and processes required to collect, carry away and treat domestic and industrial wastes and dispose of the effluent.
- AA. “Wastewater treatment works” shall mean an arrangement of devices and structures for treating wastewater, industrial wastes and sludge. Sometimes used as synonymous with “waste treatment plant” or wastewater treatment plant” or “water pollution control plant”.
- BB. “Watercourse” shall mean a natural or artificial channel for the passage of water either continuously or intermittently.
- CC. “City” shall mean the City of Tripp, South Dakota.

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 City or in any area under the jurisdiction of said City, any human or animal excrement, garbage or other objectionable waste.
- B. It shall be unlawful to discharge in the City or in any area under the jurisdiction of said City, any sewage or other polluted waters, except where suitable treatment has been approved in accordance with subsequent provisions of Chapter 8.03.
- C. It shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool or other facility intended or used for the disposal of wastewater unless a public sanitary sewer system is not available within 200 feet of the property line and the private sewer system is approved by the State of South Dakota.
- D. The owner(s) of all houses, buildings or properties used for the human occupancy, employment, recreation or other purposes situated within the City and abutting on any street, alley or right-of-way in which there is now located or may in the future be located a public sanitary sewer of the City, is hereby required at the owner(s) expense to install suitable toilet facilities therein and to connect such facilities directly with the proper public sewer in accordance with the provisions of Chapter 8.03 within thirty days after date of official notice to do so.

8.0303 Sanitary Sewers, Building sewers and Connections.

- A. No unauthorized person shall uncover, make any connections with or opening into, use, alter or disturb any public sewer or appurtenance thereof without first obtaining permission from the City.
- B. There shall be two classes of building sewer permits: (a) For residential and commercial service and (b) for service to establishments producing industrial wastes. In either case the owner(s) or his agent shall make application on a special form furnished by the City. The permit application shall be supplemented by any plans, specifications or other information considered pertinent in the judgment of the City. A permit and inspection fee shall be established by resolution by the Tripp City Council.
- C. All costs and expense incidental to the installation, connection and maintenance of the building sewer shall be borne by the owner(s). The owner(s) shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.
- D. A separate and independent building sewer shall be provided for every building; except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer, but the City does not and will not assume any obligation or responsibility for damage caused by or resulting from any such single connection afore mentioned.
- E. Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the City, to meet all requirements of Chapter 8.03.
- F. The size, slope, alignment, materials of construction of all sanitary sewers including building sewers and the methods to be used in excavating, placing of the pipe, jointing, testing and backfilling the trench, shall all conform to the requirements of the buildings and plumbing code or other applicable rules and regulations of the City. In the absence of suitable code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the American Society for Testing and Materials (ASTM) and Water Pollution Control Federation (WPCF) Manual of Practice No. 9 or Ten States Standards shall apply.
- G. Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage

carried by such building drain shall be lifted by an approved means and discharged to the building sewer.

- H. No person(s) shall make a connection of sump pumps, roof downspouts, foundation, drains, areaway drains or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer unless such connection is approved by the City for purposes of disposal of polluted surface drainage.
- I. The connection of the building sewer into the public sewer shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the City or the procedures set forth in appropriate specifications of the American Society for Testing and Materials (ASTM) and the Water Pollution Control Federation (WPCF) Manual of Practice No. 9 or Ten States Standards. All such connections shall be made gas tight and watertight and verified by proper testing. Any deviation from the prescribed procedures and materials must be approved by the City before installation.
- J. The applicant for the building sewer permit shall notify the City when the building sewer is ready for inspection and connection to the public sewer. The connection and testing shall be made under the supervision of the City.
- K. All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the City.

8.0304 Use of the Public Sewers.

- A. No person(s) shall discharge or cause to be discharged by sump pump or other means any unpolluted waters such as storm water, exterior foundation drains, areaway drains, down spouts, surface water, groundwater, roof runoff, subsurface drainage or cooling water to any sewer, or drain which in turn is connected directly or indirectly to a public sanitary sewer. Storm water runoff from limited areas, which storm water may be polluted at times, may be discharged to the sanitary sewer by permission of the City.
- B. Storm water other than that exempted under 8.0304(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 City and other regulatory agencies. Unpolluted industrial cooling water or process waters may be discharged, on approval of the City, to a storm sewer, combined sewer or natural outlet.

- C. No person shall discharge or cause to be discharged any of the following described water or wastes to any public sewers:
1. Any gasoline, benzene, 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 to humans or animals, create a public nuisance or create any hazard in or have an adverse effect on the waters receiving any discharge from the treatment works.
  3. Any waters or wastes having a pH lower than (5.5) or having any other corrosive property capable of causing damage or hazard to structures, equipment and personnel of the wastewater works.
  4. Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers or other interference with the proper operation of the wastewater facilities such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, paper hand towels, entrails and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.
- D. The following described substances, materials, water or waste shall be limited in discharges to municipal systems to concentrations or quantities which will not harm either the sewers, wastewater treatment process or equipment, will not have an adverse effect on the receiving stream or will not otherwise endanger lives, limb, public property or constitute a nuisance.
- The City may set limitations lower than the limitations established in the regulations below if in its opinion such more severe limitations are necessary to meet the above objectives. In forming its opinion as to the acceptability, the City will give consideration to such factors as the quantity of subject waste in relation to low flows and velocities in the sewers, materials of construction of the sewers, the wastewater treatment process employed, capacity of the wastewater treatment system, degree of treatability of the waste in the wastewater treatment system and other pertinent factors. The limitations or restrictions on materials or characteristics of waste or wastewater discharged to the sanitary sewer which shall not be violated without approval of the City are as follows:
1. Wastewater having a temperature higher than 150 Fahrenheit (65 Celsius).

2. Wastewater containing more than 25 milligrams per liter of petroleum oil, non- biodegradable cutting oils or product of mineral oil origin.
  3. Wastewater from industrial plants containing floatable oils, fat or grease.
  4. Any garbage that has not been properly shredded. 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 City for such materials.
  6. Any waters or wastes containing odor-producing substances exceeding limits which may be established by the City.
  7. Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established compliance with applicable state or federal regulations.
  8. Quantities of flow, concentrations, or both which constitute a “slug” as defined herein.
  9. Waters or wastes containing substances which are not amenable to treatment or reduction by wastewater treatment processes employed or are amenable to treatment only to such degree that the wastewater treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.
  10. Any water or wastes which, by interaction with other water or wastes in the public sewer system, release obnoxious gases, form suspended solids which interfere with the collection system or create a condition deleterious to structures and treatment processes.
- E. If any waters or wastes are discharged or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in Section 8.0304 of this Chapter and which in the judgment of the City, may have a deleterious effect upon the wastewater facilities, processes, equipment or receiving waters or which otherwise create a hazard to life or constitute a public nuisance, the City 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.

When considering the above alternative, the City shall give consideration to the economic impact of each alternative on the discharger. If the City permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the City.

- F. Grease, oil and sand interceptors shall be provided when, in the opinion of the City, they are necessary for the proper handling of liquid wastes containing floatable grease in excessive amounts as specified in Section 8.0304(D) or any flammable wastes, sand or other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the City and shall be located as to be readily and easily accessible for cleaning and inspection. In the maintaining of these interceptors, the owner(s) shall be responsible for the proper removal and disposal by appropriate means of the captivated material and shall maintain records of the dates and means of disposal which are subject to review by the City. Any removal and hauling of the collected materials not performed by the owner must be performed by currently licensed waste disposal firms.
- G. Where pretreatment or flow-equalizing facilities are provided or required for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his expense.
- H. When required by the City, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable structure together with such necessary meter and other appurtenances in the building sewer to facilitate observation, sampling and measurement of the wastes. Such structures, when required, shall be accessibly and safely located and shall be constructed in accordance with plans approved by the City. The structure shall be installed by the owner at his expense and shall be maintained by him so as to be safe and accessible at all times.
- I. The City may require a user of sewer services to provide information needed to determine compliance with Chapter 8.03. These requirements may include:
  1. Wastewaters discharge peak rate and volume over a specified time period.

2. Chemical analyses of wastewater. Information on raw materials, processes and products affecting wastewater volume and quality.
  3. Quantity and disposition of specific liquid, sludge, oil, solvent or other materials important to sewer use control.
  4. A plot plan of sewers of the user's property showing sewer and pretreatment facility location.
  5. Details of wastewater pretreatment facilities.
  6. 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 Section 8.0304 shall be determined in accordance with the latest edition of "Standard Methods for the Examination of Water and Wastewater", published by the American Public Health Association. Sampling methods, location, times, durations and frequencies are to be determined on an individual basis subject to approval by the City.
- K. No statement contained in this article shall be construed as preventing any special agreement or arrangement between the City and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the City for treatment.

8.0305 Damage of Wastewater Facilities. No person shall maliciously, willfully or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is a part of the wastewater facilities. Any person violating this provision shall be subject to immediate arrest under charge of disorderly conduct.

8.0306 Powers and Authority of Inspectors. The City representative or authorized designee shall be permitted to enter all properties upon reasonable notice for the purposes of inspection, observation, measurement, sampling, and testing pertinent to utility service to the community system in accordance with the provisions of this Title.

8.0307. Accidental Discharges. Accidental discharges of prohibited waste into the city's disposal system, directly or through another disposal system, or from any place to which such waste may enter the city's disposal system shall be reported to the waste and wastewater superintendent by the person responsible for the discharge, or by the owner or occupant of the premises where the discharge occurs, promptly upon obtaining knowledge of the fact of such discharge. Costs due to damages caused by discharging prohibited wastes shall be borne by the persons responsible for the discharge.

## TITLE 9 - PLANNING AND ZONING

### Chapter 9.01 - Planning Commission

### Chapter 9.02 - Zoning Regulations

### Chapter 9.03 - Subdivision Regulations

### Chapter 9.04 – Property Maintenance Code

#### CHAPTER 9.01 - PLANNING COMMISSION

- 9.0101 Creation. The Tripp Planning Commission is hereby created pursuant to SDCL 11-6 for the City of Tripp, South Dakota.
- 9.0102 Number, Appointment and Tenure of Planning Commission Members. The Tripp Planning Commission shall consist of not less than five members appointed by the Mayor and subject to approval by the City Council. If deemed necessary, the City Council may appoint one or more of themselves to the Planning Commission. The term of each of the appointed members shall be five years. Administrative officials of the City may be appointed as ex- officio members of the Planning Commission.
- 9.0103 Vacancies. Any vacancy in the membership of the Planning Commission shall be filled for the unexpired term in the same manner as for appointment.
- 9.0104 Organization. The Planning Commission shall elect a Chairman from among its members for a term of one year with eligibility for re-election and shall also elect a Vice Chairman and Secretary in a manner prescribed by the rules of the members. The Planning Commission shall hold at least one regular meeting each month and shall adopt rules for transaction of its business and keep a record of its resolutions, transactions, findings and determinations which shall be a public record. The Planning Commission may appoint such employees as it may deem necessary for its work and may also contract with planners, engineers, architects and other consultants for such services as it may require, provided however, that such appointments and contracts shall be approved by the City Council.
- 9.0105 Removal for Cause. The Mayor, with confirmation of the City Council, shall after public hearing have the authority to remove any member of the Planning Commission for cause, which cause shall be stated in writing and made a part of the record of such hearing.
- 9.0106 Powers and Duties of Commission. The Tripp Planning Commission, its members and employees, shall have all such powers as may be necessary to enable it to perform its functions, promote planning and carry out all the purposes and powers enumerated in SDCL 11-4 and 11-6 and acts amendatory thereof.
- 9.0107 Preparation of Comprehensive Plan. The Planning Commission of Tripp shall propose a comprehensive plan for the physical development of the City pursuant to the terms of SDCL 11-4 and 11-6. The general purpose of the comprehensive plan

shall be to guide and accomplish a coordinated and harmonious development within the City. After the comprehensive plan has been adopted according to law, no substantial amendment or modification thereof shall be made, without the proposed change first being referred to the Planning Commission for its recommendations.

9.0108 Zoning Regulations. It shall be a duty of the Planning Commission to recommend the boundaries of zoning districts and appropriate regulations to be enforced therein, in accordance with the comprehensive plan. The Planning Commission shall prepare regulations governing land uses and building or set-back lines in accordance with SDCL 11-4 and 11-6. All applications and proposals for changes in or amendments to the zoning regulations shall first be submitted to the Planning Commission for its recommendations.

9.0109 Subdivision Plans and Regulations. All plans or subdivisions or resub divisions of land within the jurisdiction of the City shall first be submitted to the Planning Commission for its recommendation before approval by the City Council. The Planning Commission shall prepare and recommend to the City Council regulations governing the subdivision of land within its jurisdiction. No amendments or changes thereto shall be made without recommendation by the Planning Commission.

## **CHAPTER 9.02 - ZONING REGULATIONS**

(See Appendix I)

## **CHAPTER 9.03 - SUBDIVISION REGULATIONS**

(See Appendix II)

## **CHAPTER 9.04 - PROPERTY MAINTENANCE CODE**

9.04.1 Adopted.

The Tripp City Council hereby adopts Chapters 1 through 8 the International Property Maintenance Code, 2018 Edition, including Appendix A, as published by the International Code Council, Inc. as the Property Maintenance Code of the City to provide standards to safeguard life or limb, health, property, and public welfare by regulating, governing, and controlling the use, occupancy, conditions, and maintenance of all property, buildings, and structures within this City and to provide for a just, equitable, and practicable method whereby buildings or structures, which from any cause endanger the life, limb, morals, property, safety, or welfare of the general public or their occupants, may be repaired, vacated, or demolished. The minimum requirements and standards of the 2018 International Property Maintenance Code will become effective on July 1, 2018. A copy of this Code shall be kept on file in the office of the Building Official.

9.04.2 Local amendments, additions, and deletions to the 2018 International Property Maintenance Code.

The following sections and subsections of the property maintenance code adopted in this Ordinance shall be amended, added, or deleted as follows. All other sections or subsections of the 2018 International Property Maintenance Code shall remain as originally published.

9.04.2.1 Title. These regulations shall be known as the Property Maintenance Code of the City of Tripp, South Dakota, hereinafter referred to as "this code."

9.04.2.2 Intent. This code shall be construed to secure its expressed intent, which is to ensure public health, safety, and welfare insofar as they are affected by the continued occupancy and maintenance of structures and premises. Existing structures and premises that do not comply with these provisions shall be altered or repaired to provide a minimum level of health and safety as required herein. Repairs, alterations, additions to, and change of occupancy in existing buildings shall comply with this Ordinance and with any other applicable City ordinances or regulations.

9.04.2.3 Application of other codes. Repairs, additions, or alterations to a structure, or changes of occupancy, shall be done in accordance with the procedures and provisions of the International Building Code, International Existing Building Code, International Fuel Gas Code, International Mechanical Code, International Residential Code, and the Plumbing and Electrical Codes adopted by the State of South Dakota. Nothing in this code shall be construed to cancel, modify, or set aside any provision of the Zoning Ordinance of the City of Tripp, South Dakota.

9.04.3 Creation of enforcement agency. Building services is hereby created and the official in charge thereof shall be known as the Building Official.

9.04.4 Liability. The Building Official, members of the board of appeals, or employees charged with the enforcement of this code, while acting for the jurisdiction, in good faith and without malice in the discharge of the duties required by this code or other pertinent law or ordinance, shall not thereby be rendered liable personally, and are hereby relieved from all personal liability for any damage accruing to persons or property as a result of an act or by reason of an act or omission in the discharge of official duties. Any suit instituted against any officer or employee because of an act performed by that officer or employee in the lawful discharge of duties and under the provisions of this code shall be afforded all the protection by the city's insurance pool and any immunities and defenses provided by other applicable state and federal laws and be defended by the legal representative of the City until the final termination of the proceedings. The Building Official or any subordinate shall not be liable for costs in an action, suit, or proceeding that is instituted in pursuance of the provisions of this code.

9.04.5 Fees. The fees for activities and services performed by the department in carrying out its responsibilities under this code shall be adopted by resolution by the Council.

9.04.6 Extension of time agreement. If the Building Official determines that an extension of time will not create or perpetuate a situation imminently dangerous to life or property, the Building Official may grant an extension of time, not to exceed 180 days, in which to complete the work listed in the Notice and Order. Any extension shall not extend the time to appeal the Notice and Order. Any extension shall be agreed to in writing in a document containing the following:

1. A reasonable and acceptable schedule, setting forth specific dates to complete corrective action for each violation listed in the Notice and Order.
2. A signature of the responsible party.

9.04.7 Application for appeal. Any person directly affected by a decision of the Building Official or a notice or order issued under this code shall have the right to appeal to the Board of Appeals, provided that a written application for appeal is filed within 10 days after the day the decision, notice, or order was served. An application for appeal shall be based on a claim that the true intent of this code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this code do not fully apply, or the requirements of this code are adequately satisfied by other means. The Board shall have no authority relative to the interpretation of the administrative provisions of this code nor shall the Board be empowered to waive requirements of this code.

9.04.8 Designation of Board of Appeals. In order to hear and decide appeals of orders, decisions, or determinations made by the Building Official relative to the application and interpretation of this code, the Council hereby assumes the responsibilities of the Board of Appeals for this code. All decisions and findings of the Board shall be final and shall be rendered in writing to the appellant with a duplicate copy to the Building Official.

9.04.9 Submission of appeals. All appeals must be submitted in writing to the Building Official within ten days of the order, decision, or determination of the Building Official that is being appealed. Once the appeal is received by the Building Official, he shall place the appeal on the Council's next regular meeting agenda that is more than seven days (inclusive) from the date of receipt of the appeal.

9.04.9.1 Appeal hearings. All hearings before the Board shall be open to the public. The appellant, the appellant's representative, the Building Official, any member of the City's staff, or any person whose interests are affected shall be given an opportunity to be heard.

9.04.10 Failure to comply. Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be deemed in violation of this Ordinance and subject to the penalties prescribed by this Ordinance.

9.04.11 Terms defined in other codes. Where terms are not defined in this code and are defined in the International Building Code, International Existing Building Code, International Fuel Gas Code, International Mechanical Code, International Residential Code, or the electrical and plumbing codes of the State of South Dakota, such terms shall have the meanings ascribed to them as stated in those codes.

9.04.12 Enclosures. Private swimming pools, hot tubs, and spas containing water more than 18 inches in depth shall be completely surrounded by a fence or barrier at least 42 inches in height above the finished ground level measured on the side of the barrier away from the pool. Gates and doors in such barriers shall be self-closing and self-latching. The latch release mechanism shall be located on the pool side of the gate. Self-closing and self-latching gates shall be maintained such that the gate will positively close and latch when released from an open

position. No existing pool enclosure shall be removed, replaced, or changed in a manner that reduces its effectiveness as a safety barrier.

**Exception:** Spas or hot tubs with a safety cover that complies with ASTM F 1346 shall be exempt from the provisions of this section.

9.04.13 Insect screens. During the period from April 1 to September 30, every door, window, and other outside opening required for ventilation of habitable rooms, food preparation areas, food service areas, or any areas where products to be included or utilized in food for human consumption are processed, manufactured, packaged, or stored shall be supplied with approved tightly fitting screens of not less than 16 mesh per inch, and every screen door used for insect control shall have a self-closing device in good working condition.

**Exception:** Screens shall not be required where other approved means, such as air curtains or insect repellent fans, are employed.

9.04.14 Building security. Doors, windows, or hatchways for dwelling units, room units, or housekeeping units shall be provided with devices designed to provide security for the occupants and property within and shall comply with Section 702.3.

9.04.15 General. The interior of a structure and equipment therein shall be maintained in good repair, structurally sound, and in a sanitary condition. Occupants shall keep that part of the structure which they occupy or control in a clean and sanitary condition. Every owner of a structure shall maintain, in a clean and sanitary condition, the shared or public areas of the structure and exterior property.

9.04.16 Room area. Every living room shall contain at least 120 square feet and every bedroom shall contain a minimum of 70 square feet. Bedrooms 100 square feet or less are allowed two occupants and every bedroom occupied by more than two persons shall contain a minimum of 50 additional square feet of floor area for each occupant thereof.

9.04.17 Public toilet facilities. Public toilet facilities shall be maintained in a safe, sanitary, and working condition in accordance with the current codes adopted by the State of South Dakota for plumbing. Except for periodic maintenance or cleaning, public access and use shall be provided to the toilet facilities at all times during occupancy of the premises.

9.04.18 General. Every sink, lavatory, bathtub or shower, drinking fountain, water closet, or other plumbing fixture shall be properly connected to either a public water system or to an approved private water system. All kitchen sinks, lavatories, laundry facilities, bathtubs, and showers shall be supplied with hot or tempered and cold running water in accordance with the current codes adopted by the State of South Dakota for plumbing.

9.04.19 Residential occupancies. Dwellings shall be provided with heating facilities capable of maintaining a room temperature of 68°F in all habitable rooms, bathrooms and toilet rooms. Cooking appliances shall not be used, nor shall portable unvented fuel-burning space heaters be used, as a means to provide required heating.

**Exception:** In areas where the average monthly temperature is above 30°F, a minimum temperature of 65°F shall be maintained.

9.04.20 Heat supply. Every owner and operator of any building who rents, leases or lets one or more dwelling units or sleeping units on terms, either expressed or implied, to furnish heat to the occupants thereof shall supply heat during the period from September 1 to April 30 to maintain a minimum temperature of 68°F in all habitable rooms, bathrooms and toilet rooms.

**Exceptions:**

1. When the outdoor temperature is below the winter outdoor design temperature for the locality, maintenance of the minimum room temperature shall not be required provided that the heating system is operating at its full design capacity.
2. In areas where the average monthly temperature is above 30°F a minimum temperature of 65°F shall be maintained.

9.04.21 Occupiable workspaces. Indoor occupiable workspaces shall be supplied with heat during the period from September 1 to April 30 to maintain a temperature of not less than 65°F during the period the spaces are occupied.

**Exceptions:**

1. Processing, storage, and operation areas that require cooling or special temperature conditions.
2. Areas in which persona are primarily engaged in vigorous physical activities.

## TITLE 10 - TAXATION

### Chapter 10.01 - Municipal Sales and Service Tax and Use Tax

### Chapter 10.02 - Reserved

### Chapter 10.03 - Urban and Rural Service Districts

#### CHAPTER 10.01 - MUNICIPAL SALES AND SERVICE TAX AND USE TAX

- 10.0101 Purpose. The purpose of this Chapter is to provide additional needed revenue for the Municipality of Tripp, Hutchinson County, South Dakota, by imposing a municipal retail sales and use tax pursuant to the powers granted by the State of South Dakota, by SDCL 10-52 entitled Uniform Municipal Non-Ad Valorem Tax Law, and acts amendatory thereto.
- 10.0102 Effective Date. From and after the first day of January, 2006, there is hereby imposed as a municipal retail occupational sales and service tax upon the privilege of engaging in business a tax measured by Two Percent (2%) on the gross receipts of all persons engaged in business within the jurisdiction of the Municipality of Tripp, Hutchinson County, South Dakota, who are subject to the South Dakota Retail Occupational Sales and Service Tax, SDCL 10-45 and acts amendatory thereto.
- 10.0103 Use Tax. In addition there is hereby imposed an excise tax on the privilege of use, storage and consumption within the jurisdiction of the municipality of tangible personal property or services purchased from and after the first day of January, 2006, at the same rate as the municipal sales and service tax upon all transactions or use, storage and consumption which are subject to the South Dakota Use Tax Act, SDCL 10-46, and acts amendatory thereto.
- 10.0104 Collection. Such tax is levied pursuant to authorization granted by SDCL 10-52 and acts amendatory thereto, and shall be collected by the South Dakota Department of Revenue and Regulation in accordance with the same rules and regulations applicable to the State Sales Tax and under such additional rules and regulations as the Secretary of Revenue and Regulation of the State of South Dakota shall lawfully prescribe.
- 10.0105 Interpretation. It is declared to be the intention of this Chapter and the taxes levied hereunder that the same shall be interpreted and construed in the same manner as all sections of the South Dakota Retail Occupational Sales and Service Act, SDCL 10-45 and acts amendatory thereto and the South Dakota Use Tax, SDCL 10-46 and acts amendatory thereto, and that this shall be considered a similar tax except for the rate thereof to that tax.

#### CHAPTER 10.02 - RESERVED

## CHAPTER 10.03 - URBAN AND RURAL SERVICE DISTRICTS

- 10.0301 Service Districts Established. Pursuant to the authority granted in SDCL 9-21A, the City is hereby divided in area into an urban service district and a rural service district constituting separate taxing districts for the purpose of levying all City ad valorem property taxes, except those levied for the payment of bonds.
- 10.0302 Rural Service District - Criteria for Lands Included. The rural service district shall include only such platted or unplatted lands as in the judgment of the City Council are rural in character, are used or usable for agriculture, and are not developed for commercial, industrial or urban residential purposes. The rural service district may include lands which are not contiguous to one another.
- 10.0303 Lands Described - Rural Service District. The rural service district shall consist of those platted or unplatted lands described in exhibit A on file with the City Finance Officer's office, entitled "Lands Included in the Rural Service District," and made a part of this section, all of which lands are rural in character, are used or usable for agriculture, and are not developed for commercial, industrial or urban residential purposes. The rural service district shall also include lands outside the municipality, if annexed into the corporate limits, which are rural in character, are used or usable for agriculture, and are not developed for commercial, industrial or urban residential purposes.
- 10.0304 Lands Included in Urban Service District. The urban service district shall include all lands within the boundaries of the City which are not included in the rural service district.
- 10.0305 Agricultural Land Annexed; Limitation on Mill Levy and Assessed Value. The tax levy and assessed value on the agricultural land annexed shall not exceed the average tax levy and average assessed value on unannexed agricultural land in adjoining townships in the county so long as the annexed land remains rural property and is included in the rural service district.
- 10.0306 Platting or Construction in Rural District. Whenever any parcel of land included within the rural service district:
- A. Is platted in whole or in part;
  - B. Is the subject of an application for a permit for the construction of a commercial, industrial or urban residential development or improvement to be situated on such parcel or any part thereof; or
  - C. Otherwise fails to meet the criteria as set forth in Section 10.0303 this Chapter.

The board or officer of the City approving such plat or building permit or having knowledge of the change in circumstances shall report the change to the City Council which shall make and enter an order transferring such parcel from the rural service district to the urban service district.

## TITLE 11 - GENERAL PROVISIONS

### Chapter 11.01 - Penalties and Repealing Clause

#### CHAPTER 11.01 - PENALTIES AND REPEALING CLAUSE

- 11.0101 Penalty in General. Except in cases where a different or additional penalty is imposed by this ordinance or by some existing provision of law, every violation of any of the provisions of this ordinance shall be punishable by imprisonment up to thirty (30) days in jail plus a fine of five hundred dollars (\$500.00). Each day in which a violation of this Ordinance or other ordinance continues shall constitute a separate offense. (SDCL 9-19-3). The City Council is authorized to create a bond schedule (adopted to municipal offenses) by resolution or separate ordinances.
- 11.0102 Conflicting Ordinances Repealed. All former ordinances or parts of former ordinances in conflict with the provisions of this ordinance or relating to the subject matter of this ordinance, except as stated in this chapter, are hereby repealed; provided however, that nothing herein shall be construed as repealing any special ordinances, appropriation ordinances, franchise ordinances establishing fees and charges, levy ordinances for the issuance of bonds, or special ordinances of like character, nor shall this ordinance repeal or modify the provisions of any zoning ordinances or any other ordinances requiring a special method of adoption, nor shall this ordinance repeal or modify the provisions of any resolution heretofore adopted by the City of Tripp unless the provisions of this ordinance either modify, repeal, or amend such resolution; and all such ordinances and resolutions shall remain in full force and effect.
- 11.0103 Unconstitutionality. Should any Section, Sub-section, paragraph, sentence, clause or phrase of this ordinance be declared unconstitutional or invalid for any reason the remainder of this ordinance shall not be affected thereby.
- 11.0104 Publication and Effect. This ordinance in revision shall take effect upon its adoption and publication of the notice of such adoption as provided by SDCL 9-19-17.