

REVISED

MUNICIPAL ORDINANCES

CITY OF BERESFORD, SOUTH DAKOTA

Ordinance # 2013-03

Effective Date: September 1, 2013

INCLUDING AMENDMENTS THRU MARCH 31, 2021

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

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

ORDINANCE # 2013-03

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

BE IT ORDAINED BY THE CITY OF BERESFORD, 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:	June 17, 2013
Second Reading and Adoption:	July 15, 2013
Publication Dates:	July 25 & August 1, 2013
Effective Date:	September 1, 2013

K. James Fedderson, Mayor

ATTEST:

Kathy Moller, Finance Officer

Seal

NOTICE OF ADOPTION

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

Notice is hereby given Ordinance #2013-03, an Ordinance in Revision of the Municipal Ordinances of the City of Beresford, was duly adopted by the City Council on July 15, 2013, and shall become effective September 1, 2013, according to South Dakota law.

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

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

Kathy Moller
Finance Officer

(Publication Dates: July 25, 2013 & August 1, 2013)

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TITLE 1 - ADMINISTRATIVE CODE

Chapter 1.01 - Municipal Employees

Chapter 1.02 - Mayor and City Council

Chapter 1.03 - Finance Regulations

Chapter 1.04 - City Administrator

CHAPTER 1.01 - MUNICIPAL EMPLOYEES

- 1.0101 Appointive Officers, Method of Appointment. All appointive officers shall be appointed by the Mayor with the 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 Beresford and said amounts shall be on file at the office of the Finance Officer: Finance Officer, 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 the City Attorney shall be paid an hourly rate on a monthly basis or upon such terms as may be agreeable by the City Council and City Attorney.
- 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 in accordance with any collective bargaining unit agreement which is in place or as established by the City Council if said employee is exempt from the collective bargaining agreement or if no collective bargaining agreement is in place.
- 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 and third Monday of each month at 7:00 p.m., the City Council shall meet in the City Council Chambers located at 103 N. 3rd St., Beresford, South Dakota 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. (SDCL 9-8-8) (Ord. 2019-06 effective 12/31/2019)
- 1.0203 Mayor - Duties. The Mayor shall preside at all meetings of the City Council, but shall have no vote except in case of a tie. The Mayor shall perform such other duties as may be prescribed by

laws and ordinances and ensure that such laws and ordinances are faithfully executed, and shall have the power to veto any part or item of an ordinance or resolution appropriating money. (SDCL 9-8-3).

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

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

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

- 1.0205 Compensation - Mayor and City Council. The Mayor and Councilmen are to be allowed compensation as set by resolution of the City Council. Compensation of the Mayor and Councilmen as herein set forth shall be paid at such times as may be decided upon by the Council.

- 1.0206 Special Meetings. 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.

- 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.

CHAPTER 1.03 - FINANCE REGULATIONS

- 1.0301 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.
- 1.0302 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)
- 1.0303 Records Retention and Destruction. The Records Retention and Destruction Schedule Manual, authorized for South Dakota municipalities by the Office of Records Management, Bureau of Administration, State of South Dakota, shall be adopted by the City Council, and a printed copy of such manual shall be filed with the Finance Officer.

- 1.03.04 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.

CHAPTER 1.04 - CITY ADMINISTRATOR

- 1.0401 Office Established. The office of the City Administrator, as hereinafter created, is continued.
- 1.0402 Appointment of City Administrator. The City Administrator shall be appointed by the Mayor with the consent of a majority vote of the City Council for an indefinite term.
- 1.0403 Removal of City Administrator. The City Administrator may be removed at any time by the Mayor, with the consent of a majority vote of the City Council, with or without cause. If requested, a public hearing shall be held by the City Council within thirty days following notice of removal. During the interim, the City Council may suspend the City Administrator from duty with pay.
- 1.0404 Powers and Duties of City Administrator. The City Administrator shall be the chief administrative officer of the City and shall be responsible to the Mayor and City Council for the proper administration of all affairs of the City. The City Administrator shall have the powers and shall be required to perform the duties as set forth from time to time by the City Council by resolution.
- 1.0405 Bond. The City Administrator 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 all the City Administrator's duties. The premium of the bond shall be paid by the City.
- 1.0406 Compensation. The Administrator shall receive such compensation as the City Council shall determine.
- 1.0407 Residence. The City Administrator shall be resident of the City at all times while employed by the City.

TITLE 2 - BOUNDARIES, WARDS AND VOTING PRECINCTS

Chapter 2.01 - Boundaries

Chapter 2.02 - Wards and Voting Precincts

CHAPTER 2.01 - BOUNDARIES

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

CHAPTER 2.02 - WARDS AND VOTING PRECINCTS

- 2.0201 Wards and Voting Precinct. 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 Beresford 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
- A. The first ward shall include all of that part of the City north of 298th Street located between 3rd Street and NE 13th Street. It shall also include all of that part of the City north of Birch Street located between 4th Street and NE 13th Street. It shall also include all of that part of the City south of Grant Street and east of 4th Street. It shall also include all of that part of the City east of 3rd Street and north of Garfield Street.
 - B. The second ward shall include all of that part of the City north of Oak Street and West of 7th Street and that part of the City south of Oak Street lying west of 8th Street. It shall also include all of that part of the City lying west of SW 13th Street. It shall also include a portion of the City north of N. Maple Street located between 7th Street and 4th Street.
 - C. The third ward shall include all of that part of the City south of S. Maple Street located between SW 13th Street and 3rd Street. It shall also include all of that part of the City lying south of Birch Street located between 8th Street and 3rd Street. It shall also include all of that part of the City south of Oak Street located between 8th Street and 4th Street. It shall also include all of that part of the City north of Oak Street located between 7th Street and 4th Street. It shall also include all of that part of the City north of Grant Street and west of 3rd Street.

TITLE 3 - HEALTH AND SANITATION

Chapter 3.01 - Nuisances

Chapter 3.02 - Collection of Garbage

Chapter 3.03 - 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. “Unightly 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 nonputrescible animal or vegetable wastes or solid wastes, or any other waste material which constitutes or tends to create a danger to public health, safety, and welfare. (SDCL 9-32-10, SDCL 34A-7-9)
- B. The accumulation of manure, garbage, or anything whatsoever which may be breeding areas for flies, mosquitoes, or rodents. (SDCL 9-32-10)
- C. For the owner of a dead animal to permit it to remain undisposed of longer than twenty-four hours after its death. (SDCL 9-29-13)
- D. Any excavation, trench, or open basement in which stagnant water is permitted to collect or which may jeopardize the life, limb, or safety of the general public. (SDCL 9-29-13)

- E. Throwing or letting fall on or permitting to remain on any street, alley, or public ground any manure, garbage, rubbish, filth, fuel or wood while engaged in handling or removing any such substance. (SDCL 9-32-10)
- F. Keeping or maintaining any building or enclosure where livestock or fowl are kept unless a special permit is requested and such is approved by the City Council. (SDCL 9-29-13)
- G. Disposing of garbage, waste, or refuse by open burning, or causing, allowing, or permitting the conducting of a salvage operation by open burning in the City. The following types of open burning shall be permissible for a specific purpose when conducted in conformity with the subsections set forth below:
 - 1. Fires set for the elimination of a fire hazard, which cannot be abated by any other means when authorized by the Fire Chief of the Beresford Fire Department.
 - 2. Fires purposely set by the City employees for the purposes as authorized by the Fire Chief of the Beresford Fire Department.
 - 3. Fires purposely set by the Beresford 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.
- H. 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.

In no event shall an inoperable vehicle that constitutes an imminent health, safety or fire hazard be kept or located on any real property.
- I. The requirements of paragraph H shall not apply to the following:
 - 1. One inoperable vehicle kept on private property without being shielded from public view if licensed and kept on a private driveway. If this inoperable vehicle is in a state of externally visible disrepair or disassembly, it shall not be kept on the private driveway longer than fourteen days.
 - 2. Filling stations, automobile repair shops or any other motor vehicle related businesses in compliance with applicable City ordinances may place inoperable vehicles being repaired or offered for sale on the premises.
 - 3. Junkyards operated and maintained in compliance with applicable City ordinances.

4. One vehicle specifically designed and used for operation on drag strips or raceways that remains on private property.
5. Any vehicle in an appropriate storage place or depository maintained in a lawful place and manner by the City or authorized by the City.

3.0103 Diseased Vegetation and Dead Trees. Any owner, occupant, or person in charge of any property under the jurisdiction of the City shall remove at his own expense any trees, brush, wood, or debris infected with Dutch Elm disease or other infestations or infectious disease or any dead trees 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 fourteen 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 twenty-one 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 1st to October 1st, such plastic to be sealed by placing all edges in a three to four-inch trench covered with soil. In addition, any diseased vegetation which is removed and not stored in accordance with the provisions of this Section shall be properly disposed of by burning or burying in a designated disposal site. (SDCL 9-32-12)

3.0104 Vegetation Nuisance.

A. 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.
3. “Undeveloped lot or area” means a vacant lot or area with no structure on it.
4. “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.

C. Notice to Abate and Abatement by City. The Finance Officer shall annually on or before May 1st 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 three days, thereof the Finance Officer or his or her designee is hereby authorized and empowered to provide for the cutting, 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, 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 Lincoln County Auditor or Union 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 within the preceding twelve months, then, the notice to abate nuisance may include notice that such owner or person in control of said property will be considered to be an habitual violator of this section and that if the nuisance is not abated within the allowed time, the City will consider the property to be subject to having a contract let by the City for mowing property as needed up to a weekly basis for the

next following twelve month period of time and that the full cost of said contract together with an administrative fee of two hundred dollars 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 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 fourteen 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 City Administrator 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 fourteen 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 a fine not to exceed the fine established by SDCL 22-6-2(2), by imprisonment not exceeding thirty days, or by both the fine and imprisonment, unless otherwise specifically provided. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues. In addition, the City may also use the remedies of civil action and abatement as set forth in SDCL 21-10-5 through 21-10-9.

CHAPTER 3.02 – COLLECTION OF GARBAGE

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

- A. "Contract Garbage Collector or Hauler" shall mean any person who hauls or transports any garbage or rubbish through or upon the streets or alleys of the City of Beresford for a consideration or a fee pursuant to a contract with the City.
- B. "Garbage" shall mean all refuse or accumulations of animal and vegetable matter which attends the preparation, transportation, cooking, eating, sale or storage of meat, fish, vegetables, fruit and all food or food products found within the City which have been condemned by the City as a nuisance or as likely to cause or transmit disease.
- C. "Rubbish" shall mean all combustible inorganic refuse matter, such as papers, sweepings, rags, grass, tree branches, wood shavings and the like.
- D. "Waste Material" shall mean all noncombustible inorganic matter such as ashes, glass, sand, earth, concrete, mortar, metals and the like.

3.0202 Contract for Commercial Collectors. It shall be unlawful for any person to use the streets for the collection, removal or disposal of any garbage or rubbish for a fee or charge without having first entered into a contract with the City to perform such services. Any contract entered into for such services shall be approved by the City before it is issued and shall be for such term and consideration and subject to such conditions as the City Council shall from time to time determine in accordance with the provisions of this Chapter.

3.0203 Vehicle Requirements for Contract Garbage Collectors. Contract garbage collectors shall provide themselves with suitable vehicles which shall be watertight and be permanently covered on top so as to prevent the escape of odors and contents and so as to hide the contents from the public view. Such vehicles shall be kept in a clean and sanitary condition and shall be thoroughly washed at such times and intervals as may be directed by the City or as may be necessary to keep the vehicles in proper sanitary condition. Such vehicles, when conveying garbage, shall be so loaded and unloaded that the contents shall not fall or spill upon the ground. No article or item shall be carried on such vehicles so as to drag upon the street. All vehicles used for the collection of garbage shall

be equipped with an all-metal box which shall otherwise comply with the requirements of this Section.

3.0204 Garbage Containers.

- A. All commercial and industrial businesses shall provide a dumpster for the collection of garbage, waste and rubbish accumulated on the premises. Such dumpster shall be kept at the rear of the premises and shall be made accessible to the garbage collector at the nearest curblineline or alley. The dumpster shall be suitable to prevent the scattering of garbage, rubbish and waste prior to collection. The vicinity of the dumpster shall be kept free from garbage, rubbish, waste and other putresible matters which attract flies, rats or vermin. The garbage collector shall not be responsible for collecting garbage, rubbish and waste from the premises unless a dumpster is provided.
- B. The owner of premises occupied for multi-family dwellings of three or more units shall provide a dumpster for the collection of garbage, waste and rubbish accumulated on the premises. Such dumpster shall be kept at the rear of the premises and shall be made accessible to the garbage collector at the nearest curblineline or alley. The dumpster shall be suitable to prevent the scattering of garbage, rubbish and waste prior to collection. The vicinity of the dumpster shall be kept free from garbage, rubbish, waste and other putresible matters which attract flies, rats or vermin. The garbage collector shall not be responsible for collecting garbage, rubbish and waste from the premises unless a dumpster is provided.
- C. The occupant of every dwelling house shall provide a covered watertight container in which the occupant shall cause to be deposited all garbage, waste and rubbish accumulated on the premises. Such container shall be made accessible to the garbage collector for collection at the nearest curblineline or alley. The container shall be suitable to prevent the scattering of garbage, rubbish and waste prior to collection. The vicinity for garbage, waste and rubbish containers shall be kept free from garbage, waste or rubbish.

3.0205 Frequency of Collection. The contract garbage collector or hauler shall collect garbage and rubbish at least once in each week.

3.0206 Unlawful Deposits Generally. It shall be unlawfull for any person to deposit or cause to be deposited any garbage, rubbish or other waste material in or upon any premises, streets, alleys, gutters or in or upon any other private or public property within the City, or upon any property.

CHAPTER 3.03 – CITY RESTRICTED USE FACILITY

3.0301 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.

3.0302 Location. The City Council may select and establish a site for the operation of a Restricted Use facility.

3.0303 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 yard waste, including leaves, grass clippings and similar vegetation.

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 or Rubble Site Attendant.

Residents of the City of Beresford 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. Failure to deliver the load in an approved manner as set forth in the previous sentences will result in a mandatory cover fee, charged at the rate of \$25.00 per vehicle. 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 and pay the fee as established.

3.0304 Hours of Operation. The hours of operation shall be as set by resolution of the City Council from time to time.

3.0305 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.

3.0306 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.

3.0307 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 Beresford and the South Dakota Department of Environment and Natural Resources. The City shall impose a fine of \$200.00 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 Beresford 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 - Manufactured Home Parks

CHAPTER 4.01 - GENERAL PROVISIONS

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

4.0102 Application for License. Any person, persons, firm or corporation wishing to obtain a license as herein provided, shall make written application to the Finance Officer 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 City Council.

4.0103 License Expiration. Unless otherwise provided, all licenses shall take effect when issued and shall terminate on December 31st 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 jams, jellies, vegetables, fruits, or flowers grown or produced by them and not purchased by them for resale.
- D. Bona fide garage, rummage, yard, or moving sales which do not occur at the same location more than four times per year, for more than four days each time.

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's date of birth and social security account number or other identifying number.
- I. Proof of a current South Dakota Sales Tax License.

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

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

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

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

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

CHAPTER 4.03 - ALCOHOLIC BEVERAGES

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

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

- 4.0302 Traffic in Alcoholic Beverages. No person shall produce, transport, store or sell within the City, or within one mile of its territorial limits, any alcoholic beverage, except as authorized by SDCL Title 35.
- 4.0303 Application for License to Conduct Business Pursuant to this Chapter. Any person desiring to enter into the alcoholic beverage business in the City shall submit an application for a license under the provisions of SDCL Title 35, Alcoholic Beverages, to the City Finance Officer.
- 4.0304 Action by City Council. The City Council may approve or disapprove an application for a license depending on whether the City Council deems the applicant a suitable person to hold the license and whether the council considers the proposed location suitable. The City Council may, in their discretion, require the applicant to appear personally at any meeting of the City Council and to answer any question which may be asked pertaining to the applicant or the place of business which may in any way pertain to the carrying on of the business applied for. (SDCL 35-2-1.2)
- 4.0305 Violation as Ground for Revocation or Suspension of License. The City Council may revoke or suspend any license issued under this chapter and SDCL Title 35 upon proof of violation by the licensee, the licensee's agents or employees, or by the manager or contractual operators of retail establishments and their agents or employees operating under a City license, or any of the following:
- A. Any provision of SDCL Title 35;
 - B. Any rule promulgated pursuant to SDCL Title 35; or
 - C. Any ordinance or regulation relevant to alcoholic beverage control that has been adopted by the City.
- For any licensee with multiple alcoholic beverage licenses for the same premises, upon suspension or revocation of any license issued pursuant to this chapter or SDCL Title 35, such licensee shall cease operation under all alcoholic beverage licenses held by such licensee for the same premises for the same period as the suspension or revocation.
- 4.0306 On-Sale and Off-Sale Service and Consumption Restricted.
- A. No on-sale or off-sale licensee, licensed under SDCL § 35-4-2(3), (4), (5), (6), (9), (11), (13), or (18), may sell, serve, or allow to be consumed on the premises covered by the license, alcoholic beverages, between the hours of 2:00 a.m. and 7:00 a.m. or at any time on Christmas Day. Such licensees are permitted to sell, serve, or allow to be consumed alcoholic beverages on Sunday and on Memorial Day, except between the hours of 2:00 a.m. and 7:00 a.m.
 - B. No licensee licensed under SDCL 35-4-2(12), (16), (17), (17A), and (19) may sell, serve, or allow to be consumed on the premises covered by the license, any alcoholic beverages between the hours of 2:00 a.m. and 7:00 a.m.
- 4.0307 Consuming, Blending, Possessing Alcoholic Beverages in Public Places; Disposal of Containers Containing Alcoholic Beverages Restricted.
- A. It is unlawful for any person to consume any alcoholic beverage upon the premises of a licensed on- sale dealer if the alcoholic beverage was not purchased from the on-sale dealer.

- B. It is unlawful for any person to consume any distilled spirits in any public place, other than upon the premises of a licensed on-sale dealer.
- C. For the purposes of this section the term “public place” means any place, whether in or out of a building, commonly and customarily open to or used by the general public, and any street or highway.
- D. Exceptions to this subsection are provided for in Section 4.0308.

4.0308 Open Container Permitted. Notwithstanding anything herein to the contrary:

- A. No regular on-sale malt beverage licensee may sell or allow to be consumed any malt beverage outside the building of the licensed premises unless the licensee’s business operates out of a permanent structure and the consumption of the malt beverage occurs in an outdoor designated area located on the premises of the licensee which is approved by the City Council.
- B. The sales and consumption of alcoholic beverages on a sidewalk or walkway subject to a public right-of-way abutting a licensed premises, provided that the license holder derives more than fifty percent of its gross receipts from the sale of prepared food for consumption on the licensed premises. The sidewalk or walkway subject to a public right-of-way shall be immediately adjacent to and abutting the licensed premises. This provision does not apply to any federal aid-eligible highway unless approved in accordance with the applicable requirements for the receipt of federal aid.
- C. The City Council may, in its discretion, for designated events, permit open containers in public places upon such terms and conditions the City Council may impose.

4.0309 Mark-up on Alcoholic Beverages.

- A. The City shall charge on freight and collect a mark-up of two percent above the City’s costs of malt beverages, plus freight, for all malt beverages sold within the City, regardless of whether such malt beverages are purchased for on-sale or off-sale purposes.
- B. The City shall charge and collect a mark-up of ten percent above the City’s costs of distilled spirits and wines plus freight, for all distilled spirits and wines sold within the City, regardless of whether such malt beverages are purchased for on-sale or off-sale purposes.
- C. Such charges shall be paid by 5:00 p.m. on the 10th of the following month at the Beresford Municipal Liquor Store.

4.0310 Full-Service On-Sale Restaurant Licenses. (Ord. 2020-04 effective 9/2/2020)

A. Definitions of Terms:

Terms used in this Ordinance mean:

- (1) “Bar,” any permanently installed counter within the restaurant area from which alcoholic beverages are regularly served to customers by a person who is tending bar or drawing or mixing alcoholic beverages.

- (2) “Full-service restaurant,” any restaurant at which a waiter or waitress delivers food and drink offered from a printed food menu to patrons at table, booths, or the bar. Any restaurant that only serves fry food orders or food stuff such as sandwiches, hamburgers, or salads is not a full-services restaurant;
- (3) “Restaurant,” any area in a building maintained, advertised, and held out to the public as a place where individually priced meals are prepared and served primarily for consumption in such area where at least sixty percent of the gross revenue of the restaurant is derived from the sale of food and nonalcoholic beverages. The restaurant shall have a dining room or rooms, a kitchen, and the number and kinds of employees necessary for preparing, cooking, and serving of meals.

B. License Application Requirements:

Documentation: An application for a full-service restaurant on-sale license shall provide sufficient documentation to the municipality with an application form provided by the municipality to prove that the primary source of revenue from the operation of the restaurant will be derived from the sale of prepared food and nonalcoholic beverages and not from the sale of alcoholic beverages. The supporting documentation concerning the primary source of revenue submitted pursuant to this section is confidential.

C. Annual Reports:

The full-service restaurant on-sale licensee shall submit an annual report and supporting documentation to the City on forms provided by the City on the revenues form for the full-service restaurant that includes an oath verifying the validity of the information provided in the report. The report and the supporting documentation submitted pursuant to this section are confidential. The report shall contain the annual gross revenues of the licensee for the following two categories:

- (i) Food and nonalcoholic beverage gross revenue;
- (ii) Total gross revenues.

D. License Renewals:

When renewing a full-service restaurant on-sale license, the City shall condition the license renewal upon receiving documentation that at least sixty percent of gross revenue from the preceding twelve months operation of the full-service restaurant is derived from the sale of food and nonalcoholic beverages.

E. Only Retail, On-Sale Service Permitted:

A full-service restaurant on-sale licensee may only serve alcoholic beverages for on-premise consumption in the bar and dining room area of the restaurant.

F. Smoking Prohibited:

No licensee that has a full-service restaurant on-sale license may allow smoking on the licensed premises.

G. Full-Service Restaurant License Fees:

- (1) As required by State law, the license fee charged for a full-service restaurant on-sale license shall be at or above the current fair market value for such license as determined herein. However, any fair market value so established shall be a minimum on one dollar for each person residing within the City as measured by the last preceding decennial federal census.
- (2) The license fee shall be initially established by Resolution within ninety (90) days of the initial adoption of this ordinance. Subsequent changes in the license fee shall not be made for a period of ten (10) years from the effective date of adoption of this ordinance unless a population growth reported by the Federal decennial census requires an increase in the fee.
- (3) Fair market value for full-service restaurant license shall be established as follows:
 - (a) Upon adoption of this ordinance, any person who purchased an on-sale license issued pursuant to SDCL 35-4-2 (4) or (6) within the last five years, shall report the amount originally paid for the on-sale license to the City of Beresford Finance Department on forms provided by the City. Any form submitted pursuant to this provision shall be signed under oath and shall include the documents establishing the amount originally paid for the on-sale license. If the transaction for the purchase of the on-sale license included real or personal property on the date of the original sale shall be deducted from the total transaction price to determine the amount paid by the licensee for the on-sale license. The burden of establishing the amount paid for the license shall be on the licensee. Any licensee contesting the fair market value of the real personal property may appeal the valuation adopted by the City to circuit court.
 - (b) For purposes of this section, the term, “Current Fair Market Value” means the documented price of the on-sale license most recently sold through an arm’s length transaction, less the value of any real or personal property included within the transaction.

H. Registry of Full-Service Restaurant On-sale Licensees:

The City shall maintain a registry of each full-service on-sale restaurant license that is being offered for sale and the City shall furnish a copy of the registry to anyone who requests a new full-service restaurant on-sale license. The existing full-service restaurant on-sale licensee is responsible for registering with the City that the full service on-sale license is for sale.

- I. The City may only issue a new license pursuant to this ordinance if no on-sale license is on the registry or a person desiring to purchase an on-sale license listed on the registry provides documentation showing that the person is unable to purchase the on-sale license at the price established in section G of this ordinance and on terms satisfactory to both the potential buyer and seller. The price of any on-sale license registered as “for sale” with the City shall be sold at the current fair market price set by the City pursuant to a Resolution adopted in accordance with section G (2) of this ordinance.

CHAPTER 4.04 - MANUFACTURED HOME PARKS

- 4.0401 Purpose. The purpose of terms and conditions of this ordinance is to promote the health, safety and welfare of the inhabitants of the City through the regulation of the location, planning, design,

layout, construction, and operation of this licensed manufactured home park and manufactured homes placement and use therein.

4.0402 Definitions. The following words, terms and phrases, when use herein, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- A. "Administration" - the Beresford Finance Officer.
- B. "Board" - the Beresford Planning and Zoning Commission.
- C. "Cabana" - a factory-built room enclosure erected or constructed attached to a manufactured home for residential use by the occupants of a manufactured home.
- D. "Codes" - any codes or other regulations that the City Council or its departments have adopted which include, but are not limited to, the fire code, health code, building code, plumbing code, heating code and electrical code. Such codes will be controlling when work is to be done in a given area where such code is applicable.
- E. "Detached accessory building" - an incidental freestanding building located on the same lot which it serves and used solely for storage of personal equipment and possessions of the manufactured home occupants.
- F. "License" - a licensed manufactured home park operator's license.
- G. "Licensee" - the person to whom a manufactured home park license has been granted.
- H. "Licensing entity" - the City of Beresford Council.
- I. "Manufactured home" - a dwelling unit which is fabricated in one or more sections at a location other than the home site by assembly line-type production techniques or by other construction methods unique to an off-site manufacturing process. A manufactured home is designed to be towed on it own chassis or be site delivered by alternative means. Every section shall bear a label certifying that it is built in compliance with the Federal Manufactured Home Construction and Safety Standards. For manufactured homes built prior to June 15, 1976, a label certifying compliance to the Standard for Manufactured Homes, NFPA 501, ANSI 119.1, in effect at the time of manufacture is required.
- J. "Manufactured home park, licensed" - a contiguous parcel of land, under the same ownership, where lots are rented for the temporary placement of manufactured homes, with all necessary facilities and services, and is licensed by the City.
- K. "Manufactured home space" - a parcel of land designated and approved for the placement of a single manufactured home.
- L. "Park occupant"- a person living in a manufactured home located in a licensed manufactured home park.
- M. "Park operator" - the person to whom a manufactured home park license has been issued or who is managing the licensed manufactured home park for someone who has been issued a license.
- N. "Required yard" - a yard of a manufactured home as set out in City Ordinances.

- O. "Service building" - an accessory building to a license manufactured home part for related services.
- P. "Service equipment" - the plumbing, mechanical and electrical equipment including piping, wiring, fixtures and other accessories which provide sanitation, lighting, heating, ventilation, cooling, refrigeration, fire protection, and facilities essential for the habitable occupancy of a manufactured home or accessory building or structure for its designated use and occupancy.
- Q. "Utilities" - water and sewer, gas or electrical distribution system which is available for connection to manufactured homes in a licensed manufactured home park.
- R. "Yard" - an open space, other than a court on a lot, unoccupied and unobstructed from the ground upward, except as otherwise provided herein.
- S. "Zoning ordinance" - the revised zoning ordinances of the City of Beresford.

4.0403 Duty of licensee and occupants.

- A. Responsibility of licensee.
 - 1. The manufactured home park licensee will operate the park in strict compliance with the provisions of this ordinance and the zoning ordinances, and will provide adequate supervision to maintain the park, its related facilities, roadways, drainage ways, walkways, open spaces, utilities and equipment in good repair and in a clean and sanitary condition.
 - 2. The licensee will be responsible for verifying and certifying that all manufactured homes placed in the park meet or exceed the property maintenance code.
 - 3. The licensee will be responsible to verify that all manufactured homes hereinafter located in a licensed manufactured home park shall be provided with a HUD approved tie-down system.
 - 4. The licensee will also be responsible to see that all plumbing, heating, and electrical connections, alterations and additions comply with the provision of this ordinance; that all street signs and address numbers are installed; to secure permits for detached accessory buildings and park service buildings.
 - 5. The licensee will be responsible for the proper placement of each manufactured home and notification to the City Finance Officer when new manufactured homes are placed.
 - 6. The licensee will notify the park occupants of all applicable provisions of a duly authorized Conditional Use Permit and inform them of their responsibilities thereunder.
 - 7. The licensee will provide the administration and park occupants name, address, and phone number of the local park management.
- B. Responsibilities of occupants or owners.

1. The occupant or owner of any manufactured home will comply with all applicable requirements of a duly authorized Conditional Use Permit and will maintain the manufactured home space, its facilities and equipment in good repair and in a clean and sanitary condition.
2. The occupants of any manufactured home will be responsible to see that all plumbing, heating, cooling and electrical connections, alterations and additions comply with the requirements of the zoning ordinances, and secure necessary permits for detached accessory buildings.

4.0404 Required; term, renewal and fee.

- A. It will be unlawful to operate a licensed manufactured home park within the City unless a valid license has been issued. Application for a license shall be made thirty days prior to operation by completing the appropriate form, furnishing a copy of park rules and regulations, and submitting payment of a nonrefundable application fee to the City in the amount set forth by resolution by the City Council.
- B. Said license will expire on June 30th of each year. An application for a renewal shall be made thirty days prior to the expiration of said license in accordance with the requirements in paragraph A. A license filed after the expiration date of such license will be charged in addition to the license fee, a reinstatement fee equal to 50% of the license fee.

4.0405 Revocation or refusal. A manufactured home park license may be revoked in whole or part as described in this section or renewal refused for failure to comply with any of the provisions of this chapter, a duly authorized Conditional Use Permit or any other condition approved by the City Planning and Zoning Commission.

4.0406 Transfer. Licensed manufactured home park licensee will give notice in writing to the City Finance Officer within thirty days after having sold, transferred, given away, or otherwise disposed of any interest in or control of the manufactured home park. Such notice will include the name and address of the new owners. Upon application in writing for transfer of the license, the license may be transferred if the park is in compliance with the provisions of a duly authorized Conditional Use Permit and all other pertinent laws and regulations.

4.0407 Manufactured home placement permit.

- A. It is unlawful for any manufactured home to be occupied in the licensed manufactured home park unless the manufactured home is situated on a manufactured home space and a placement permit issued as provided for herein.
- B. Every manufactured home owner shall file an application for a manufactured home park placement permit with the City Finance Officer prior to the date of the placement of the manufactured home in the licensed manufactured home park.
- C. The manufactured home park licensee shall give to every manufactured home owner desiring to place his manufactured home in the licensee's park an application for a placement permit. The licensee will retain two complete copies of the application form and will send one to the City Finance officer prior to the date of placement of the manufactured home and will retain the second copy; the manufactured home owner will have the responsibility of filing the original copy of the application with the City Finance Officer and will pay a permit fee as set by resolution by the City Council.

- 4.0408 Detached accessory buildings and structures. It is unlawful to alter, repair, or add detached accessory buildings or structures in a licensed manufactured home park without first obtaining a permit. Permit issuance and fees will be in conformance with the City codes and ordinances applicable to the type of work involved.
- 4.0409 Service buildings and equipment. It is unlawful to construct service buildings or install service equipment in the licensed manufactured home park without first obtaining a permit. Permit issuance and fees will be in conformance with the City codes and ordinances applicable to the type of work involved.
- 4.0410 Carports, cabanas, enclosed vestibules, canopies and decks. It is unlawful to construct (i) cabanas, (ii) unenclosed canopies, (iii) carports, (iv) decks, or (v) enclosed vestibules in a licensed manufactured home park without first obtaining a permit. Permit issuance and fees will be in conformance with the City codes and ordinances applicable to the type of work involved.
- 4.0411 Inspections. The City Building Inspector may enter the licensed manufactured home park to inspect such park in the discharge of its duties. Such inspection or reinspection may take place at any time. Such inspection will take place prior to the issuance or renewal of a license to operate the licensed manufactured home park.
- 4.0412 Placement of manufactured homes. All manufactured homes will be positioned in compliance with an approved manufactured home park plan.
- 4.0413 Water supply. An accessible, adequate, safe, and potable supply of water will be provided in each licensed manufactured home park and all water supply will be supplied by the City of Beresford.
- 4.0414 Waste disposal.
- A. All plumbing in the licensed manufactured home park will comply with the plumbing code as adopted by the City and also applicable state codes.
 - B. All waste from showers, toilets, laundries, faucets and lavatories will be wasted into a sewer system extended from and connected with the City sewer system.
- 4.0415 Garbage disposal.
- A. The storage, collection and disposal of refuse in the manufactured home park will be so managed as to create no health hazards, rodent harborage, insect breeding areas, accident hazards or air pollution. All refuse will be stored in flytight, weathertight, rodentproof containers, which will be provided in sufficient number and capacity to prevent any refuse from overflowing.
 - B. Insect and rodent control measures to safeguard public health, as recommended by the City Building Inspector, will be applied in the licensed manufactured home park. Skirting of manufactured homes will be done in such a manner so as to prevent rodent harborage and as directed by the City Building Inspector.
- 4.0416 Electricity. It will be the responsibility of the licensed manufactured home park operator to provide and maintain the manufactured home park electrical wiring system in compliance with State and City electrical codes and it is further required that:

- A. Service equipment will be weatherproofed in safe condition and adequate for the load served.
- B. Supply cords and receptacles will be approved for the purpose used be in safe condition and have overcurrent protection at not more than their rating. Supply cords will not be spliced except in an approved box under the manufactured home.
- C. Overhead conductors will have a clearance of three feet from the manufactured home and any projections such as a television antenna.
- D. Manufactured home chassis will be grounded through a separate grounding conductor in the supply cord. Any other method of grounding is prohibited unless special permission is received from the City.

4.0417 Fire protection.

- A. The licensed manufactured home park area will be subject to the fire protection rules and codes of the City.
- B. All LP tanks will be secured against overturning with a minimum safety factor of four based on a loading in any direction equal to four times the filled weight of the container. LP tanks over 100-gallon capacity must be installed on a concrete base.
- C. Safety relief valves of LP containers will have direct ventilation with the atmosphere. The delivery side of the gas pressure regulator will be equipped with a safety relief device set to discharge at a pressure not less than two times and not more than three times the delivery pressure of the regulator.
- D. Oil storage tanks will be supported by either noncombustible framing or if of wood, not less than two-by-four dimension stock. Oil tanks up to 500 gallons will be vented to the atmosphere by 1 1/4 inch diameter vents. Oil tanks installed for gravity flow of oil to heating equipment will be installed so that the top of the tank is no higher than eight feet above the appliance oil control and the bottom of the tank is not less than 18 inches above the appliance oil control. Listed automatic pumps (oil filter) will be mounted no higher than eight feet above the appliance oil control and not less than eighteen inches above the appliance oil control. A readily accessible, approved manual shutoff valve will be installed at the outlet of an oil supply tank. Such valve will be installed to close against the supply.
- E. Manufactured homes will have fuel piping materials and systems compatible with type of fuel supply based on accepted national standards or when applicable, City and state codes.
- F. LP or natural gas services will not be installed under manufactured homes. Connections from natural gas supply to manufactured homes will be by approved flexible connectors.
- G. Skirting installed around a manufactured home will be fire retardant and approved by the City Building Inspector.
- H. Combustible storage may not be permitted under manufactured homes.

4.0418 Park identification sign. It will be the responsibility of the manufactured home park licensee as a condition for issuance of the manufactured home park license to erect and maintain at the main entrance of the licensed manufactured home park a sign displaying the manufactured home park

name and office address. The size, height, and location of the sign will be approved by the City Finance officer.

4.0419 Street and space numbering. Prior to the issuance of the manufactured home park license, the manufactured home park operator will:

- A. Develop and submit for approval of the City Finance officer a space or street numbering system for the licensed manufactured home park and have the plan available at the manufactured home park office at all times.
- B. Erect and maintain street signs within the licensed manufactured home park of the size, height, number and location as prescribed by the City Finance Officer.
- C. Display in front of or affix to the front of each manufactured home service building or manufactured home space a street number in accordance with the approved numbering system.

4.0420 Notices and orders.

- A. Whenever the City Building Inspector determines that there has been a violation of this chapter, it will give notice of such alleged violation to the licensee and occupant. The owner and/or occupant shall have thirty days to correct the violation.
- B. Whenever the City Building Inspector determines that a hazard exists which required immediate action to protect the public health, safety and welfare, the City Building Inspector may take whatever action deemed necessary so long as such action is permissible under federal, state or local law.

4.0421 Notice to vacate. If the manufactured home is tagged as unfit for human occupancy, resulting in the cancellation of the licensing for that space in the manufactured home park until such time that the manufactured home is brought up to code, removed, or the problem otherwise abated. Repeated violations could affect the future licensing of the park and may cause the cancellation of the licensing of the entire park.

4.0422 Appeals.

- A. Generally. Any person affected by any action of the City Building Inspector under this chapter may appeal the action to the City Council within thirty days after completed service of such notice.
- B. Variance on appeal. The City Council may authorize, upon appeal in specific cases, such variance from the terms of this chapter, or from the rules and regulations adopted pursuant to this chapter, subject to terms and conditions fixed by the City Council, as will not adversely affect the public health where, owing to exceptional and extraordinary circumstances, literal enforcement of applicable provisions will result in unnecessary hardship. The burden of proof is upon the applicant to show by clear and convincing evidence that the variance:
 - 1. Will not substantially or permanently injure the appropriate use of the other portions of the dwelling involved or other property.
 - 2. Will be in harmony with the spirit and purposes of a duly authorized Conditional Use Permit.

- C. Procedure on appeal. Any appeal may be taken by filing a notice in writing, to that effect, with the City Finance Officer. Such notice will be on a form provided by the City Finance Officer. The City Finance Officer shall forthwith notify the City Council of the filing of such appeal, and the City Council will within thirty days, set a date for hearing, which may not be less than ten days from the date of the notice of hearing. The City Finance Officer will thereafter and forthwith give notice of such hearing to all interested persons by ordinary mail. After filing a notice of appeal, enforcement of any notice or order appealed from will be held in abeyance until the decision of the City Council will become final as provided in this chapter. The hearing before the City Council will be informal; its decision will be written, and will state the findings, conclusions and decision of the City Council.
- D. Effect of failure to appeal. If no appeal is taken, the notice will become a final order when the appeal to the City Council has elapsed (thirty days).

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. Any person who intentionally injures, damages or destroys 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 in accordance with Section 4.0308 of this Ordinance. (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 Roller Skates and Skateboards Prohibited in the Business District. No person shall ride upon, in or by means of roller skates, coasters, go-karts, skateboards or other similar wheeled device upon a sidewalk in any business district. (SDCL 9-32-1)

A. Definition as used in this Section:

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

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

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

1. At Large.
 - a. 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.
 - b. 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.
2. Leash. A cord, thong, or chain, not to exceed six feet in length, by which an animal is controlled by the person accompanying it.

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

5.0202 Running at Large Prohibited. It shall be unlawful for any person to have any animal which is owned, kept, harbored, or allowed to be habitually in or upon the premises occupied by him or under his or their control to be at large and to go in or upon the private premises of others or upon any public property. The fine for an animal running at large is \$50.00. The owner of the animal found in violation of this Section may, within 72 hours of the time when the notice of violation was given, pay to the office of the City Finance Officer, as fine for and in full satisfaction of the violation, the sum of \$50.00. If the owner fails to pay the sum within the 72-hour period, he or she may pay to the office of the City Finance Officer, within the next two weeks from the date of violation, as a fine for and in full satisfaction of the violation, the sum of \$75.00. Upon failure of the owner to pay either of the sums to the office of the City Finance Officer within the time periods indicated, and upon conviction of a violation of this Section, the owner shall be fined not less than \$100.00 plus court costs, which fine shall be collected by the Magistrate Court. The owner also has the right to contest the charges or plead “not guilty” within the time periods indicated above, and have the matter transferred to Magistrate Court. The penalties in this Section may be adjusted by resolution of the City Council.

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

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

An owner reclaiming an impounded animal shall pay the actual cost of impoundment plus the following fee: First impoundment shall be \$25.00; second impoundment within a twelve month period shall be \$50.00; any subsequent impoundment within a twelve month period shall be \$100.00. 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.

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 for which no proof of rabies vaccination is available 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 1st 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 the ground or concrete.
 - d. The pen or structure may be required to have double exterior walls to prevent the insertion of fingers, hands or other objects.
 4. A universal sign denoting a vicious animal shall be displayed on the kennel or enclosure and on a place visible from the sidewalk or road adjacent to the property where the animal is kept.

5. Shall carry \$100,000.00 liability insurance covering the medical and/or veterinary costs resulting from the vicious animal's actions or any other damage the animal may do. Proof of insurance shall be filed with the animal control officer annually.
- 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 has been running at large, or bites a person or bites another animal, the animal control officer, a law enforcement officer or other authorized official shall seize the animal by using such means as are necessary and summon the owner to appear in court to show cause why this animal shall not be destroyed. If the animal cannot be captured, it may be destroyed.

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 five domestic pets over the age of six months, except birds and fish, on any lot or premises in the City, unless such person residing on or in the lot or premises has a valid kennel license issued by the City. Humane societies, veterinarian offices, and retail pet stores are exempt from the provisions of this section.
- 5.0211 Licensing of Dog Required. Each owner or keeper of a dog 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 within the City must submit an application for an animal license for each such animal owned six months old or older and a renewal application within one year and annually from the month of the first license. The application shall be furnished by the Finance Officer. All applications for license certificates must be accompanied by a rabies immunization certificate and the appropriate fee, as shown in Section 5.0213.

A certificate and tag shall be issued upon receipt of a proper application for license. The certificate at all times must be in the possession of the owner. The owner shall contact the Finance Officer to

report change of ownership, loss or death of a licensed animal. If a tag or certificate is lost, either may be replaced for a fee of one dollar. The tag must be worn by all dogs and cats.

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

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

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

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

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

5.0216 Livestock.

- A. It shall be unlawful for any person to permit livestock to be kept, fed (grazing included), or habitually located in the City of Beresford.
- B. No person shall lead, drive or ride any horse upon any lawn, flowerbed, sidewalk or any other area in any city park or upon any parkway or private property. Anyone who leads, drives or rides a horse within the City is responsible for the removal of all manure or excrement.
- C. It shall be unlawful for any person to park or leave unattended within the City any livestock truck or livestock trailer which contains any manure, excrement or animal waste of any kind or description.
- D. It shall be unlawful for any person to load or unload any livestock from or into any truck, trailer or combination thereof within the City, except in order to place such livestock upon or remove it from a railroad livestock car located on a railroad track or siding operated by a railway company running trains to and from the City.
- E. Dumping or unloading of any manure, excrement or animal waste within the City is strictly prohibited.

5.0217 General Prohibitions and Duties.

- A. No person shall aid or cause any animal, whether owned by such person or not, to escape confinement or impoundment, whether such confinement or impoundment be upon the such

person's property or that of another, by opening any gate, door or window, by making an opening in any fence, enclosure or structure, or by unleashing such animal.

- B. It shall be prohibited for any person to permit or allow an animal owned by that person or under that person's custody or control to defecate upon public property, park property, public right-of-way, or the property of another.
- C. It shall be the duty of every person owning or having the custody or control of an animal to clean up, remove and dispose of the feces deposited by such animal upon public property, park property, public right-of way, or the property of another. 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. Animals used in parades or involved in law enforcement are exempt from this subsection. The owner or person having custody of the animal found in violation of this Section may, within 72 hours of the time when the notice of violation was given, pay to the office of the City Finance Officer, as fine for and in full satisfaction of the violation, the sum of \$50.00. If the owner or person having custody 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 \$75.00. Upon failure of the owner or person having custody 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 person having custody shall be fined not less than \$100.00 plus court costs, which fine shall be collected by the Magistrate Court. The owner or person having custody also has the right to contest the charges or plead "not guilty" within the time periods indicated above, and have the matter transferred to Magistrate Court. The penalties in this Section may be adjusted by resolution of the City Council.
- D. It shall be the duty of every person owning or having the custody or control of an animal to physically restrain the animal within an enclosure or upon a leash when such animal is left unattended outside or is not at heel. The animal must be restrained so as to prevent the animal from leaving the premises of its owner or from coming in contact with public right-of-way or the property of another.
- E. It is unlawful for a person, owning or having the care or custody or control of an animal to permit such animal to disturb the peace and quiet of the neighborhood by barking, howling, whining, or making any other loud or unusual noise. Leaving an animal unattended who subsequently disturbs the peace and quiet of the neighborhood shall be in violation of this Chapter.
- F. In the event an animal is making any noise to the disturbance of the peace and quiet of the neighborhood and the person owning or having the care or custody or control over the animal cannot be found to remedy the situation or if found refuses to do so, the animal may be impounded. A notice of the impoundment must be left with the person or in an obvious place on the premises where the dog was removed. A written notice of impoundment must also be sent by certified mail, with return receipt requested, as soon as possible to the licensed owner of the animal if known; or the lessee of the premises upon which the animal was found, if known; or the record owner of the premises. Such notice is deemed completed at the time it is mailed, and any period to reply or abate begins to run from the date of mailing. The animal may be claimed on any regular work day during regular work hours. The impoundment fee will be assessed prior to release of the animal.

- G. It shall be prohibited for any person in any manner to interfere with any employee or designated representative of the City so as to hinder, delay or prevent his or her executing his or her duties pursuant to this Chapter.
- H. No person may set traps in the City for the purpose of apprehending wild or domesticated animals. This section does not prohibit:
 - 1. Trapping mice, rats or other household vermin;
 - 2. The setting of traps to destroy moles and other underground pests so long as the traps used may be triggered only by subsurface action; or
 - 3. The setting of traps in the line of duty by an animal control officer or with written permission from and under supervision of an animal control officer or licensed pest-control operators.
 - 4. The Chief of Police authorizing residents to set traps.

CHAPTER 5.03 - FIREWORKS AND FIREARMS

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

Exception: Unless suspended by the City Council, it shall be lawful for a person to discharge fireworks between the dates of July 3rd and July 5th of each year, between the hours of 11:00 a.m. to 11:00 p.m.

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

The following uses are exempt from this section:

- 1. Proper use of weapons in a licensed shooting range.
- 2. Use by law enforcement or animal control officers in the discharge of their official duties, or to persons who are authorized by the Chief of Police.
- 3. Use by persons engaged in instructional courses using air guns, BB guns, or bows and arrows if the course has obtained a permit from the Chief of Police, is conducted by a certified instructor, is covered by adequate liability insurance, and has been approved by the supervising unit if conducted on City property. The Chief of Police may establish conditions for granting a permit to protect the health, safety, and well-being of the general public.

4. The owner or inhabitant of a parcel of real estate within the City of Beresford may use air guns or BB guns to control predators or pests on such property, provided all such activities comply with South Dakota Statute.
5. Use of any air guns, BB guns or bow and arrow to shoot at an object, such as a padded disk with a marked surface, or other objects such as cans, wood, debris or the like, for the purpose of testing a person's skill or accuracy in the use of an air gun, BB gun, bow and arrow, or other weapon or device.

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

CHAPTER 5.04 - MINORS

- 5.0401 Imposed. It shall be unlawful for any minor under the age of fifteen 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 6:00 a.m. or after 10:00 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.

It shall be unlawful for any minor over the age of fourteen years and under the age of eighteen 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 on the days and at the times as follows unless such minor is accompanied by his parents, guardian or other adult person having the care or custody of such minor:

- A. Monday through Thursday, both inclusive, before 6:00 a.m. or after 11:00 p.m.;
- B. Friday, before 6:00 a.m.;
- C. Saturday, between the hours of 12:30 a.m. and 6:00 a.m.;
- D. Sunday, between the hours of 12:30 a.m. and 6:00 a.m. or after 11:00 p.m.

- 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 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 - Municipal Trees

Chapter 6.06 - Municipal Parks

CHAPTER 6.01 - STREET NAMES AND ADDRESSES

- 6.0101 Names of Streets and Avenues. The names of all streets and avenues in the City shall be fixed and adopted in accordance with the official map of the City on file in the office of the Finance Officer. Other streets shall be named in accordance with guidelines included in the City subdivision regulations. Any such act of naming, establishing, or vacating any street, alley or other public way in the City shall be so designated on such map. (SDCL 9-45-2)
- 6.0102 Numbering Plan. A numbering plan for residences and businesses shall be maintained by the City Council. A listing of the assigned numbers and a map showing the location of addresses shall be maintained and filed in the 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. All houses and lots within the corporate limits of City of Beresford, 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)
- 6.0104 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 6.02 - STREETS, SIDEWALKS, CURB AND GUTTER

- 6.0201 Minimum Street Specifications; Collector and Local Streets. All collector and local streets within the City shall be constructed according to the minimum specifications set forth in this Section and shall at all times be approved by the Beresford Street Department prior to being turned over to the City for maintenance from and after the date of the completion of the street.
- A. Gravel Base Course. Crushed gravel base course shall conform to the requirements of SDDOT gravel base course. The constructed base course shall be compacted to ninety-five percent of the maximum dry density in accordance with ASTM D698.
 - B. Asphalt Concrete. Mineral aggregate for asphalt shall conform to the requirements of SDDOT Class G, Type 1. The wearing course shall consist of a minimum of eighty-five percent crushed ledge rock. The constructed asphalt concrete shall be compacted in accordance with the specified density method. Compaction shall be to a minimum of ninety-two percent of the maximum density in accordance with the procedures for test No. SD312. Mix designs will be based on fifty blow Marshall.
 - C. Collector Streets. Collector streets shall consist of an eight-inch crushed gravel base course and a four-inch asphalt concrete surfacing. Prior to placing the gravel, the subgrade shall be scarified a minimum of six-inches and recompact. The upper one-inch of asphalt surfacing shall be constructed approximately one year after the initial base course and lower three-inch of asphalt concrete were constructed. The upper one-inch of asphalt concrete shall be constructed with eighty-five percent crushed ledge rock as specified above and shall be completed and paid for by the City. The owner or developer shall be responsible for all costs associated with preparing the street for the upper one-inch surfacing.
 - D. Local Streets. Local streets shall consist of an eight-inch crushed gravel base course and a three-inch asphalt concrete surfacing. Prior to placing the gravel, the subgrade shall be scarified a minimum of six-inches and recompact. The upper one-inch of asphalt surfacing shall be constructed approximately one year after the initial base course and the lower two-inch of asphalt concrete were constructed. The upper one-inch of asphalt concrete shall be constructed with eighty-five percent crushed ledge rock as specified above and shall be completed and paid for by the City. The owner or developer shall be responsible for all costs associated with preparing the street from the upper one-inch surfacing.
- 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 had any underground utilities identified. Application for such approval shall state where such excavation is to be made, the extent thereof, and the purpose of such excavation.
- 6.0203 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 upon recommendation and approval of the City.

- 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 the Public Works Director or his or her designee to inspect all authorized excavation work at any stage of construction and to ensure compliance with approved requirements. If all backfilling, refilling, or surfacing is not completed in accordance with approved requirements, notice thereof in writing shall be given to the applicant, who shall put the same in proper order within a maximum of ten 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. 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.
- 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. (SDCL 9-45-1)
- 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 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 Public Works Director for sidewalks, driveway approaches, curbs, or curb and gutter. When these improvements are constructed simultaneously or as one project, only one application is necessary to include all improvements, and where any or all are part of new construction projects, only one permit for the overall construction shall be issued. All improvements, installations, and engineering recommendations shall be in conformance with specifications or recommendations approved by the City Council or its Engineer.

- 6.0211 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. (SDCL 9-46-1.2)
- 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 Sidewalk Maintenance. Whenever any public right-of-way in the City shall have been improved by the construction of a sidewalk along either side thereof, it shall be the responsibility of the owner or occupant of abutting property to inspect, maintain, remove or correct any condition which renders a sidewalk unsafe or unfit to use.
- 6.0214 Removal of Sidewalks Prohibited. It shall be unlawful for any person to remove, alter, or excavate any sidewalk, or cause the same to be done at any location within the City of Beresford where sidewalks exist at the time of the passage of the Ordinance from which this Section was derived. Any person removing, altering or excavating any sidewalk shall be responsible for replacing said sidewalk upon obtaining proper permitting from the City of Beresford. In the event a person violates this Section and fails to replace a sidewalk or any portion thereof which is unlawfully removed or altered, the City of Beresford shall be entitled to cause the same to be replaced, after notice to the property owner, and to assess the cost of replacement as provided for in South Dakota law.
- 6.0215 Sidewalk Permit Required. It shall be unlawful for any person to install, remove, alter, repair, replace or construct any sidewalk, curb, gutter or driveway, or cause the same to be done in the City without first obtaining a permit to do so from the City of Beresford. Any person desiring to repair, change or relocate any sidewalk abutting their property shall make application in writing to the City of Beresford. The sidewalk permit shall be required and shall be applied for on forms approved by the City of Beresford and upon payment of such fees as may be required by the City of Beresford as established from time to time by resolution. All work done pursuant to the issuance of a sidewalk permit shall be subject to inspection by the City of Beresford Building inspector or his authorized representative.
- 6.0216 Installation of Sidewalks on New Construction. All newly constructed buildings within the City of Beresford shall include with their building permit application a plan for the installation of sidewalks upon the premises where construction shall be taking place. The Planning and Zoning Commission may, where impractical, recommend to the City Council that sidewalks not be required on a particular parcel of property for which construction is being planned. Any waiver of the requirement that sidewalks be installed on new construction shall require final approval and action by the City Council with the reasons for the waiver included.

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 twelve 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 the City without having obtained a moving permit. (SDCL 9-30-2)
- 6.0402 Applications. Written application for a moving permit shall be filed with the Finance Officer, and shall include the name of the applicant, the name of the owner of the building, a description of the lot on which such building is standing and the lot to which it is to be moved, if such location shall be within the City. The application shall also specify the route along which it is proposed to move the building, and the length of time likely to be consumed in such moving. Any application so filed shall be considered by the City Council for approval, and any other conditions to be complied with by the applicant, shall be stated.
- 6.0403 Surety Bond. No permit shall be granted until the applicant shall file with the Finance Officer a bond in favor of the City in the penal sum to be established by the City Council, with sufficient surety, and conditioned on the applicant promptly repairing and making good, to the satisfaction of the City Council, any and all damage to any pavement, sidewalk, crosswalk, hydrant, street, alley, 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 Beresford, the foundation of such structure removed, demolished or relocated must be removed from the property and the basement or excavation remaining after removal of the foundation must be filled with good, clean, fill dirt.
- If a house is removed from the property then all other outbuildings and other structures which are not being used must be removed together with all sidewalks (except along the street). Upon removal, demolition or relocation of the house or other structures, the lot shall be leveled and left in a good, clean, sanitary condition. Upon the property owner's failure to comply with the provisions of this Section, the property shall be deemed a public nuisance which may be abated and the cost thereof assessed against the property pursuant to laws of the State of South Dakota.
- 6.0407 Approval and Fee. No moving permit shall be issued unless the appropriate nonrefundable fee, established by resolution of the City Council, is paid to the Finance Office.
- 6.0408 Safeguards. It shall be the duty of the person, firm or corporation moving any building through the streets to do the same with proper care for the safety of persons and property. Warning barricades and lights shall be maintained wherever necessary for the protection of pedestrians or traffic.
- 6.0409 Protecting Pavement. Where a building or structure is being moved over a street, but is not carried on another vehicle or on a unit equipped with tires, the street surface shall be protected by planking or other device effective to prevent injury to the roadway.

CHAPTER 6.05 - MUNICIPAL TREES

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

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

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

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

- 6.0503 Abuse of Trees. Unless otherwise specifically authorized by the City Council, no person shall intentionally damage, cut, carve, transplant, or remove any tree; attach any rope, wire, nails, advertising posters, or other contrivance to any tree, allow any gaseous liquid or solid substance which is harmful to such tree to come in contact with them, or set fire to or permit any fire to burn when such fire or the heat thereof will injure any portion of any tree.
- 6.0504 Removal of Hazards. Where any tree branches or hedges protrude or overhang on any thoroughfare within the City so as to be determined as in violation with this Chapter or affecting motor vehicle traffic and good maintenance practices, notification shall be given by the City Administrator or his or her designee 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)
- 6.0505 Removal Costs Assessed. In the event any owner, tenant, or person in possession of any property shall neglect or fail to or refuse to remove such obstructions or undesirable branches or hedges within the time provided, the City may issue a citation for such violation and may authorize such removal with the costs to be assessed against the abutting property owner. (SDCL 9-30-5)

CHAPTER 6.06 - MUNICIPAL PARKS

- 6.0601 City Park. The City Park of Beresford, South Dakota, shall consist of and include all lands, rights of way, pool and structures used and enjoyed by the citizens of Beresford and others for many years owned and maintained by said City.
- 6.0602 Unauthorized Entry. It shall be unlawful for any person to trespass upon or enter any property designated as a park or golf course unless said entry is in accordance with City ordinances, resolutions or policies governing the times of operation for said park or golf course or unless said person has permission to enter from an authorized municipal official.
- 6.0603 Lawful Manner. Any person using or occupying such City Park or any of its facilities shall conduct him or herself in a carefully, prudent, peaceable and lawful manner, shall honor and respect the rights and privileges of other visitors in the park, and shall at all times maintain and take every precaution to prevent the injury of persons and property in the park.
- 6.0604 Unnecessary Acts. Any person using or occupying such City Park or any of its facilities shall not do or commit any unreasonable or unnecessary acts that may unreasonably annoy other visitors in the park or unreasonably prevent such visitors in the park from the full use and enjoyment of the park.
- 6.0605 Bridges of Beresford Golf Course - Operation of Motor Vehicles. It shall be unlawful for any person to operate a motorized vehicle upon the Bridges of Beresford Golf Course except when authorized by the Course Superintendent or other authorized municipal official. The use of snowmobiles, motorcycles, ATV's and other recreational vehicles, except golf carts when permitted, shall be strictly prohibited.

- 6.0606 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 or golf course unless said entry is authorized by the Golf and Park Superintendent or other authorized municipal official. Entry shall be deemed to include swimming, ice skating, boating, fishing, ball retrieval or other entry onto the waters.
- 6.0607 Alcoholic Beverages. No person shall consume any alcoholic beverages in any City Park, except at a licensed facility or upon approval by the City Council.
- 6.0608 Glass Containers. No glass beverage containers are permitted in any City Park.

TITLE 7 - TRAFFIC CODE

Chapter 7.01 - General Provisions

Chapter 7.02 - Operation of Vehicles

Chapter 7.03 - Vehicle Equipment

Chapter 7.04 - Speed Restrictions

Chapter 7.05 - Parking, Stopping

Chapter 7.06 - Trucks

Chapter 7.07 - Snowmobiles

Chapter 7.08 - Miscellaneous Provisions

Chapter 7.09 - Golf Carts

CHAPTER 7.01 - GENERAL PROVISIONS

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

- A. Authorized Emergency Vehicle - Vehicles of any fire department, police vehicles and such ambulances and emergency vehicles of municipal department or public service corporations as are designed or authorized by the Chief of Police.
- B. Crosswalk - That portion of a roadway ordinarily included within the prolongation of curb and property lines at intersection, whether marked or not, or any other portion of a roadway clearly indicated for pedestrian crossing by lines or other markings on the surface of the street.
- C. Curb - The extreme edge of lateral boundary of a roadway, whether marked by curbing or not.
- D. Department - The police department of the City of Beresford.
- E. Double Parking - The standing of a vehicle upon a street at the rear of another vehicle which is parked diagonally at the curb, or the standing of a vehicle upon the street alongside and parallel at the curb.
- F. Driver or Operator - Any person who is in actual physical control of a vehicle.
- G. Left Hand Side of a Street - The side to the left of the vehicle as it moves forward.
- H. Motor Vehicle - Every vehicle which is self-propelled.
- I. Parking - The standing of a vehicle, whether attended or unattended upon a roadway, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading passengers.
- J. Pedestrian - Any person afoot.

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

- 7.0102 Duty to Enforce. It shall be the duty of the Chief of the Police Department and all police officers to enforce all the regulations and requirements of this Title. (SDCL 9-29-19)
- 7.0103 Directing Traffic. Police officers shall direct traffic in conformance with traffic laws and ordinances, provided that in the event of a fire or other emergency, or to expedite traffic or safeguard pedestrians, members of the police or fire department may direct traffic as conditions may require. (SDCL 9-29-19)
- 7.0104 Obedience to Police. It shall be unlawful for any person to refuse or fail to comply with any lawful order, signal, or direction of the police department. (SDCL 9-29-19)
- 7.0105 Exemptions to Authorized Emergency Vehicles. The provisions of this Title regulating the movement, parking and standing of vehicles shall not apply to authorized emergency vehicles while the operator of such vehicle is operating the same in an emergency in the necessary performance of public duties. This exemption shall not, however, exempt the driver of any such vehicle from the consequence of a reckless disregard of the safety of others.
- 7.0106 Application to Workers and Equipment. The provisions of this Title shall not apply to persons, motor vehicles and other equipment while actually engaged in work upon the surface of a street, but shall apply to such persons and vehicles when traveling to or from such work; provided

however, such persons and vehicles shall not indiscriminately block traffic, but shall allow reasonable room on the traveled portion of the street for other vehicles to pass.

- 7.0107 Authority to Install Traffic Control Devices. The City Council shall place and maintain traffic control signs, signals and devices when and as required under this Title to make effective the provisions of said Title, and may place and maintain such additional traffic control devices as may be necessary to regulate traffic. When or where necessary the Public Works Director and the City Engineer shall utilize the Manual on Uniform Traffic Control Devices (MUTCD) guidelines. (SDCL 32-14-5)
- 7.0108 Obedience to Traffic Control Devices. The operator of any vehicle shall obey the instructions of any official traffic control device applicable thereto placed or held in accordance with the provisions of this Title unless otherwise directed by a law enforcement officer subject to the exceptions granted the driver of an authorized emergency vehicle in this Chapter.

CHAPTER 7.02 - OPERATION OF VEHICLES

- 7.0201 Drive on Right Side of Street. Upon all streets, except upon one-way streets, the operator of a vehicle shall drive the same upon the right half of the street and shall drive a slow moving vehicle as closely as possible to the right hand edge or curb of a street unless it is impracticable to travel on such side of the street or the right hand lane of the street is a designated bike lane, 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, turning the front wheel to the curb or side of the roadway.
- 7.0204 Backing Around Corners or into Intersection Prohibited. It shall be unlawful for the operator of any vehicle to back such vehicle around a corner at an intersection or into an intersection of public streets. (SDCL 32-30-20)
- 7.0205 Right-of-Way at Intersection. Subject to the exception stated in the next succeeding Section, the right-of-way rule as between vehicles at intersections is hereby declared as follows:
- A. The operator of a vehicle approaching an intersection shall yield the right-of-way to a vehicle which has fully entered the intersection;

- B. When two vehicles approach an intersection at approximately the same time, the operator of the vehicle on the left shall yield the right-of-way to the vehicle on the right;
- C. The operator of any vehicle traveling at an unlawful speed shall forfeit any right-of-way which he may otherwise have hereunder.

- 7.0206 Exceptions to Right-of-Way. The operator of a vehicle entering a public street shall yield the right-of-way to authorized emergency vehicles when the latter are operated upon official business and the operators thereof sound audible signal by bell, siren, or exhaust whistle. This provision shall not relieve the operator of an emergency vehicle from the duty to drive with due regard for the safety of all persons, nor shall it protect the operator of any such vehicle from the consequences of an arbitrary exercise of such right-of-way.
- 7.0207 Stop Required Before Operator Entering From Alley or Private Driveway. The operator of a vehicle emerging from 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. The operator of a vehicle shall not turn such vehicle so as to park or move in the opposite direction except at an intersection. (SDCL 32-26-25)
- 7.0211 Action Required at Stop Sign. Except when directed to proceed by a law enforcement officer or traffic control signal, every operator of a vehicle approaching a stop intersection indicated by a stop sign shall come to a full stop at a clearly marked stop line, but if none, before entering the crosswalk on the near side of the intersection or if none, then at the point nearest the intersection roadway where the driver has a view of approaching traffic on the intersecting roadway before entering the intersection. After having stopped, the operator shall yield the right-of-way to any vehicle which has entered or is approaching the intersection from another highway and shall not proceed into the intersection until certain that such intersecting roadway is free from oncoming traffic which may affect safe passage. (SDCL 32-29-2.1)
- 7.0212 Action Required at Yield Sign. The operator of a vehicle approaching an authorized sign bearing the word "Yield" or "Yield Right-of-Way" shall in obedience to such sign slow down to a speed reasonable for the existing conditions or shall stop if necessary and shall yield the right-of-way to any pedestrian legally crossing the roadway on which such operator is driving, and to any vehicle in the intersection or approaching on another highway so closely as to constitute an immediate hazard. Said operator having so yielded may proceed and the operators of all other vehicles approaching the intersection shall yield to the vehicle so proceeding. (SDCL 32-29-3)

- 7.0213 Pedestrian's Right-of-Way. The operator of any vehicle shall yield the right-of-way to a pedestrian crossing the roadway within any marked crosswalk or within any unmarked crosswalk at the end of a block, except at intersections where the movement of traffic is being regulated by law enforcement officers or traffic control signals. Whenever any vehicle has stopped at a marked crosswalk or at any intersection to permit a pedestrian to cross a roadway, it shall be unlawful for the operator of any other vehicle approaching from the rear to overtake and pass such stopped vehicle. (SDCL 32-27-1)

CHAPTER 7.03 - VEHICLE EQUIPMENT

- 7.0301 Lights Required. A motor vehicle upon a highway within the state during the period from a half 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 Beresford, 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 therefrom except that sand may be dropped for the purpose of securing traction or water or other substances may be sprinkled on a roadway for 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 regular school hours or while children are going to or leaving school.
 - 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.

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 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 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 or other vehicle or trailer on any City street for a continuous period longer than seventy-two (72) hours. Upon complaint by a citizen or the City Code Enforcement Officer, the Beresford Police Department shall issue a warning to remove the offending vehicle or trailer within 24 hours. If the vehicle or trailer is not removed within 24 hours after notice, the vehicle or trailer shall be towed at the owner's expense. (Ord. 2014-04 effective 1/14/2015)
- K. Within any area designated by the City as a city park, except in accordance with signage posted in said public park authorizing parking at designated times. (Ord. 2016-03 effective 6/5/2016)

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 the location of passenger zones and loading zones as described herein, and shall cause to be erected and maintained appropriate signs indicating the same.

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

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

7.0504 Penalty. The offending automobile or other vehicle will be tagged with a tag, listing the date of the offense, license number of the vehicle, make, violation number, and location of offense with reference to street. Whenever a notice is left by any member of the police department in or on any vehicle which has violated the parking regulations, the person in charge of such vehicle shall pay the amount of the assessment described thereon by taking such notice and amount of the

assessment to the City Finance Office and depositing the same with the City Finance Officer. The assessment for each violation shall be twenty-five dollars.

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

Any vehicle parked in violation of this Chapter may be removed from the streets or city park by the police department and placed in public or private storage and the owner thereof, in addition to the fines and penalties provided in this Chapter, shall pay the charges for towing and storage of said vehicle so removed by the police department. All money so collected by the police department shall be immediately deposited with the City Finance Officer to be paid into the general fund. (Ord. 2016-03 effective 6/5/2016)

- 7.0505 Non-Parking Areas. The City Council may from time to time by resolution establish and cause to be designated and marked, non-parking areas along street curbs. No vehicle shall be parked at any time or for any period except to load or unload passengers or merchandise in such place so designated and marked.
- 7.0506 Obstruction of Traffic. No vehicle shall be operated or allowed to remain upon any street under the jurisdiction of the City in such a manner as to form an unreasonable obstruction to traffic. Whenever any police officer finds a vehicle which constitutes an obstruction to traffic, such officers shall be authorized to provide for the removal of such vehicle by towing, if necessary, at owner's expense, with no liability to the City. (SDCL 32-30-1, 2, 3, 4)
- 7.0507 Parking in Central Business District Prohibited During Snow Season. It shall be unlawful to park any vehicle or motor vehicle upon the street of the central business district of the City between the hours of 2:00 a.m. and 6:00 a.m. This restriction shall go into effect on November 1st each year and shall continue until March 30th of the following year. The purpose of this prohibition is to facilitate and expedite the snow removal operations in the central business district. For purposes of this article, the central business district shall consist of the following: Second Street between Spruce to Main Streets; Third Street between Spruce and Oak Streets; Spruce Street between Second and Third Streets; Hemlock and Main Streets between Second and Fourth Streets; Oak Street between Second and Third Streets.
- 7.0508 Parking During Snow Removal.
- A. Definitions. For the purposes of this Section, the following terms and words shall have the meaning given herein:
1. Snow Removal Alert. Such times as there is a snow accumulation on the public streets of two inches or more, or such times as the Public Works Director or his or her designee declares that snow removal operations on the public streets will commence and that the provision of this Chapter in regard to parking on public streets during snow removal operations are effective and will be enforced.
 2. Street. The entire width of any public roadway within the City, and it shall not be limited to those roadways designated as a *Street* but shall include all other names by which public roadways are designated.

- B. Declaration of Snow Removal Alert. When the Public Works Director or his or her designee determines that snow removal from the public streets will commence, the Public Works Director or his or her designee will announce through local news media and whatever other sources are available that there has been declared a snow removal alert and that the provisions of this Chapter will be effective and be enforced, designating a particular date and time when the alert shall commence. The determination to declare a snow removal alert will be based on the then existing weather conditions, and the amount of snow then on the ground or expected according to forecasts from the National Weather Service.
- C. Termination of Snow Removal Alert. After a snow removal alert has been declared, there will be no declaration of its termination, but the alert shall terminate and the provisions of this Section become not effective nor enforceable as to any particular street or portion of a street, as soon as that street or portion thereof has been plowed and cleared of snow accumulation, curb-to-curb, and the snow removal equipment is no longer operating in that area, after which normal parking may be resumed until the next declared snow removal alert.
- D. Violation of Snow Removal Alert. Parking contrary to and in violation of this Section shall be deemed prohibited parking and any vehicle or trailer parked in violation shall be subject to a fine of \$25.00. The owner or operator of the vehicle found in violation of this Section may, within 72 hours of the time when the notice of violation was attached to the vehicle, pay to the office of the City Finance Officer, as a fine for and in full satisfaction of the violation, the sum of \$25.00. If the owner or operator fails to pay the sum within the 72-hour period, he or she may pay to the office of the City Finance Officer, within the next two weeks from the date of violation, as a fine for and in full satisfaction of the violation, the sum of \$50.00. Upon failure of the owner or operator to pay either of the sums to the office of the City Finance Officer within the time periods indicated, and upon conviction of a violation of this Section, the owner or operator shall be fined not less than \$75.00 plus court costs, which fine shall be collected by the Magistrate Court. The owner or operator also has the right to contest the charges or plead “not guilty” within the time periods indicated above, and have the matter transferred to Magistrate Court. The penalties in this Section may be adjusted by resolution of the City Council.

7.0509 Ticketing and Towing Vehicles. Any authorized City official or law enforcement officer shall be authorized to ticket and tow away, or have removed and towed away by any commercial towing service, any car or vehicle illegally parked in any place where such parked vehicle creates or constitutes a traffic hazard, blocks the use of a fire hydrant, or obstructs or may obstruct the movement of any emergency or snow removal vehicle, or in any way is in violation with the provisions of this Title. Cars towed away for illegal parking shall be stored in a place designated by the City Council and shall be returned to the owner or operator of such vehicle upon payment of the penalty under Section 7.0504. (SDCL 32-30-13, 14)

7.0510 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)

7.0511 Parking and Storage of Certain Vehicles. Automotive vehicles or trailers of any kind or type without current license plates shall not be parked or stored on any residentially zoned property other than in a completely enclosed building.

- 7.0512 Towing Costs. When a vehicle is removed from either public or private property as authorized by order of the City Council or Authorized Official, 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.
- 7.0513 Diagonal Parking. It shall be unlawful to cross a lane of traffic to park diagonally on the opposite side of the street from which the turn is made.
- 7.0514 Major Recreational Vehicles:
- A. Definition. For purposes of this ordinance, major recreational equipment is defined to include, but shall not be limited to, the following:
- (1) Travel trailers;
 - (2) Pickup campers or coaches;
 - (3) Motorhomes;
 - (4) Camping trailers;
 - (5) Boats and boat trailers;
 - (6) Snowmobiles;
 - (7) Jet skis and jet ski trailers;
 - (8) Golf carts and golf cart trailers;
 - (9) All-terrani vehicles and all-terrain vehicle trailers;
 - (10) Dirt bikes and dirt bike trailers; and
 - (11) Any other recreational equipment or cases, boxes or items used to sotre or transport such recreational equipment.
- B. Occupation. No major recreational equipment shall be occupied or used for dining, sleeping or living or housekeeping purposes for more than fourteen (14) days in any calendar year unless used in a campground or authorized mobile home park.
- C. Parking Prohibited. During the period of November 1 through April 1, major recreational equipment, if stored outside of a garage or carport or off of a concrete or asphalt surface in an area zoned for R-1, shall be parked or stored to the rear of the front building line of the principal structure on the lot.

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 Beresford as truck routes.

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

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

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

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

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

- A. A truck arriving at the end of any designated truck route may be driven over the most direct course to the nearest truck route which extends in the same general direction.
- B. The provisions of this Ordinance relating to the operation of trucks shall not apply to emergency vehicles of the Police Department, Fire Department, Ambulance Service 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 Public Works Director shall cause all truck routes to be clearly marked to give notice that this Chapter is in effect.

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

Any police officer having reason to believe that the weight of a vehicle and load is unlawful shall require any person driving or in control of said vehicle to proceed to any public or private scale available for the purpose of weighing and determining whether this Chapter has been complied with provided that such vehicle is driven to the nearest scale but in no event more than five 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, golf course, park, roads, playgrounds and recreational areas within the City. Snowmobiles may be operated over snow-covered highways, streets and alleys within the City limits but only for emergency use as defined in 7.0711 or when the operator must travel upon such for purposes of leaving the City and/or when returning to his

residence from outside the City. The operator when using any public street, highway or alley in accordance with the above restrictions, shall use the most expeditious and direct route.

- 7.0707 Crossing Streets at Right Angles. Persons operating snowmobiles are permitted to cross streets at right angles but only may do so after stopping and yielding the right-of-way to all approaching traffic and crossing as closely as possible to an intersection or approach.
- 7.0708 Speed. No person shall operate a snowmobile at a speed greater than is reasonable or proper, under all existing circumstances. But in no event shall the speed be greater than the maximum limits allowed in Section 7.0403.
- 7.0709 Careless, Reckless or Negligent Operation Prohibited. No person shall operate a snowmobile in a careless, reckless or negligent manner so as to be likely to endanger the person or property of another or cause injury or damage thereto.
- 7.0710 Loud Noises Prohibited. No person shall operate a snowmobile in such manner as to create any loud unnecessary or unusual noise likely to disturb or interfere with the peace and quiet of any other person.
- 7.0711 Emergency Use.
- A. The City Council may declare that road or weather conditions are such as to constitute emergency travel conditions authorizing use of a snowmobile.
 - B. A snowmobile may also be used when such vehicle is necessary as an emergency vehicle to protect the health, safety and welfare of any individual.
 - C. The operator of a snowmobile under emergency conditions shall be subject to all existing traffic ordinances of the City and traffic laws of the State.
- 7.0712 Equipment Required. All snowmobiles operated in the City shall have the following equipment.
- A. Mufflers which are properly attached and which reduce the noise of operations of the vehicle to the minimum noise necessary for operating the vehicles and no person shall use a muffler cutout, bypass or similar device on such vehicle.
 - B. Adequate brakes in good working condition.
 - C. A safety or “deadman” throttle in operating condition such being a device which when pressure is removed from the accelerator the throttle causes the motor to disengage from the driving tract.
 - D. At least one headlight and one tail light in good working condition.
 - E. A brightly colored vehicle flag hung or suspended at least six feet high and is firmly attached to the snowmobile.
- 7.0713 Unattended Vehicles. No owner or operator of a snowmobile shall leave or allow the snowmobile to be or remain unattended on public property or streets while the motor is running, or where the keys for starting the vehicle are left in the ignition.

- 7.0714 Sidewalk Operation Prohibited. No person shall operate a snowmobile upon any public sidewalk in the City or bike/walking trail.
- 7.0715 Operation Under the Influence. The operator of a snowmobile shall be deemed the driver or operator of a motor vehicle and be subject to South Dakota law relating to driving while under the influence of intoxicating liquor, drugs or otherwise therein provided and such operator shall be punishable for any violation of such laws.
- 7.0716 Towing. No person operating a snowmobile shall tow any person or object behind such snowmobile except when such person or object is situated upon a conveyance, which is attached to such snowmobile by means of a rigid hitch or tow bar.

CHAPTER 7.08 - MISCELLANEOUS PROVISIONS

- 7.0801 Duty Upon Striking Animal. The operator of any vehicle which collides with any dog or domestic animal causing injury thereto shall stop and attempt to ascertain the owner of such animal and notify a law enforcement officer of such accident.
- 7.0802 Manner of Arrest. Except in cases of driving while intoxicated or under the influence of intoxicating liquor or any exhilarating drug and except in the more serious and aggravated cases of speeding or careless and reckless driving, and except when reasonably necessary to secure appearance, a person charged with a violation of this Title by a police officer need not be arrested in the regular manner but may first be given an opportunity, after notice, to appear voluntarily to answer for such traffic violation.
- 7.0803 Notice to Appear. A person charged with violation of a traffic ordinance shall be given a notice to appear before the circuit court magistrate or the county clerk of courts at the time stated in such notice, which shall be written within ten days from the time of the offense; and that in event of failure to do so, a warrant will be issued for his arrest. The notice shall state the name and address of the offender, if known; the license number and make of the vehicle involved in the violation; the nature, date, and location of the offense; and the time and place where the offender is to appear to answer to the charges. The notice shall be made in duplicate and the portion of the original stating the offense and the place and time to appear shall be given to the owner or driver charged with the offense or left in or upon the vehicle involved in the violation.
- 7.0804 Appearance and Deposit for Fine. A person who has received a notice of a traffic violation as provided in the preceding section shall appear at the time and place specified in such notice. In cases of parking violations and other minor traffic violations for which the person charged has been ordered to appear before the circuit court magistrate or county clerk of courts; he may make a deposit for the fine as authorized by the court and sign a statement authorizing a circuit court magistrate or county clerk of courts to enter his plea of guilty to the offense, then he shall not be required to appear in court.
- 7.0805 Failure to Appear. Upon failure of a person to appear in response to a notice of a traffic violation as herein provided, he shall be subject to arrest in the manner otherwise provided by law.

CHAPTER 7.09 - GOLF CARTS (Ord. 2020-02 effective 5/20/2020)

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

1. “Golf Cart” - A four wheeled vehicle originally and specifically designed and intended to transport one or more individuals and golf clubs for the purpose of playing the game of golf on a golf course. (SDCL 32-14-13)
2. “Operator” - Every person who operates or is in actual physical control of a golf cart.

- 7.0902 Golf Cart Operation. Golf carts shall not be allowed to operate within the City except as authorized by state statute or by this Chapter. Golf carts properly operating pursuant to this Chapter shall be allowed to travel on the roadway portion of public streets, alleys and other roadways within the City except those highways where golf carts are prohibited by state statute. An operator of a golf cart shall comply with all City and state traffic rules and regulations applying to vehicles generally, and except that a golf cart shall not be required to have a bell, horn or directional signals.
- 7.0903 Operation of Golf Cart on State or County Highway or Bike/Walking Trail Prohibited. No person may operate a golf cart on a state or county highway except for crossing from one side of the highway to the other or on the bike/walking trail. A golf cart may cross the state or county highway at a right angle, but only after stopping and yielding the right-of-way to all approaching traffic and crossing as closely as possible to an intersection or approach. (SDCL 32-14-15)
- 7.0904 Operator’s License and Insurance. No person may operate a golf cart on the streets, alleys, roadways or other public places within the City limits unless the operator has a valid driver’s license and proof that the golf cart is covered by a policy of liability insurance.
- 7.0905 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 \$50.00. Upon failure of the owner or operator to pay either of the sums to the office of the City Finance Officer within the time periods indicated, and upon conviction of a violation of this Section, the owner or operator shall be fined not less than \$75.00 nor more than \$100.00 plus court costs, which fine shall be collected by the Magistrate Court. Any person claimed to be in violation also has the right to contest the charges or plead “not guilty” within the time periods indicated above, and have the matter transferred to Magistrate Court. The penalties in this Section may be adjusted by resolution of the City Council.
- 7.0906 Hours of operation. Permitted golf carts may operate on streets, alleys, roadways or other public places under the jurisdiction of the City from dawn until dusk. Operation of a golf cart from dusk until dawn is not allowed on any street, alley, roadway or other public place under the jurisdiction of the City unless the golf cart is equipped with operating head lights and tail lights.
- 7.0907 Revocation. Any permit issued under this section may be revoked by the City for the violation by licensee of any applicable provisions of this code, state law or city ordinance or for other good cause.
- 7.0908 Fee. The annual fee for a golf cart permit shall be the same as charged by the Bridges Golf Course for annual cart trail fees and may only be purchased by an adult. Carts covered under a paid trail fee or storage shed fee at the Bridges can obtain a City permit without charge. For the purpose of

this section a permit year begins March 1 and ends the last day of February of the following year. Permits shall be affixed in plain view to the front of the golf cart.

TITLE 8 - MUNICIPAL UTILITIES

Chapter 8.01 - General Provisions

Chapter 8.02 - Electric Utility Provisions

Chapter 8.03 - Telephone Provisions

Chapter 8.04 - Water Provisions

Chapter 8.05 - Sewer Provisions

Chapter 8.06 - Determining Wastewater Charges

Chapter 8.07 - Procedure for Construction of Sewers

Chapter 8.08 - Cable Television Provisions

CHAPTER 8.01- GENERAL PROVISIONS

- 8.0101 Application. Any consumer desiring any utility service furnished by the City, including water, sewer, cable, telephone or electricity, shall make application for the same to the utility office. Such application shall contain the applicant's name, address, and the uses for which such service is desired. A separate application shall be made for each premises to be served. The applicant shall abide by the rules and regulations established by the City relative to utility service in effect at the time of such application and as revised from time to time in addition to conditions and agreements as the City Council shall deem advisable.
- 8.0102 Deposit. Any applicant for City utility service shall make a deposit in an amount set by the City Council. The deposit is also an indemnity against theft, misplacement, or injury to City equipment. The deposit shall be returned to property owners when the applicant has paid twelve consecutive monthly bills by the stated deadline. The deposit for renters 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 Beresford 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 fifteenth day of the following month. If bills are not paid by the due date, a five percent additional charge shall be assessed. Provided, however, when a due date falls on a weekend or holiday, bills will not be delinquent until the close of business the next following work day. Bill payments mailed to the City must be received by the City on the day after the due date. Postmarks shall not be considered.
- 8.0105 Unpaid Bills. If a bill for utility services is not paid in full as provided in 8.0104, the customer shall be given notice by mail or by personal service to such owner, occupant or person, or by posting on the property that service shall be terminated within five working days of the date of mailing, personal service or posting unless the customer shall:
- A. Pay the amount in full;
 - B. Pay the undisputed portion of the account and file a written appeal with the City Finance Officer of the disputed portion. Service will be continued until such appeal is heard by the City Council.

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

- 8.0106 Disconnect. The City may disconnect utility service for any of the following reasons:
- A. Failure to pay all charges and penalties;
 - B. Default on an agreement to liquidate a continuing debt;
 - C. Failure to grant the City access to read and inspect meters;
 - D. Customer tampering.
 - E. Failure to obtain a Certificate of Occupancy from the City.
- 8.0107 Extension. A single 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, 8:00 a.m. to 5:00 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, as well as the lessee or occupant of the property, be liable to the City for the utility bills, which may be recovered in an action against such owner, lessee or occupant or against any or all of them, jointly or severally. The provisions contained in 8.0104 shall equally apply to the owner of the property as they do to the consumer/lessee or occupant.
- 8.0110 Tampering With City Equipment. It shall be unlawful for any person to, in any manner, tamper with any equipment or facilities of the City of Beresford utilities including, but not limited to electrical transmission, distribution or service lines, electrical meters or meter boxes, electric transformers, water lines or sewer lines, water meters, telecommunication lines, pedestals, or any other equipment utilized for the benefit of the municipal utilities of the City of Beresford. Should the City discover damage to its equipment or an attempt to tamper with such equipment or an attempt to falsify the amount of water, sewer, or electric current used, or the amount due the City for utility service, the City may serve notice upon the consumer of a hearing that is to be held where the consumer may show cause why service should not be discontinued. This notice shall state the reason for the hearing and the time and place it is to be held.

Should the City Council find that a violation of this section has occurred and that there is no justification for said violation, the City Council may order immediate termination of service and service shall be reinstated only upon conditions established by the City Council. In addition to any criminal penalty, the City of Beresford, or Beresford Cablevision, whichever is applicable, should be entitled to collect a civil penalty of \$200.00 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 Beresford 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 Beresford shall be responsible for the maintenance and proper operation of the domestic watermains, sanitary sewer mains and domestic water service line from the main to the curb stop. Any domestic water service line past the curb stop or sanitary sewer service line from the sanitary sewer main to the structure, shall be the exclusive responsibility of the property owner. Owners at their own expense must keep and maintain their sanitary sewer service lines, from the point of connection at the main line, and all other equipment in good working order and properly protected from frost and other damage. Owners at their own expense must keep their domestic water service line from the point of connection at the curb stop to the structure in good working order and properly protected from frost and other damage. Thirty days after written notice from the Director of Public Works, if the repair has not been replaced, the Director of Public Works shall cause such repairs to be made and the cost of these repairs shall be assessed against the property. In the event that a property owner must excavate to repair a line, it shall be his sole responsibility to fill in such excavation to the satisfaction of the Director of Public Works. It shall be the responsibility of the City to replace the gravel base course and asphalt pavement displaced by such excavation at the cost of the property owner.
- 8.0112 City Not Liable for Damage. No claim shall be made against the City by reason of the breaking of any service pipe or equipment, or for any other damage that may result from shutting off water for repairing or any other purpose, or for any variation in pressure, or ram of water from mains, and no reduction will be made from regular rates because of leaking pipes or fixtures. The City shall not be liable for damage or injury to person or property whether caused by fire, interruption of service, downed lines, blackouts, brownouts, discontinuance of service, or other utility-related problems which shall arise from mechanical breakdowns, electricity supply reductions, and act of God, or other cause beyond the control of the City.
- 8.0113 Construction of Sewer and Water Connections. 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 Providing Underground Utility Services When Frost Exists; Fee. When any utility customer of the City requests underground utility services for water, sewer, electricity, telephone or cable television and at the time of installation there is frost present, the City shall, in addition to the usual and customary charges established by the City Council for providing such services, charge the customer requesting such service the following:
- A. The hourly equipment rental rate, as established by resolution from time to time by the City Council, for the equipment necessary to install the utility service, for the number of hours necessary to operate such equipment in the installation of the utility service; and
 - B. The hourly rate, per man, for the labor necessary to install the utility service, as established by resolution from time to time by the City Council.

CHAPTER 8.02 - ELECTRIC UTILITY PROVISIONS

- 8.0201 Installation of Meters by City. All meters, service wires and other electrical facilities installed by the City at its expense, upon customer's premises for the purpose of delivering and metering electric energy to the customer will continue to be the property of the City and may be repaired, inspected, relocated, replaced or removed by the City. All meters shall be installed out of doors.
- 8.0202 Access to Customer Premises. The customer will provide and maintain, without cost to the City, subject to City approval, an easily accessible location on or within the premises to be supplied service, with sufficient and proper facilities for installation of meters and other apparatus and the necessary right-of-way to this point.
- 8.0203 Relocation of Inaccessible Meter. Where meters or services originally installed in accessible locations satisfactory to the City are rendered inaccessible thereafter by virtue of alterations or new constructions or upgrading of service requirements by the owner of the premises or his agent, such meters or services shall be reinstalled at a location, subject to City approval, at the expense of the owner.
- 8.0204 Compliance with Electrical Codes. All installations shall comply with the current edition of the state electrical wiring bulletin and the current edition of the National Electrical Code.
- 8.0205 New Underground Residential and Small Commercial Secondary Service (200-amp or less).
- A. The City will provide:
 - 1. All underground cable, conduits and fittings from the transformer to the top of the meter socket.

2. The meter socket and meter.
 3. All trenching, backfilling and labor to lay cable and conduit in trench and connect to the City equipment.
 4. All primary service.
- B. The customer will provide or pay for:
1. A fee to be established by the City Council for the City of Beresford from time to time by Resolution for underground service. (Ord. 2021-01 – effective 3/31/2021)
 2. All secondary wiring from the bottom of the meter socket to the customer service entrance equipment.
- C. Underground service to mobile home courts:
1. The City will designate a junction point for the connection of the customer secondary underground service.
 2. The junction point shall be a service pedestal, secondary junction box or the terminals of a pad mount transformer.
 3. The City will install, own, operate, and maintain all facilities on the source side of the junction point, including the junction enclosure, and connections.
 4. The customer will install, own, operate, and maintain all secondary facilities on the load side of the junction point including the secondary cable, conduit, and meter pedestal. The City will own the electric meter.
 5. All lots to be individually metered.
 6. The junction points will normally be located within front lot line easements if at all possible, unless it is necessary or desirable to designate locations along rear or side property lines that are closer to meter points. All utility easements requested by the City are to be granted to the City by the customer at no cost to the City.

8.0206 New Large Commercial or Industrial Secondary Service (over 200 amps). All commercial or industrial services, underground, over 200 amps shall be approved by the City prior to installation. The following work shall be completed by the City of Beresford.

- A. All primary cables, conduits, poles and fittings shall be installed.
- B. All trenching, setting of poles and back filling for the primary cable shall be completed.
- C. All transformers, switches and other high voltage equipment shall be installed.
- D. The primary equipment and cable shall be connected and installed.
- E. Instrument metering material shall be installed.

All materials necessary to complete the above work shall be supplied by the City of Beresford and the cost thereof shall be split equally between the City of Beresford and the customer requesting

the service. The following items shall be completely by the customer and the customer shall be solely responsible for the payment of the following:

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

8.0207 Existing Services.

- A. Secondary services, once installed, will be maintained by the City.
- B. Existing secondary service requested to be upgraded by the customer will be done at the owner's expense.
- C. Existing secondary services, when upgraded by the City (moving meter from indoors to outdoors, changing out wires, etc.) will be done at the expense of the City.
- D. Customer will replace all concrete or asphalt placed over existing service at their expense should such service wire need replacement.

8.0208 Connect or Disconnect of Electric Service. Each customer or property owner will be allowed one voluntary disconnect and reconnect per calendar year at no charge. Each additional disconnect or connect within the current calendar year will be at a service charge of \$35.00. The service charge may be amended by resolution of the City Council.

8.0209 Easements and Maps.

- A. In all new developments the developer shall provide the planning commission with a platted map of the development showing all streets, alleys and lots. The planning commission should then refer such map to the appropriate City department heads for their comments and approval before the planning commission gives their final approval to the developer.
- B. All proper easements granting the City access shall be signed by the owner before any underground City utility work shall begin.

8.0210 Temporary Service and Fees. The City will provide temporary secondary service at a new construction site with rates to be established by the City Council from time to time by Resolution. All services are to be metered. (Ord. 2021-01 effective 3/31/2021)

8.0211 Street Lighting. All street lighting material in new developments shall be furnished and installed by the City and paid for by the developer.

8.0212 Conversion to Underground Electric Secondary Service Lines to All Residential and Small Commercial Secondary Service (under 200 amp) electric customers.

- A. The City of Beresford hereby finds that it is in the best interest of providing reliable electric service to residential and small commercial customers to install underground service lines to all residential and small commercial customers. The installation of underground electric service is deemed necessary to prevent unnecessary outages and to provide safe service to residential customers.
- B. Thirty days prior to conversion, the City electric department shall provide notice to property owners at their usual electric billing address informing them of the intent to install

underground electric service and notifying them of the cost recovery to be collected as established under subsection (C) of this Section.

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

8.0213 Aggregation of Retail Customer Demand Response.

- A. The Beresford Municipal Electric System or its authorized designee is the sole entity permitted to bid demand response on behalf of retail customers served by the Beresford Municipal Electric System directly into any commission-approved independent system operator's or regional transmission organization's organized electric markets.
- B. Retail customers served by the Beresford Municipal Electric System wishing to bid their demand response into a commission-approved independent system operator's or regional transmission organization's organized electric markets may do so by participating in the program established by the Beresford Municipal Electric System or its authorized designee. Retail customers are not permitted to participate in the demand response program of any other entity without the express prior authorization of the Beresford Municipal Electric System.

8.0214 Ancillary Services Provided by Demand Response Resources.

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

8.0215 Landscaping Around Electrical Structures: Electric transformers, switches, pedestals and meters require clearance so that electric personnel may access them for maintenance or emergency purposes. No structures, fences or shrubs may be placed within Ten feet of the front or door opening of an electric transformer or switch or within Three feet from the sides of an electrical transformer or switch. There shall be a vertical clearance of a distance of Twenty feet from the top of the final grade at the transformer switch location. Pedestals must have a Three feet vertical

clearance from the top of the final grade of the pedestal. No structures, fences, shrubs or trees may be placed which do not permit a three-foot clearance to access an electrical meter. In the event that a home owner plants any structure, fence, tree or shrub within the prohibited clearance zone, that restricts or impedes the City from accessing the equipment when necessary, City shall not be liable to any property owner for removal or trimming of any obstructions which are planted or constructed in violation of the clearance areas set forth herein. In the event that the City does remove or trim any structure or planting to access their electrical facilities, the property owner shall be responsible for disposing of any materials or trimmings removed to access the electrical structures. The City of Beresford shall not be liable for any damage caused to structures, fences, trees or shrubs which are planted in violation of this ordinance. (Ord. 2020-05 – effective 10/6/2020)

CHAPTER 8.03 - TELEPHONE PROVISIONS

8.0301 Premises Wire Maintenance; Description.

- A. A premises wire maintenance plan is available which provide customers with wire maintenance as described below. This premises wire maintenance plan provides for trouble isolation and maintenance of noncomplex premises wire and associated jacks located on the customer side of the demarcation point.
- B. Wire maintenance is a monthly charge for customers paid in lieu of charges for repairs associated with premises wire and jacks. This plan provides line testing, trouble isolation and the repair of premises wire and connected jacks. Wire maintenance will not cover premises wire and associated jacks that have substandard material or installation (see terms and conditions).

8.0302 Terms and Conditions.

- A. If a customer does not subscribe to a premises wire maintenance plan and the company makes either a repair or trouble isolation visit to that customer's premises and the trouble condition is not found to be on the company's side of the demarcation point, the customer will be subject to charges as follows:
 - 1. A truck and travel and station handling charge will apply for the visit if the customer does not have the company repair the premises wire trouble.
 - 2. A truck and travel and/or station handling and/or wiring charge will apply if the company repairs the trouble to the customer-provided equipment.
 - 3. Premises wire maintenance plan is available where company facilities and operating conditions permit.
 - 4. Premises wire maintenance plan is subject to a minimum billing period of one month.
 - 5. A customer utilizing noncomplex premises wire may change from customer-provided maintenance to a premises wire maintenance plan as appropriate. Existing service problems are excluded from coverage when a customer changes from customer provided maintenance to a maintenance plan.

8.0303 Exclusions.

- A. When premises wire, installed and maintained by the customer or an agent acting on behalf of the customer, is found to be in violation of technical standards and is hazardous to the company network or its employees, the company will promptly notify the customer and take immediate action, including disconnection of service, as is necessary.
- B. The customer shall discontinue use of the premises wire or correct the violation and notify the company in writing within ten days after receipt of such notice that the violation has been corrected. Failure to do so will result in a suspension of the customer's service until such time as the customer complies with the provisions of this document.
- C. If the customer elects to have the company replace such wire after the trouble has been determined to be located therein, appropriate charges will apply.
- D. The company shall not be liable for any incidental or consequential damages, including but not limited to loss, damage, or expense directly or indirectly arising from the customer's use of or in ability to use this wiring, either separately or in combination with other equipment.

8.0304 Rates and Charges.

A. Monthly Rate.

- 1. Wire maintenance per exchange cable pair \$1.00

CHAPTER 8.04 - WATER PROVISIONS

- 8.0401 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.
- 8.0402 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.
- 8.0403 Meter Installation. All persons hereafter making application to be furnished with water shall be required to install a meter for the measurement of the amount of water used and shall pay for such water used at the rate hereinafter specified but two or more premises will not be supplied with water measured by the same meter unless one person is liable for the payment for the whole of such water furnished; such meter shall be so placed as to measure all water used. When a meter is placed on a pipe connected to a boiler or other hot water apparatus a check valve must be placed between such meter and boiler or other hot water apparatus to protect meter from back pressure of steam or hot water; in case of the breakage of any pipe or meter or if there be a leak in the same, the water shall be shut off until such breakage or leak is repaired.
- 8.0404 Meter Requirements. All meters shall be of the kind prescribed by the City and shall be placed as to be easily read and charged monthly.
- 8.0405 Meter Tests. Customers may have their meters tested upon payment of the actual cost for test. If the meter is found to be in error, the fee shall be refunded. If the test of the meter shows that it fails to register correctly within 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.

- 8.0406 Unnecessary Waste of Water. It shall be the responsibility of all consumers of water paying the rates mentioned to prevent unnecessary waste of water and to keep all water outlets closed when not in actual use; unpermissible uses; not to permit other persons or families to use water from any of their faucets, hydrants or pipes.
- 8.0407 Connection to Water Mains. It shall be unlawful for any person, firm or corporation to connect any water pipe or pipe of any kind to any of the water mains of the municipal water works system of the City of Beresford or to in any manner tamper with or bore into said water mains for any purpose whatever, except as hereinafter provided.
- 8.0408 Exceptions. The City 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.
- 8.0409 Standard Workmanship. The connections made to the City of Beresford 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.

CHAPTER 8.05 - SEWER PROVISIONS

- 8.0501 Definitions.
- A. Biochemical oxygen demand (BOD) shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at 20° degrees Centigrade, expressed in milligrams per liter.
 - B. “Building drain” shall mean that part of the lowest horizontal piping of a drainage system which receives the discharge from the soil, waste and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five feet (1.5 meters) outside the inner face of the building wall.
 - C. “Building sewer” shall mean the extension from the building drain to the public sewer or other place of disposal also called house connection.
 - D. “Combined sewer” shall mean a sewer intended to receive both wastewater and storm or surface water.
 - E. “Director of Public Works” shall mean the superintendent of wastewater facilities and/or of wastewater treatment works and/or of water pollution control of the City of Beresford, or his authorized deputy, agent or representative.
 - F. Easement” shall mean an acquired legal right for the specific use of land owned by others.

- G. "Floatable oil" is oil, fat or grease in a physical state such that it will separate by gravity from wastewater by treatment in an approved pretreatment facility. A wastewater shall be considered free of floatable fat if it is properly pretreated and the wastewater does not interfere with the collection system.
- H. "Garbage" shall mean the animal and vegetable matter resulting from the handling, preparation, making of foods.
- I. "Industrial wastes" shall mean the wastewater from industrial processes, trade or business as distinct from domestic or sanitary wastes.
- J. "Natural outlet" shall mean any outlet, including storm sewers and combined sewer overflows, into a watercourse, pond, ditch, lake or other body of surface or groundwater.
- K. "May" is permissive (see "shall", S).
- L. "Person" shall mean any individual, firm, company, association, society, corporation or group.
- M. "pH" shall mean the logarithm of the reciprocal of the hydrogen ion concentration. The concentration is the weight of hydrogen ions, in grams, per liter of solution. Neutral water, for example, has a pH value of 7 and a hydrogen ion concentration of 10^{-7} .
- N. "Properly shredded garbage" shall mean the wastes from the preparation, cooking and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than ½ inch (1.27 centimeters) in any dimension.
- O. "Public sewer" shall mean a common sewer controlled by a governmental agency or public utility.
- P. "Sanitary sewer" shall mean a sewer that carries liquid and water-carried wastes from residences, commercial buildings, industrial plants and institutions together with minor quantities of ground, storm and surface waters that are not admitted intentionally.
- Q. "Sewage" is the spent water of a community. The preferred term is "wastewater" see Subsection Y.
- R. "Sewer" shall mean a pipe or conduit that carries wastewater or drainage water.
- S. "Shall" is mandatory (see "may", Sec. K).
- T. "Slug" shall mean any discharge of water or wastewater which is concentration of any given constituent or in quantity of flow exceeds for any period of duration than fifteen minutes more than five times the average twenty-four 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 Beresford, 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 Beresford, South Dakota.

8.0502 Use of Public Sewers Required.

- A. It shall be unlawful for any person to place, deposit or permit to be deposited in any unsanitary manner on public or private property within the City or in any area under the jurisdiction of said City, any human or animal excrement, garbage or other objectionable waste.
- B. It shall be unlawful to discharge 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 Section 8.05.
- C. It shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool or other facility intended or used for the disposal of wastewater 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 Section 8.05 within thirty days after date of official notice to do so.

8.0503 Sanitary Sewers, Building sewers and Connections.

- A. No unauthorized person shall uncover, make any connections with or opening into, use, alter or disturb any public sewer or appurtenance thereof without first obtaining 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 Beresford 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 8.05.
- F. The size, slope, alignment, materials of construction of all sanitary sewers including building sewers and the methods to be used in excavating, placing of the pipe, jointing, testing and backfilling the trench, shall all conform to the requirements of the buildings and plumbing code or other applicable rules and regulations of the City. In the absence of suitable code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the American Society for Testing and Materials (ASTM) and Water Pollution Control Federation (WPCF) Manual of Practice No. 9 or Ten States Standards shall apply.
- G. Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building 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.

8.0504 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 8.0504(A), and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as combined sewers or storm sewers or to a natural outlet approved by the 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, naptha, fuel oil or other flammable or explosive liquid, solid, or gas.
 - 2. Any waters containing toxic or poisonous solids, liquids or gases in sufficient quantity, either singly or by interaction with other wastes, to contaminate the sludge of any municipal system to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance or create any hazard in or have an adverse effect on the waters receiving any discharge from the treatment works.
 - 3. Any waters or wastes having a pH lower than (5.5) or having any other corrosive property capable of causing damage or hazard to structures, equipment and personnel of the wastewater works.
 - 4. Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers or other interference with the proper operation of the wastewater facilities such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, paper hand towels, entrails and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.

- D. The following described substances, materials, water or waste shall be limited in discharges to municipal systems to concentrations or quantities which will not harm either the sewers, wastewater treatment process or equipment, will not have an adverse effect on the receiving stream or will not otherwise endanger lives, limb, public property or constitute a nuisance.

The City 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 his 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 4 of this Article 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 under provisions of Section A.

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 8.0504(D)(3) or any flammable wastes, sand or other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the City 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 8.05. These requirements may include:
1. Wastewaters discharge peak rate and volume over a specified time period.
 2. Chemical analyses of wastewater.

3. Information on raw materials, processes and products affecting wastewater volume and quality.
 4. Quantity and disposition of specific liquid, sludge, oil, solvent or other materials important to sewer use control.
 5. A plot plan of sewers of the user's property showing sewer and pretreatment facility location.
 6. Details of wastewater pretreatment facilities.
 7. Details of systems to prevent and control the losses of materials through spills to the municipal sewer.
- J. All measurements, tests and analyses of the characteristics of waters and wastes to which reference is made in Section 8.0504 shall be determined in accordance with the latest edition of "Standard Methods for the Examination of Water and Wastewater", published by the American Public Health Association. Sampling methods, location, times, durations and frequencies are to be determined on an individual basis subject to approval by the City.
- 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.

8.0505 Damage of Wastewater Facilities. No person shall maliciously, willfully or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is a part of the wastewater facilities. Any person violating this provision shall be subject to immediate arrest under charge of disorderly conduct.

8.0506 Powers and Authority of Inspectors. The 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.

CHAPTER 8.06 - DETERMINING WASTEWATER CHARGES

8.0601 Determining Each Users Wastewater Service Charge. All sanitary sewer rates shall be as established by the City Council from time to time by resolution. The rules shall be set so as to generate sufficient revenue to pay all costs for the operation and maintenance of the complete wastewater system. Additional fees may be assessed for non-residential users who have discharge containing certain pollutants or BOD (185 ppm) and TSS (165 ppm) strengths greater than the average residential user.

CHAPTER 8.07 - PROCEDURE FOR CONSTRUCTION OF SEWERS

8.0701 Purpose. The purpose of Chapter 8.07 shall be to protect the health and well being of the residents of Beresford and the environment and to insure that all sewers and sewer appurtenances are constructed in a good workman-like manner and in accordance with good engineering practice and Ten States Standards.

8.0702 Type of Sewers.

- A. Community Sewers. In general and except for special reasons, the Beresford City Council will approve plans for new systems and extensions or replacement sewers. No “combined” sewers will be allowed.
- B. House Sewers. House sewers connected to public sewers should meet all requirements of the State Plumbing Code and the plumbing code of the local authority having jurisdiction as well as the following:
 - 1. They shall be PVC of sufficient properties for the flow, depth and SD DENR requirements.
 - 2. They shall have a nominal inside diameter of not less than six inches.
 - 3. House sewer joints and connections to public sewers should be watertight and root proof.
 - 4. They should be laid on a slope of 1/4 inch per foot and in no case less than 1/8 inch per foot.

8.0703 Design Period. In general, sewer systems should be designed for the estimated ultimate tributary population, except in considering parts of the systems that can be readily increased in capacity. Similar consideration should be given to the maximum anticipated capacity of institutions, industrial parks, etc.

8.0704 Design Factors. In determining the required capacities of sanitary sewers, the following factors should be considered:

- A. Maximum hourly sewage flow from residences.
- B. Additional maximum sewage or waste flow from industrial plants and institutions.
- C. Groundwater infiltration.
- D. Capacity of pumps in sewage pumping stations.
- E. Follow Ten States Standards design recommendations.

8.0705 Design Basis.

- A. Per Capita Flow. Now sewer systems shall be designed on the basis of an average daily per capita flow of sewage of not less than 125 gallons per day (125 GPPD). This figure is assumed to cover a small amount of infiltrations but an additional allowance should be made where a large amount of infiltration is present. Generally the sewers should be designed to carry, when running full, not less than the following daily per capita contributions of sewage exclusive of sewage or other waste flow from industrial plants and institutions.
 - 1. Laterals and Sub-main Sewers: 400 gallons per capita per day.

2. Main, Trunk and Outfall Sewers: 250 gallons per capita per day.
- B. Alternate Method. When deviations from the foregoing per capita rates are demonstrated, a description of the procedure used for sewer design shall be included.

8.0706 Details of Sewer Design and Construction.

- A. Minimum Size. No community sewer shall be less than eight inches in diameter. Six inch diameter pipe may be used as laterals where there are relatively low flows, a small number of people to be served, future extensions not anticipated and the sewer incapable of handling the design flows. The justification for using the six-inch pipe shall be provided by the consultant and approved by the City prior to installation.
- B. Depth. Gravity sewers should be placed deep enough to serve all basements assuming a two percent grade on house sewers (absolute minimum of 1 percent). They should be well below the frost line at all points and lower than any water lines placed in the same street.
- C. Slope.
 1. All sewers shall be so designed and constructed to give mean velocities, when flowing full, of not less than 2 feet per second, based on Manning's formula using an "n" value of 0.013. Use of other practical "n" values may be permitted by the department if deemed justifiable on the basis of research or field data request. The following are the minimum slopes which should be provided; however, slopes greater than these are desirable:

Sewer Size	Minimum Slope in Post Per, 100
6 inch	0.60
8 inch	0.40
10 inch	0.28
12 inch	0.22
14 inch	0.17
15 inch	0.15
16 inch	0.14
18 inch	0.12
21 inch	0.10
24 inch	0.08
27 inch	0.067
30 inch	0.058
36 inch	0.046

2. Under special conditions such as, a sewer's limited area eliminates a sewage lift station and a minimum velocity of 1.8 feet per second can be maintained and if detailed justifiable reasons are given, slopes slightly less than those required for the 2.0 feet per second velocity when flowing full, may be permitted. Such decreased slopes will only be considered where the depth of flow will be 0.3 of the diameter or greater for design average flow. Whenever such decreased slopes are selected. The design engineer must furnish with his report his computations of the depths of flow in such pipes at maximum, average and daily or hourly rates of flow. It must be recognized that decreased slopes may cause additional sewer maintenance expense. Sewer size shall be based on design flows and not the grade that is available.

3. Sewers shall be laid straight with uniform slope between manholes.

- D. Alignment. Sewers twenty-four inches or less shall be laid with straight alignment between manholes.
- E. Increasing Size. When a smaller sewer joins a larger one, the invert of the larger sewer should be lowered sufficiently to maintain the same energy gradient. An approximate method for securing these results is to place the 0.8 depth point of both sewers at the same elevation.
- F. High Velocity Protection. Where velocities greater than ten feet per second are attained, sewers shall be anchored securely with concrete anchors or equal to protect against displacement by erosion and shock.
- G. Materials. Any generally accepted PVC for sewers will be given consideration but the material selected should be adapted to local conditions such as character of industrial wastes, possibility of septicity, soil characteristics, exceptionally heavy external loading as abrasion and similar problems.

Installation specifications shall contain appropriate requirements based on the criteria standards and requirements established by industry in its technical publications.

Requirements shall be set forth in the specifications for the pipe and methods of bedding and backfilling thereof so as not to damage the pipe or its joints, impede cleaning operations and future tapping, nor create excessive side fill pressures or ovalation of the pipe nor seriously impair flow capacity.

All sewers shall be designed to prevent damage from superimposed loads. Proper allowance for loads on the sewer shall be made because of the width and depth of trench. When standard strength sewer pipe is not sufficient, the additional strength needed may be obtained by using extra strength pipe or by special construction.

- H. Joints and Infiltration. The method of making joints and materials used should be included in the specifications. Sewer joints shall be designed to minimize infiltration and to prevent the entrance of roots. Leakage test shall be specified.

This may include appropriate water or low pressure air testing. The leakage outward or inward (exfiltration or infiltration) shall not exceed 200 gallons per inch of pipe diameter per mile per day for any section of the system. The use of a television camera or other visual methods for inspection prior to placing in sewer is recommended.

- I. Calculations. Computations should be presented, in a tabular form, to indicate depths and velocities at the minimum, average and maximum daily waste flow for the different sizes of sewers proposed.

8.0707 Manholes.

- A. Location. Manholes shall be installed at the end of each line; at all changes in grade, size or alignment; at all intersections; and at distances not greater than four hundred feet. Approval for greater spacing may be given in cases where adequate modern cleaning equipment for such spacing is provided. Greater spacing may be permitted in larger sewers and in those carrying a settled effluent. The distance between manholes for sewers less than fifteen

inches in diameter may be increased to four hundred and fifty feet if justification is provided by the consultant.

- B. Cleanouts. Cleanouts may be used only for special conditions and shall not be substituted for manholes or installed at the end of the laterals greater than one hundred and fifty feet in length.
- C. Drop Pipe. A drop pipe should be provided for a sewer entering a manhole at an elevation of twenty-four inches or more above the manhole invert. Where the difference in elevation between the incoming sewer and the manhole invert is less than twenty-four inches, the invert should be filleted to prevent solids deposition.
- D. Diameter. The minimum diameter of manholes shall be forty-eight inches; large diameters are preferable.
- E. Flushing. Flap gates are desirable manholes at the upstream end of laterals which are at minimum grades and which are not to be extended at an early date.
- F. Flow Channel. The flow channel through manholes should be made to conform in shape and slope to that of the sewers.
- G. Watertightness. Watertight manhole covers or raised manhole frames and covers are to be used wherever the manhole tops may be flooded by street runoff or high water. Manholes of brick or segmented block should be water-proofed on the exterior with plaster coatings; supplemented by a waterproof coating where ground water conditions are unfavorable.
- H. Steps. No steps will be allowed in manholes.

8.0708 Inverted Siphons. Inverted siphons should have not less than two barrels, with a minimum pipe size of six inches and shall be provided with necessary appurtenances for convenient flushing and maintenance; the manholes shall have adequate clearances for rodding; and in general, sufficient head shall be provided and pipe sizes selected to secure velocities of at least 3.0 feet per second for average flows. The inlet and outlet details shall be arranged so that the normal flow is diverted to one barrel and so that either barrel may be cut out of service for cleaning.

8.0709 Sewer Extension. In general sewer extensions shall be allowed with all costs thereof borne by the developer or builder and only if the receiving sewage treatment facility is either:

- A. Capable of adequately processing the added hydraulic and organic load.
- B. Provision of adequate treatment facilities on a time schedule acceptable to the City Engineering Department is accrued.

8.0710 Protection of Water Supplies.

- A. Water Supply Interconnections. There shall be no physical connection between a public or private potable water supply system and a sewer or appurtenance thereto, which would permit the passage of any sewage or polluted water into the potable supply. Water main bleeders into sanitary sewers are prohibited.
- B. Relation to Water Works Structures. While no general statement can be made to cover all conditions, sewers shall be at least one hundred feet from water supply wells, fifty feet from

underground water reservoirs and thirty feet from a well if the sewer is constructed as mentioned in Section 8.0710(C)(3).

C. Relation to Water Main.

1. Horizontal Separation. Whenever possible, sewers should be laid at least ten feet horizontally from any existing or proposed water main. Should local conditions prevent a lateral separation of ten feet, a sewer may be laid closer than ten feet to a water main if:
 - a. It is laid in a separate trench or
 - b. It is laid in the saw trench with the water main located at one side on a beach of undisturbed earth.
 - c. In either case the elevation of the crown of the sewer is at least eighteen inches below the invert of the water main.
2. Vertical Separation. Whenever sewers must cross under water mains, the sewer shall be laid at such an elevation that the top of the sewer is at least eighteen inches below the bottom of the water main. When the elevation of the sewer cannot be buried to meet the above requirement, the water main shall be relocated to provide this separation or reconstructed with slip-on or mechanical joint cast-iron pipe, asbestos cement pressure pipe or pre-stressed concrete cylinder pipe for a distance of ten feet on each side of the sewer. One full length of water main should be centered over the sewer so that both joints will be as far from the sewer as possible.
3. Special Conditions. When it is impossible to obtain proper horizontal and vertical separation as stipulated above, the water main should be constructed of slip-on or mechanical joint cast-iron pipe, asbestos cement pressure pipe or pre-stressed concrete cylinder pipe and the sewer constructed of mechanical joint cast-iron pipe, schedule 40 ABS or PVC or equal and both services should be pressure tested to assure watertightness.
4. House Sewers. The requirements in section 8.0710 (C), 1a to 3 shall apply to building sewers and water service lines to buildings except that the vertical separation mentioned in Section 8.0710(2) and Section 8.0710(3) may be reduced to twelve inches.

8.0711 Deviations from Design Criteria. The City may consider and allow deviations where adequate documentation is provided to prove the need for such deviation.

CHAPTER 8.08 - CABLE TELEVISION PROVISIONS

8.0801 Obstructing or tampering.

It shall be unlawful for a any person to intentionally prevent or obstruct the transmission, distribution or receipt of programming material carried by the equipment of the Beresford Cablevision, Inc. It shall also be unlawful for any person to knowingly install, maintain or possess any equipment, device or instrument designed, intended or used solely for the purpose of unlawfully facilitating the interception, decoding or receipt of the services of the

Beresford cable television system or any programming service delivered thereby with the intent to allow any person to obtain such service and avoid the lawful payment of the charges therefore. It shall also be unlawful for any person to, in any manner, tamper with any equipment or facilities of the Beresford cable television equipment whether or not said tampering is done to allow access to the services of Beresford cable television without the payment therefore. Violations of this section shall be subject to penalties set forth in Section 8.0110.

TITLE 9 - PLANNING, ZONING AND BUILDING REGULATIONS

Chapter 9.01 - Planning Commission

Chapter 9.02 - Building Code

Chapter 9.03 - Residential Code

Chapter 9.04 - Property Maintenance Code

Chapter 9.05 - Zoning Regulations (Appendix A)

Chapter 9.06 - Subdivision Regulations (Appendix B)

CHAPTER 9.01 - PLANNING COMMISSION

- 9.0101 Creation. The Beresford Planning Commission is hereby created pursuant to SDCL 11-6 for the City of Beresford, South Dakota.
- 9.0102 Number, Appointment and Tenure of Planning Commission Members. The Beresford Planning Commission shall consist of five members appointed by the Mayor and subject to approval by the City Council. The term of each of the appointed members shall be five years. 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 Beresford 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 Beresford shall propose a comprehensive plan for the physical development of the City pursuant to the terms of SDCL 11-4 and 11-6. The general purpose of the comprehensive plan shall be to guide and accomplish a coordinated and harmonious development within the City. After the comprehensive plan has been adopted according to law, no substantial amendment or modification thereof shall be made, without the proposed change first being referred to the Planning Commission for its recommendations.

- 9.0108 Zoning Regulations. It shall be a duty of the Planning Commission to recommend the boundaries of zoning districts and appropriate regulations to be enforced therein, in accordance with the comprehensive plan. The Planning Commission shall prepare regulations governing land uses and building or set-back lines in accordance with SDCL 11-4 and 11-6. All applications and proposals for changes in or amendments to the zoning regulations shall first be submitted to the Planning Commission for its recommendations.
- 9.0109 Subdivision Plans and Regulations. All plans, plats or re-plats or subdivisions or resubdivisions of land within the jurisdiction of the City shall first be submitted to the Planning Commission for its recommendation before approval by the City Council. The Planning Commission shall prepare and recommend to the City Council regulations governing the subdivision of land within its jurisdiction. No amendments or changes thereto shall be made without recommendation by the Planning Commission.

CHAPTER 9.02 - BUILDING CODE

- 9.0201 Adopted. The International Building Code, 2012 edition, including Appendix C and Appendix I as published by the International Code Council Inc., and amendments and additions thereto as provided in this Chapter are hereby adopted as the Building Code by the City of Beresford for regulating the erection, construction, enlargement, alteration, repair, moving, removal, demolition, conversion, occupancy, equipment, use, height, area, and maintenance of all buildings and structures in the City of Beresford providing for the issuance of permits and collection of fees therefore. The minimum building standards in the 2012 edition of the International Building Code and amendments thereto shall be applied to any building permit issued after (_____).

A printed copy as amended is on file with the Beresford Finance Officer.

- 9.0202 Modifications by the City of Beresford to the 2012 International Building Code. The following sections and subsections of the 2012 International Building Code adopted in this Chapter shall be amended, added, or not adopted by the City as follows. All other sections or subsections of the 2012 International Building Code as published shall remain the same.

101.1 Title. These regulations shall be known as the *Building Code* of the City of Beresford, hereinafter referred to as “this code.”

101.2 Scope. The provisions of this code shall apply to the construction, *alteration*, movement, enlargement, replacement, repair, equipment, use and occupancy, location, maintenance, removal, and demolition of every building or structure or any appurtenances connected or attached to such buildings or structures.

Exception:

1. Detached one- and two-family *dwelling*s and multiple single-family *dwelling*s (*townhouses*) not more than three *stories* above *grade plane* in height with a separate *means of egress* and their accessory structures shall comply with the *International Residential Code*.

101.4.3 Plumbing. The provisions of the Adopted Plumbing Code of the South Dakota Plumbing Commission shall apply to the installation, *alteration*, repair, and replacement of plumbing systems, including equipment, appliances, fixtures, fittings, and appurtenances, and where connected to a water or sewage system and all aspects of a medical gas system.

101.4.7 Electrical. The provisions of the Adopted Electrical Code of the South Dakota Electrical Commission shall apply to the installation of electrical systems, including alterations, repairs, replacement, equipment, appliances, fixtures, fittings, and appurtenances thereto.

103.1 Enforcement agency. The Building Inspections Division is hereby created and the official in charge thereof shall be known as the *building official*.

103.2 Appointment. Not adopted by the City of Beresford.

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

This code shall not be construed to relieve or lessen the responsibility of any person owning, operating, or controlling any building or structure for any damages to persons or property caused by defects, nor shall the City, its officers and employees, be held as assuming any such liability by reason of the inspections authorized by this code or any permits or certificates issued under this code.

105.1 Required. Any owner or authorized agent who intends to construct, enlarge, alter, repair, move, demolish, or change the occupancy of a building or structure, or to erect, install, enlarge, alter, repair, remove, convert, or replace any electrical, gas, mechanical, or plumbing system, the installation of which is regulated by this code, or to cause any such work to be done, shall first make application to the *building official* and obtain the required *permit*. The building official may exempt permits for minor work.

A building permit shall be issued for an owner occupied one- or two-family dwelling, including townhouses and accessory buildings, only to the owner or representative.

105.2 Work exempt from permit. Exemptions from *permit* requirements of this code shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of this code or any other laws or ordinances of this jurisdiction. *Permits* shall not be required for the following:

Building:

1. One-story detached accessory structures used as tool and storage sheds, playhouses, and similar uses, provided the floor area does not exceed 200 square feet (18.6 m²).
2. Retaining walls that are not over 4 feet (1,219 mm) in height measured from the bottom grade elevation to the top of the wall, unless supporting a surcharge or impounding Class I, II, or IIIA liquids.
3. Water tanks supported directly on grade if the capacity does not exceed 5,000 gallons (18,925 L) and the ratio of height to diameter or width does not exceed 2:1.
4. Sidewalks and driveways not more than 30 inches (762 mm) above adjacent grade, and not over any basement or *story* below and are not part of an *accessible route*.

5. Painting, papering, tiling, carpeting, cabinets, countertops, and similar finish work.
6. Temporary motion picture, television, and theater stage sets and scenery.
7. Prefabricated swimming pools accessory to a Group R-3 occupancy that are less than 18 inches (457 mm) deep.
8. Shade cloth structures constructed for nursery or agricultural purposes, not including service systems.
9. Swings and other playground equipment accessory to detached one- and two-family *dwelling*s.
10. Window *awnings* supported by an *exterior wall* that do not project more than 54 inches (1,372 mm) from the *exterior wall* and do not require additional support of Groups R-3 and U occupancies.
11. Nonfixed and movable fixtures, cases, racks, counters, and partitions not over 5 feet 9 inches (1,753 mm) in height.

Electrical: Not adopted by the City of Beresford.

Gas: Not adopted by the City of Beresford.

Mechanical: Not adopted by the City of Beresford.

Plumbing: Not adopted by the City of Beresford.

107.1 General. Submittal documents consisting of one complete set of hard copy plans with an additional hard copy site submittal and an electronic submittal in PDF format along with other *construction documents* such as a statement of *special inspections*, geotechnical report, and other data shall be submitted with each *permit* application. The *construction documents* shall be prepared by a *registered design professional* where required by the statutes of the jurisdiction in which the project is to be constructed. Where special conditions exist, the *building official* is authorized to require additional *construction documents* to be prepared by a *registered design professional*.

Exception: The *building official* is authorized to waive the submission of *construction documents* and other data not required to be prepared by a *registered design professional* if it is found that the nature of the work applied for is such that review of *construction documents* is not necessary to obtain compliance with this code.

107.3.1 Approval of construction documents. When the *building official* issues a *permit*, the *construction documents* shall be *approved*, in writing or by stamp, as “Reviewed for Code Compliance.” One set of *construction documents* so reviewed shall be retained by the *building official*. The site submittal set shall be returned to the applicant, shall be kept at the site of work, and shall be open to inspection by the *building official* or a duly authorized representative.

108.1 General. The *building official* is authorized to issue a *permit* for temporary structures and temporary uses. Such *permits* shall be limited as to time of service, but shall not be permitted for more than 365 days. Extensions beyond 365 days are not allowed.

Temporary structures shall be provided with an accessible route that meets accessibility requirements of this code.

109.2 Schedule of permit fees. On buildings, structures, electrical, gas, mechanical, and plumbing systems, or *alterations* requiring a *permit*, a fee for each *permit* shall be paid as required, in accordance with the schedule as established by the applicable governing authority. The fee schedules for the issuance of a building permit shall be set by resolution by the City Council.

109.7 Delinquent accounts. The City may refuse to issue permits or conduct inspections for any person or business whose utility account with the City of Beresford is delinquent.

110.3.1 Footing and foundation inspection. Footing inspections shall be made after excavations for footings are complete and any required reinforcing steel is in place. If an inspection is required for concrete foundations, any required forms shall be in place prior to inspection. Materials for the foundation shall be on the job, except where concrete is ready mixed in accordance with ASTM C 94, the concrete need not be on the job.

111.2 Certificate issued. After the *building official* inspects the building or structure and finds no violations of the provisions of this code or other laws that are enforced by the department of building services, the *building official* shall issue a certificate of occupancy that contains the following:

1. The building *permit* number.
2. The address of the structure.
3. A statement that the described portion of the structure has been inspected for compliance with the requirements of this code for the occupancy and division of occupancy and the use for which the proposed occupancy is classified.
4. The name of the *building official*.
5. The edition of the code under which the *permit* was issued.
6. The use and occupancy in accordance with the provisions of Chapter 3.
7. The type of construction as defined in Chapter 6.
8. The design *occupant load in assembly occupancies*.
9. If an *automatic sprinkler system* is provided, whether the sprinkler system is required.
10. Any special stipulations and conditions of the building *permit*.

113.1 General. 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, to review all prospective changes to the respective codes and to submit recommendations to the responsible official and the City Council, to review requests for house moves, and to investigate matters brought before the board of appeals.

113.2 Limitations on authority. An application for appeal shall be based on a claim that the true intent of this code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this code do not fully apply or an equally good, or better form of construction is proposed. The board shall have no authority relative to the administrative provisions of this code nor shall the board be empowered to waive requirements of this code.

113.3 Qualifications. Not adopted by the City of Beresford.

114.3 Prosecution of violation. If the notice of violation is not complied with promptly, the *building official* is authorized to request the legal counsel of the jurisdiction to deem the violation as a strict liability offense and institute the appropriate proceeding at law or in equity to restrain, correct, or abate such violation, or to require the removal or termination of the unlawful occupancy of the building or structure in violation of the provisions of this code or of the order or direction made pursuant thereto.

SECTION 202-DEFINITIONS. Add the following definition.

STRICT LIABILITY OFFENSE. An offense in which the prosecution in a legal proceeding is not required to prove criminal intent as a part of its case. It is enough to prove that the defendant either did an act which was prohibited or failed to do an act which the defendant was legally required to do.

305.2 Day care. The use of a building or structure, or portion thereof, for educational, supervision, or *personal care services* for more than 12 children older than 2 1/2 years of age shall be classified as a Group E occupancy.

310.1 Residential Group R. Residential Group R includes, among others, the use of a building or structure, or a portion thereof, for sleeping purposes when not classified as an Institutional Group I or when not regulated by the *International Residential Code* in accordance with Section 101.2. Residential occupancies shall include the following:

R-1 Residential occupancies containing *sleeping units* where the occupants are primarily transient in nature, including:

Boarding houses (transient)

Hotels (transient)

Motels (transient)

Congregate living facilities (transient) with 10 or fewer occupants are permitted to comply with the construction requirements for Group R-3.

R-2 Residential occupancies containing *sleeping units* or more than two *dwelling units* where the occupants are primarily permanent in nature, including:

Apartment houses

Boarding houses (nontransient)

Convents

Dormitories

Fraternities and sororities

Hotels (nontransient)

Live/work units

Monasteries

Motels (nontransient)

Vacation timeshare properties

Congregate living facilities with 16 or fewer occupants are permitted to comply with the construction requirements for Group R-3.

R-3 Residential occupancies where the occupants are primarily permanent in nature and not classified as Group R-1, R-2, R-4, or I, including:

Buildings that do not contain more than two *dwelling units*.

Adult care facilities that provide accommodations for five or fewer persons of any age for less than 24 hours.

Child care facilities that provide accommodations for five or fewer persons of any age for less than 24 hours.

Congregate living facilities with 16 or fewer persons.

Adult care and child care facilities that are within a single-family home are permitted to comply with the *International Residential Code*.

R-4 Residential occupancies shall include buildings arranged for occupancy as residential care/assisted living facilities including more than 5 but not more than 16 occupants, excluding staff.

Group R-4 occupancies shall meet the requirements for construction as defined for Group R-3, except as otherwise provided for in this code or shall comply with the *International Residential Code* provided the building is protected by an *automatic sprinkler system* installed in accordance with Section 903.2.8.

403.2.1.1 Type of construction. The following reductions in the minimum *fire-resistance rating* of the building elements in Table 601 shall be permitted as follows:

1. For buildings not greater than 420 feet (128 m) in *building height*, the *fire-resistance rating* of the building elements in Type IA construction shall be permitted to be reduced to the minimum *fire-resistance ratings* for the building elements in Type IB.

Exception: The required *fire-resistance rating* of columns supporting floors shall not be permitted to be reduced.

2. In other than Group F-1, M, and S-1 occupancies, the *fire-resistance rating* of the building elements in Type IB construction shall be permitted to be reduced to the *fire-resistance ratings* in Type IIA.

Exception: The required *fire-resistance rating* of columns supporting floors shall not be permitted to be reduced.

3. The *building height* and *building area* limitations of a building containing building elements with reduced *fire-resistance ratings* shall be permitted to be the same as the building without such reductions.

[F] 501.2 Address identification. New and existing buildings shall be provided with *approved* address numbers or letters. Each character shall be a minimum 4 inches (102 mm) high and a minimum of 0.5 inch (12.7 mm) wide. They shall be installed on a contrasting background and be plainly visible from the street or road fronting the property. Where access is by means of a private road and the building address cannot be viewed from the *public way*, a monument, pole, or other *approved* sign or means shall be used to identify the structure.

Multi-building campus/complex developments addressed on private or public streets shall be provided with signage at the entrance to the campus/complex indicative of the address ranges within.

507.5.1 Property lines. Portions of an unlimited area building may be divided by platted property lines without requiring the construction of party walls if the whole building has:

1. Permanent open space on all sides as required by Sections 507.2, 507.3, 507.4, or 507.5; and
2. Proper legal agreements are submitted and approved by the building official and are recorded with the deed for each of the separate properties. These recorded agreements shall require that the buildings, as divided by property lines, be in conformance with the applicable provisions of the building and fire codes, as if the buildings were a single building on a single piece of property. In addition, the agreement must state that no individual building or property owner may modify any portion of the building in any way that would not be in compliance with the building and fire codes.

SECTION 902 DEFINITIONS

902.1 Definitions. The following words and terms are being added in addition to the defined terms already incorporated by reference in Section 11-17 of this code. The following words and terms shall, for the purposes of this chapter, and as used elsewhere in this code, have the meanings shown herein.

[F] FIRE AREA. The aggregate floor area enclosed and bounded by fire walls, *fire barriers*, *exterior walls*, or *horizontal assemblies* of a building.

[F] 903.2.6 Group I. An *automatic sprinkler system* installed in accordance with Section 903.3.1.1 shall be provided throughout buildings with a Group I *fire area*.

[F] 903.2.7 Group M. An *automatic sprinkler system* shall be provided throughout buildings containing a Group M occupancy where one of the following conditions exists:

1. A Group M *fire area* exceeds 12,000 square feet (1,115 m²).
2. A Group M *fire area* is located more than three stories above *grade plane*.
3. The combined area of all Group M *fire areas* on all floors, including any mezzanines, exceeds 24,000 square feet (2,230 m²).
4. A Group M *fire area* exceeding 5,000 square feet and is used for the display and sale of upholstered furniture.

[F] 903.2.8 Group R. An *automatic sprinkler system* installed in accordance with Section 903.3 shall be provided throughout all buildings with a Group R-1 *fire area* and a Group R-4 *fire area*. An automatic fire-extinguishing system shall be provided throughout all buildings with a Group R-2 *fire area* more than two stories in height, including basements, or having more than 16 dwelling units.

[F] 903.3.1.1.1 Exempt locations. Automatic sprinklers shall not be required in the following rooms or areas where such rooms or areas are protected with an *approved* automatic fire detection system in accordance with Section 907.2 that will respond to visible or invisible particles of combustion. Sprinklers shall not be omitted from any room merely because it is damp, of fire-resistance-rated construction, or contains electrical equipment.

1. Any room where the application of water, or flame and water, constitutes a serious life or fire hazard.

2. Any room or space where sprinklers are considered undesirable because of the nature of the contents when *approved* by the fire code official. Such rooms shall be separated from the remainder of the building by fire barrier walls and horizontal assemblies having a fire-resistance rating of not less than 2 hours.
3. Generator and transformer rooms separated from the remainder of the building by walls and floor/ceiling or roof/ceiling assemblies having a *fire-resistance rating* of not less than 2 hours.
4. Rooms or areas that are of noncombustible construction with wholly noncombustible contents.

[F] 904.11 Commercial cooking systems. The automatic fire-extinguishing system for commercial cooking systems shall be of a type recognized for protection of commercial cooking equipment and exhaust systems of the type and arrangement protected. Systems shall be installed to include cooking surfaces, deep-fat fryers, griddles, upright broilers, char broilers, range tops, broasters, and grills. Protection shall also be provided for the enclosed plenum space within the hood above the filters and exhaust ducts serving the hood.

Exception: The requirement for protection does not include steam kettles and steam tables or equipment, which as used do not create grease-laden vapors.

Preengineered automatic dry- and wet-chemical extinguishing systems shall be tested in accordance with UL 300 and *listed* and *labeled* for the intended application. Other types of automatic fire-extinguishing systems shall be *listed* and *labeled* for specific use as protection for commercial cooking operations. The system shall be installed in accordance with this code, its listing, and the manufacturer's installation instructions. Automatic fire-extinguishing systems of the following types shall be installed in accordance with the referenced standard indicated, as follows:

1. Carbon dioxide extinguishing systems, NFPA 12.
2. *Automatic sprinkler systems*, NFPA 13.
3. Foam-water sprinkler system or foam-water spray systems, NFPA 16.
4. Dry-chemical extinguishing systems, NFPA 17.
5. Wet-chemical extinguishing systems, NFPA 17A.

Exception: Factory-built commercial cooking recirculating systems that are tested in accordance with UL 710B and *listed*, *labeled*, and installed in accordance with Section 304.1 of the *International Mechanical Code*.

[F] 904.11.2 System interconnection. The actuation of the fire suppression system shall automatically shut down the fuel and/or electrical power supply to the cooking equipment and all electrical receptacles located beneath the hood. The fuel and electrical supply reset shall be manual.

[F] 907.2.1.1 System initiation in Group A occupancies with an occupant load of 1,000 or more. Activation of the fire alarm in Group A occupancies with an *occupant load* of 1,000 or more shall initiate a signal using an emergency voice/alarm communications system in accordance with Section 907.5.2.2.

Exception:

1. Group A-3 occupancies used for religious worship.

2. Where *approved*, the prerecorded announcement is allowed to be manually deactivated for a period of time, not to exceed 3 minutes, for the sole purpose of allowing a live voice announcement from an *approved, constantly attended location*.

[F] 907.2.2 Group B. A manual fire alarm system shall be installed in Group B occupancies where one of the following conditions exists:

1. The combined Group B *occupant load* of all floors is 500 or more.
2. The Group B *occupant load* is more than 100 persons above or below the lowest *level of exit discharge*.
3. The Group B *fire area* contains a Group B ambulatory health care facility.
4. The Group B occupancy has more than two occupied levels.

Exception: Manual fire alarm boxes are not required where the building is equipped throughout with an *automatic sprinkler system* installed in accordance with Section 903.3.1.1 and the occupant notification appliances will activate throughout the notification zones upon sprinkler water flow.

[F] 907.2.6.2 Group I-2. An automatic smoke detection system shall be installed in *corridors* in nursing homes (both intermediate care and skilled nursing facilities), detoxification facilities, and spaces permitted to be open to the *corridors* by Section 407.2. The system shall be activated in accordance with Section 907.5. Hospitals shall be equipped with smoke detection as required in Section 407.

Exception: *Corridor* smoke detection is not required in smoke compartments that contain patient sleeping units where such units are provided with smoke detectors that comply with UL 268. Such detectors shall provide a visual display on the *corridor* side of each patient *sleeping unit* and shall provide an audible and visual alarm at the nursing station attending each unit. Smoke detectors installed as part of an intelligent or addressable fire alarm system capable of annunciation of room origin at a constantly attended location shall be acceptable.

[F] 907.2.8.2 Automatic smoke detection system. An automatic smoke detection system that activates the occupant notification system in accordance with Section 907.5 shall be installed throughout all interior *corridors* serving *sleeping units* and at the top of each enclosed stairwell.

Exception: An automatic smoke detection system is not required in buildings that do not have interior *corridors* serving *sleeping units* and where each *sleeping unit* has a *means of egress* door opening directly to an *exit* or to an exterior *exit access* that leads directly to an *exit*.

[F] 907.2.8.4 Heat detectors. Heat detectors shall be installed in each attic subdivision and in all common areas such as recreation rooms, laundry rooms, furnace rooms, and similar areas.

Exception: Heat detection is not required in areas protected by an automatic fire-extinguishing system installed in accordance with 903.3.1.1 or 903.3.1.2.

[F] 907.2.9.1 Manual fire alarm system. A manual and automatic fire alarm system that activates the occupant notification system in accordance with Section 907.5 shall be installed in Group R-2 occupancies where:

1. Any *dwelling unit* or *sleeping unit* is located three or more *stories* above the lowest *level of exit discharge*; or

2. Any *dwelling unit* or *sleeping unit* is located more than one *story* below the highest *level of exit discharge* of *exits* serving the *dwelling unit* or *sleeping unit*; or
3. The building contains more than 16 *dwelling units* or *sleeping units*; or
4. The building contains four or more *dwelling units* or *sleeping units* above the *level of exit discharge*.

Exceptions:

1. A fire alarm system is not required in buildings not more than two *stories* in height where all *dwelling units* or *sleeping units* and contiguous *attic* and *crawl* spaces are separated from each other and public or common areas by at least 1-hour *fire partitions* and each *dwelling unit* or *sleeping unit* has an *exit* directly to a *public way*, *exit court*, or *yard*.
2. Manual fire alarm boxes are not required where the building is equipped throughout with an *automatic sprinkler system* installed in accordance with Section 903.3.1.1 or 903.3.1.2 and the occupant notification appliances will automatically activate throughout the notification zones upon a sprinkler water flow.
3. A fire alarm system is not required in buildings that do not have interior *corridors* serving *dwelling units* and are protected by an *approved automatic sprinkler system* installed in accordance with Section 903.3.1.1 or 903.3.1.2, provided that *dwelling units* either have a *means of egress* door opening directly to an exterior *exit access* that leads directly to the *exits* or are served by open-ended *corridors* designed in accordance with Section 1026.6, Exception 4.

[F] 907.2.13.1.2 Duct smoke detection. Duct smoke detectors complying with Section 907.3.1 shall be located as follows:

1. In the main return air and exhaust air plenum of each air-conditioning system having a capacity greater than 2,000 cubic feet per minute (cfm) (0.94 m³/s). Such detectors shall be located in a serviceable area downstream of the last duct inlet.
2. At each connection to a vertical duct or riser serving two or more stories from a return air duct or plenum of an air-conditioning system. In Group R-1 and R-2 occupancies, a smoke detector is allowed to be used in each return air riser carrying not more than 5,000 cfm (2.4 m³/s) and serving not more than 10 air-inlet openings.
3. Duct smoke detectors installed more than 10 feet above a finished floor, above a ceiling, or on a rooftop shall be installed with remote test/indicators in an approved location below and in proximity to the unit served.

[F] 912.2.1 Visible location. Fire department connections shall be located on the street side of buildings, fully visible, and recognizable from the street or nearest point of fire department vehicle access or as otherwise *approved* by the code official. A weather-rated horn/strobe connected to the fire detection or sprinkler system shall be located not lower than 8 feet above the fire department connection and within 10 feet horizontally of the connection. The weather-rated horn/strobe must be visible from the fire lane or street.

1008.1.7 Thresholds. Thresholds at doorways shall not exceed 3/4 inch (19.1 mm) in height for sliding doors serving dwelling units or 1/2 inch (12.7 mm) for other doors. Raised thresholds and floor level changes greater than 1/4 inch (6.4 mm) at doorways shall be beveled with a slope not greater than one unit vertical in two units horizontal (50 percent slope).

Exception: The threshold height shall be limited to 8 inches (203 mm) where the occupancy is Group R-2 or R-3; the door is an exterior door that is not a component of the required *means of egress*; the door, other than an exterior storm or screen door, does not swing over the landing or step; and the doorway is not on an *accessible route* as required by Chapter 11 and is not part of an *Accessible unit, Type A unit* or *Type B unit*.

1013.4 Opening limitations. Required *guards* shall not have openings which allow passage of a sphere 5 inches (127 mm) in diameter from the walking surface to the required *guard* height.

Exceptions:

1. The triangular openings at the open sides of a *stair*, formed by the riser, tread, and bottom rail shall not allow passage of a sphere 6 inches (152 mm) in diameter.
2. At elevated walking surfaces for access to and use of electrical, mechanical, or plumbing systems or equipment, *guards* shall not have openings which allow passage of a sphere 21 inches (533 mm) in diameter.
3. In areas that are not open to the public within occupancies in Group I-3, F, H, M, or S, and for *alternating tread devices* and ship ladders, *guards* shall not have openings which allow passage of a sphere 21 inches (533 mm) in diameter.
4. In assembly seating areas, *guards* at the end of *aisles* where they terminate at a fascia of boxes, balconies, and galleries shall not have openings which allow passage of a sphere 5 inches in diameter (127 mm) up to a height of 26 inches (660 mm). From a height of 26 inches (660 mm) to 42 inches (1,067 mm) above the adjacent walking surfaces, *guards* shall not have openings which allow passage of a sphere 8 inches (203 mm) in diameter.
5. Within individual dwelling units and sleeping units in Group R-2 and R-3 occupancies, *guards* on the open sides of *stairs* shall not have openings which allow passage of a sphere 5 inches (127 mm) in diameter.

1015.2.1 Two exits or exit access doorways. Where two *exits* or *exit access doorways* are required from any portion of the *exit access*, the exit access including the *exit* doors or *exit access doorways* shall be placed a distance apart equal to not less than one-half of the length of the maximum overall diagonal dimension of the building or area to be served measured in a straight line between the exit access including the *exit* doors or *exit access doorways*. Interlocking or *scissor stairs* shall be counted as one *exit stairway*.

Exceptions:

1. Where *exit enclosures* are provided as a portion of the required *exit* and are interconnected by a 1-hour fire-resistance-rated *corridor* conforming to the requirements of Section 1018, the required *exit* separation shall be measured along the shortest direct line of travel within the *corridor*.
2. Where a building is equipped throughout with an *automatic sprinkler system* in accordance with Section 903.3.1.1 or 903.3.1.2, the separation distance of the *exit* doors or *exit access doorways* shall not be less than one-third of the length of the maximum overall diagonal dimension of the area served.

1015.2.2 Three or more exits or exit access doorways. Where access to three or more *exits* is required, at least two means of the exit access including two *exit* doors or *exit access doorways* shall be arranged in accordance with the provisions of Section 1015.2.1.

TABLE 1018.1
CORRIDOR FIRE-RESISTANCE RATING

OCCUPANCY	OCCUPANT LOAD SERVED BY CORRIDOR	REQUIRED FIRE-RESISTANCE RATING (hours)	
		Without sprinkler system	With sprinkler system ^c
H-1, H-2, H-3	All	Not Permitted	1
H-4, H-5	Greater than 30	Not Permitted	1
A, B, E, F, M, S, U	Greater than 30	1	0
R	Greater than 10	1	0.5
I-2 ^a , I-4	All	Not Permitted	0
I-1, I-3	All	Not Permitted	1 ^b

- For requirements for occupancies in Group I-2, see Sections 407.2 and 407.3.
- For a reduction in the fire-resistance rating for occupancies in Group I-3, see Section 408.8.
- Buildings equipped throughout with an automatic sprinkler system in accordance with Section 903.3.1.1 or 903.3.1.2 where allowed.

1018.4 Dead ends. Where more than one *exit* or *exit access doorway* is required, the *exit access* shall be arranged such that there are no dead ends in *corridors* more than 20 feet (6,096 mm) in length.

Exceptions:

- In occupancies in Group I-3 of Occupancy Condition 2, 3, or 4 (see Section 308.4), the dead end in a *corridor* shall not exceed 50 feet (15,240 mm).
- In occupancies in Groups B, E, F, M, R-1, R-2, R-4, S, and U, where the building is equipped throughout with an *automatic sprinkler system* in accordance with Section 903.3.1.1, the length of the dead-end *corridors* shall not exceed 50 feet (15,240 mm).
- A dead-end *corridor* shall not be limited in length where the length of the dead-end *corridor* is less than 2.5 times the least width of the dead-end *corridor*.

TABLE 1021.2(1)
STORIES WITH ONE EXIT OR ACCESS TO ONE EXIT FOR R-2 OCCUPANCIES

STORY	OCCUPANCY	MAXIMUM OCCUPANTS (OR DWELLING UNITS) PER FLOOR AND TRAVEL DISTANCE
First story or basement	A, B ^d , E ^c , F ^d , M, U, S ^d	49 occupants and 75 feet travel distance
	H-2, H-3	3 occupants and 25 feet travel distance
	H-4, H-5, I, R	10 occupants and 75 feet travel distance
	S ^a	29 occupants and 100 feet travel distance
Second story	B ^b , F, M, S ^a	29 occupants and 75 feet travel distance
	R-2	4 dwelling units and 50 foot travel distance

For SI: 1 foot = 304.8 mm.

- a. For the required number of exits for parking structures, see Section 1021.1.2.
- b. For the required number of exits for air traffic control towers, see Section 412.3.
- c. Not adopted by the City of Beresford.
- d. Group B, F, and S occupancies in buildings equipped throughout with an automatic sprinkler system in accordance with Section 903.3.1.1 shall have a maximum travel distance of 100 feet.
- e. Day care occupancies shall have a maximum occupant load of 10.

1022.8 Discharge identification. A *stairway* in an *exit enclosure* shall not continue below its *level of exit discharge* unless an approved barrier or a directional exit sign is provided at the *level of exit discharge* to prevent persons from unintentionally continuing into levels below. Directional *exit* signs shall be provided as specified in Section 1011.

1024.1 General. *Approved* luminous egress path markings delineating the exit path shall be provided in buildings of Groups A, B, E, I, M, and R-1 having occupied floors located more than 420 feet (128 m) above the lowest level of fire department vehicle access in accordance with Sections 1024.1 through 1024.5.

Exceptions:

1. Luminous egress path markings shall not be required on the *level of exit discharge* in lobbies that serve as part of the exit path in accordance with Section 1027.1, Exception 1.
2. Luminous egress path markings shall not be required in areas of *open parking garages* that serve as part of the exit path in accordance with Section 1027.1, Exception 3.

1029.1 General. In addition to the *means of egress* required by this chapter, provisions shall be made for emergency escape and rescue in Group R and I-1 occupancies. Basements and sleeping rooms below the *fourth story above grade plane* shall have at least one exterior *emergency escape and rescue opening* in accordance with this section. Where basements contain one or more sleeping rooms, *emergency escape and rescue openings* shall be required in each sleeping room, but shall not be required in adjoining areas of the basement. Such openings shall open directly into a *public way* or to a *yard* or *court* that opens to a *public way*.

Exceptions:

1. The *emergency escape and rescue opening* is permitted to open onto a balcony within an *atrium* in accordance with the requirements of Section 404, provided the balcony provides access to an *exit* and the dwelling unit or sleeping unit has a *means of egress* that is not open to the *atrium*.
2. Basements with a ceiling height of less than 80 inches (2,032 mm) shall not be required to have emergency escape and rescue windows.
3. *High-rise buildings* in accordance with Section 403.
4. *Emergency escape and rescue openings* are not required from basements or sleeping rooms that have an *exit* door or *exit access* door that opens directly into a *public way* or to a *yard*, *court*, or exterior *exit* balcony that opens to a *public way*.
5. Basements without *habitable spaces* and having no more than 200 square feet (18.6 m²) in floor area shall not be required to have emergency escape windows.

1029.2 Minimum size. *Emergency escape and rescue openings* shall have a minimum net clear opening of 5.0 square feet (0.46 m²).

1029.3 Maximum height from floor. *Emergency escape and rescue openings* shall have the bottom of the clear opening not greater than 48 inches (1,219 mm) measured from the floor.

1029.5.2 Ladders or steps. Window wells with a vertical depth of more than 48 inches (1,219 MM) shall be equipped with an *approved* permanently affixed ladder or steps. Ladders or rungs shall have an inside width of at least 12 inches (305 mm), shall project at least 3 inches (76 mm) from the wall, and shall be spaced not more than 18 inches (457 mm) on center (o.c.) vertically for the full height of the window well. The ladder or steps shall not encroach into the required dimensions of the window well by more than 6 inches (152 mm). The ladder or steps shall not be obstructed by the *emergency escape and rescue opening*. Ladders or steps required by this section are exempt from the *stairway* requirements of Section 1009.

1104.4 Multilevel buildings and facilities. At least one *accessible route* shall connect each *accessible* level, including *mezzanines*, in multilevel buildings and facilities.

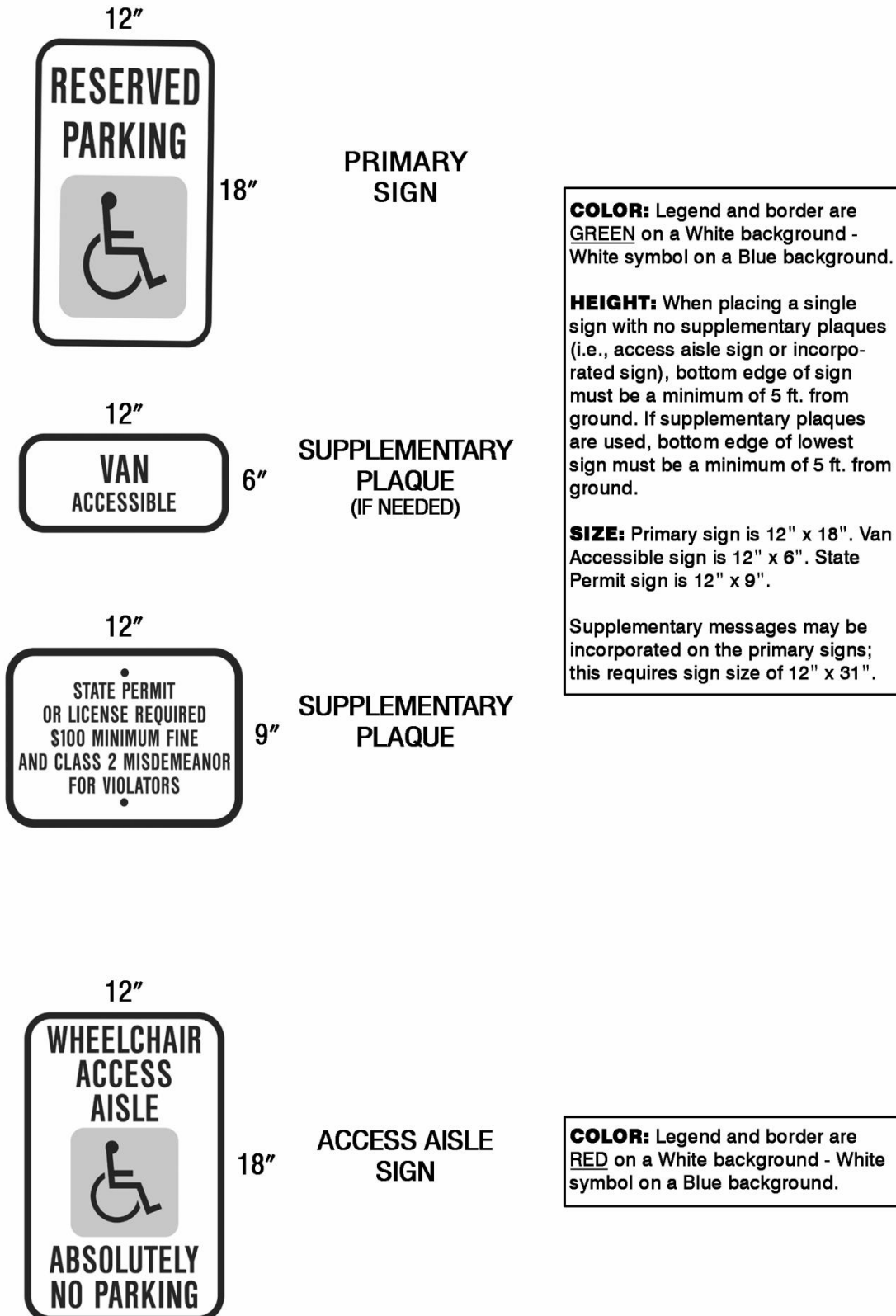
Exceptions:

1. An *accessible route* from an accessible level is not required in facilities that are less than three stories in height or have less than 3,000 square feet (278.7 square meters) per story. This exception shall not apply to:
 - 1.1. Multiple tenant facilities of Group M occupancies containing five or more tenant spaces;
 - 1.2. Levels containing offices of health care providers (Group B or I); or
 - 1.3. Passenger transportation facilities and airports (Group A-3 or B).
2. Levels that do not contain *accessible* elements or other spaces as determined by Section 1107 or 1108 are not required to be served by an *accessible route* from an *accessible* level.
3. In air traffic control towers, an *accessible route* is not required to serve the cab and the floor immediately below the cab.
4. Where a two-story building or facility has one *story* with an *occupant load* of five or fewer persons that does not contain *public use* space, that *story* shall not be required to be connected by an *accessible route* to the *story* above or below.
5. Vertical access to elevated employee work stations within a courtroom is not required at the time of initial construction, provided a *ramp*, lift, or elevator complying with ICC A117.1 can be installed without requiring reconfiguration or extension of the courtroom or extension of the electrical system.

1106.8 Signage. Accessible parking spaces and access aisles are required to be identified by signs. Signs shall be located at the head of accessible parking stalls and access aisles. The bottom of the lowest signs shall be located at least 60 inches above the pavement.

As referenced below, standard and van accessible parking space signs shall state, "RESERVED PARKING," and include the International Symbol of Accessibility, and supplemental signage must additionally state, "STATE PERMIT OR LICENSE REQUIRED. \$100 MINIMUM FINE AND CLASS 2 MISDEMEANOR FOR VIOLATORS." A van accessible parking space must have additional signage stating, "VAN ACCESSIBLE."

A van accessible access aisle must be provided with signage including the International Symbol of Accessibility which states, “WHEELCHAIR ACCESS AISLE. ABSOLUTELY NO PARKING.”



1106.9 Access aisles and markings. Each access which is part of an accessible route shall extend the full length of the parking space it serves. The aisle must have diagonally striped markings spaced every 4 feet (1,219 mm). Boundaries of the access aisle must be marked. The end may be a squared or curved shape. Two parking spaces may share an access aisle.

Access aisles shall be placed on a level surface with a slope not to exceed 1:48

Where an access aisle is located immediately adjacent to a sidewalk that provides the closest accessible route, the sidewalk must be provided with a curb ramp access to serve the access aisle.

1206.3.3 Court drainage. The bottom of every *court* shall be properly graded and drained to a public sewer or other approved disposal system complying with the Approved Code of the South Dakota Plumbing Commission.

1404.2.1 Weather-resistive sheathing papers. House wraps or weather-resistive sheathing papers consisting of spun bonded olefin sheets of high density polyethylene fibers are required to be installed on the exterior side of the sheathing material underneath the exterior covering.

1405.13.2 Window sills. In Occupancy Groups R-2 and R-3, one- and two-family and multiple-family dwellings, where the opening of the sill portion of an operable window is located more than 72 inches (1,829 mm) above the finished grade or other surface below, the lowest part of the clear opening of the window shall be at a height not less than 18 inches (457 mm) above the finished floor surface of the room in which the window is located. Glazing between the floor and a height of 18 inches (457 mm) shall be fixed or have openings through which a 5-inch (127 mm) diameter sphere cannot pass.

Exception: Openings that are provided with window guards that comply with ASTM F 2006 or F 2090.

[P] 1503.4 Roof drainage. Design and installation of roof drainage systems shall comply with Section 1503 and shall be sized and discharge in accordance with the approved code of the South Dakota Plumbing Commission. Unless roofs are sloped to drain over roof edges, roof drains or scuppers shall be installed at each low point of the roof.

Roofs shall be sloped a minimum of 1 unit vertical in 48 units horizontal (2% slope) for drainage unless designed for water accumulation in accordance with Section 1611.2 Ponding Instability.

Roof drainage water from a building shall not be allowed to flow over public property.

1601.1 Scope. The provisions of this chapter shall govern the structural design of buildings, structures, and portions thereof regulated by this code.

It shall not be the responsibility of the building official to determine engineering requirements of this code. Exclusive of Conventional Light-Frame Wood Construction provisions referenced in Section 2308, the method to resist loads as referenced in this chapter is the responsibility of a structural engineer or other qualified design professional.

1612.3 Establishment of flood hazard areas. To establish *flood hazard areas*, the applicable governing authority shall adopt a flood hazard map and supporting data. The flood hazard map shall include, at a minimum, areas of special flood hazard as identified by the Federal Emergency Management Agency in an engineering report entitled "The Flood Insurance Study for the City of Beresford, South Dakota," dated _____, as amended or revised with the accompanying Flood Insurance Rate Map (FIRM)

and Flood Boundary and Floodway Map (FBFM) and related supporting data along with any revisions thereto. The adopted flood hazard map and supporting data are hereby adopted by reference and declared to be part of this section. If there is a conflict between the provisions of this code and the City's floodplain management ordinance, the provisions of the floodplain management ordinance shall prevail.

1703.1 Approved agency. An *approved agency* or the design professional of record shall provide all information as necessary for the *building official* to determine that the agency meets the applicable requirements.

1704.1 General. Where application is made for construction as described in this section, the owner or the *registered design professional in responsible charge* acting as the owner's agent shall employ one or more *approved agencies* to perform inspections during construction on the types of work listed under Section 1704. These inspections are in addition to the inspections identified in Section 110.

The special inspector shall be a qualified person who shall demonstrate competence, to the satisfaction of the *building official*, for the inspection of the particular type of construction or operation requiring *special inspection*. The *registered design professional in responsible charge* and engineers of record involved in the design of the project are permitted to act as the *approved agency* and their personnel are permitted to act as the special inspector for the work designed by them, provided those personnel meet the qualification requirements of this section to the satisfaction of the *building official*. The special inspector shall provide written documentation to the building official demonstrating his or her competence and relevant experience or training. Experience or training shall be considered relevant when the documented experience or training is related in complexity to the same type of *special inspection* activities for projects of similar complexity and material qualities. These qualifications are in addition to qualifications specified in other sections of this code.

Exceptions:

1. *Special inspections* are not required for work of a minor nature or as warranted by conditions in the jurisdiction as *approved by the building official*.
2. *Special inspections* are not required for building components, unless the design involves the practice of professional engineering or architecture as defined by applicable state statutes and regulations governing the professional registration and certification of engineers or architects.
3. Unless otherwise required by the building official, special inspections are not required for Group U occupancies that are accessory to a residential occupancy including, but not limited to, those listed in Section 312.1.
4. The frequency and amount of special inspections shall be as determined by the design professional of record. The continuous and periodic inspections referenced in Tables 1704.3, 1704.4, 1704.5.1, 1704.5.3, 1704.7, 1704.8, and 1704.9 shall be considered as a guideline.

1804.7 Grading permits required. No person shall excavate or grade without first obtaining a permit from the City. If a building permit is not obtained, a separate grading permit must be obtained from the City for each site and may cover both excavations and fills.

Exceptions:

1. A separate grading permit is not required from the City where a site plan for a new building, structure, or addition is submitted for plan review where an excavation below finished grade for basements, footings, and foundations of a building, retaining wall, or other structure is authorized by a valid building permit.
2. A fill of less than one foot in depth and placed on natural terrain with a slope flatter than one unit vertical to five units horizontal (20 percent slope), or less than 3 feet (914 mm) in depth not intended to support structures, which does not exceed 300 cubic yards (153 m³) on any one lot and does not obstruct a drainage course.
3. Excavation, removal, or stockpiling of rock, sand, dirt, clay, or other like material, as may be required by the state, county, or municipal authorities in connection with the construction or maintenance of roads and highways. This shall not exempt work for street construction when such work is performed by private developers. When the private developer has obtained a permit to perform site grading, a second permit will not be required for street grading.
4. When approved by the City, grading in an isolated, self-contained area if there is no danger to public or private property.
5. Cemetery graves.
6. Refuse disposal sites controlled by other regulations.
7. Excavations for wells, tunnels, or utilities.
8. Mining, quarrying, excavating, processing, or stockpiling of rock, sand, gravel, aggregate or clay where established and provided for by law, provided such operations do not affect the lateral support or increase the stresses in or pressure upon any adjacent or contiguous property.
9. Exploratory excavations under the direction of soils engineers or engineering geologists.
10. An excavation that 1) is less than 2 feet (610 mm) in depth or 2) does not create a cut slope of less than 5 feet (1,524 mm) in height and steeper than one unit vertical in one and one-half units horizontal (66.7 percent slope).

Exemptions from the permit requirements of this chapter shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of this chapter or any other laws or ordinances of this jurisdiction.

1804.7.1 Grading permit requirements. Grading shall be performed in accordance with a grading plan approved by the City. Submitted plans shall indicate existing elevations, proposed elevations, method of erosion control, and shall include the legal description.

1806.2 Presumptive load-bearing values. The load-bearing values used in design for supporting soils near the surface shall not exceed the values specified in Table 1806.2 unless data to substantiate the use of higher values are submitted and *approved*. Where the *building official* has reason to doubt the classification, strength, or compressibility of the soil, the requirements of Section 1803.5.2 shall be satisfied.

Presumptive load-bearing values shall apply to materials with similar physical characteristics and dispositions. Where a presumed soil bearing capacity is in excess of 3,000 psf (471 kPa/m), data to substantiate the use of the presumed higher value must be submitted from a soils engineer for approval from the building official. Mud, organic silt, organic clays, peat, or unprepared fill shall not be assumed to have a presumptive load-bearing capacity unless data to substantiate the use of such a value are submitted.

Exception: A presumptive load-bearing capacity shall be permitted to be used where the *building official* deems the load-bearing capacity of mud, organic silt, or unprepared fill is adequate for the support of lightweight or temporary structures.

1809.5 Frost protection. Except where otherwise protected from frost, foundations and other permanent supports of buildings and structures shall be protected from frost by one or more of the following methods:

1. Extending below the frost line of the locality;
2. Constructing in accordance with ASCE 32; or
3. Erecting on solid rock.

Exception: Freestanding buildings meeting all of the following conditions shall not be required to be protected:

1. Assigned to *Occupancy Category I* in accordance with Section 1604.5;
2. Area of 1,500 square feet (138 m²) or less for light-frame construction or 400 square feet (37 m²) or less for other than light-frame construction; and
3. Eave height of 10 feet (3,048 mm) or less.

Shallow foundations shall not bear on frozen soil unless such frozen condition is of a permanent character.

2308.9.3 Bracing. Braced wall lines shall consist of braced wall panels that meet the requirements for location, type, and amount of bracing as shown in Figure 2308.9.3, specified in Table 2308.9.3(1) and are in line or offset from each other by not more than 4 feet (1,219 mm) except for offsets not more than 200 square feet. Braced wall panels shall start not more than 12 1/2 feet (3,810 mm) from each end of a braced wall line. Braced wall panels shall be clearly indicated on the plans. Construction of braced wall panels shall be by one of the following methods:

1. Nominal 1-inch by 4-inch (25 mm by 102 mm) continuous diagonal braces let into top and bottom plates and intervening studs, placed at an angle not more than 60 degrees (1.0 rad) or less than 45 degrees (0.79 rad) from the horizontal and attached to the framing in conformance with Table 2304.9.1.
2. Wood boards of 5/8 inch (15.9 mm) net minimum thickness applied diagonally on studs spaced not over 24 inches (610 mm) o.c.
3. Wood structural panel sheathing with a thickness not less than 3/8 inch (9.5 mm) for 16-inch (406 mm) or 24-inch (610 mm) stud spacing in accordance with Tables 2308.9.3(2) and 2308.9.3(3).

4. Fiberboard sheathing panels not less than 1/2 inch (12.7 mm) thick applied vertically or horizontally on studs spaced not over 16 inches (406 mm) o.c. where installed with fasteners in accordance with Section 2306.6 and Table 2306.6.
5. Gypsum board [sheathing 1/2-inch-thick (12.7 mm) by 4 feet-wide (1219 mm) wallboard or veneer base] on studs spaced not over 24 inches (610 mm) o.c. and nailed at 7 inches (178 mm) o.c. with nails as required by Table 2306.7.
6. Particleboard wall sheathing panels where installed in accordance with Table 2308.9.3(4).
7. Portland cement plaster on studs spaced 16 inches (406 mm) o.c. installed in accordance with Section 2510.
8. Hardboard panel siding where installed in accordance with Section 2303.1.6 and Table 2308.9.3(5).

For cripple wall bracing, see Section 2308.9.4.1. For Methods 2, 3, 4, 6, 7, and 8, each panel must be at least 48 inches (1,219 mm) in length, covering three stud spaces where studs are spaced 16 inches (406 mm) apart, and covering two stud spaces where studs are spaced 24 inches (610 mm) apart.

For Method 5, each panel must be at least 96 inches (2,438 mm) in length where applied to one face of a panel and 48 inches (1,219 mm) where applied to both faces. All vertical joints of panel sheathing shall occur over studs and adjacent panel joints shall be nailed to common framing members. Horizontal joints shall occur over blocking or other framing equal in size to the studding except where waived by the installation requirements for the specific sheathing materials. Sole plates shall be nailed to the floor framing and top plates shall be connected to the framing above in accordance with Section 2308.3.2. Where joists are perpendicular to braced wall lines above, blocking shall be provided under and in line with the braced wall panels.

2707.1 Scope. All Electrical regulations within the City of Beresford will be governed by the South Dakota Electrical Commission. This can include but is not limited to inspections, permits, requirements, plan reviews, or any other function determined necessary by the City of Beresford. An agreement between the City of Beresford and the South Dakota Electrical Commission may be enacted in order to allow for a change in permitting, inspection, and other powers.

[F] **2702.1 Installation.** Not adopted by the City of Beresford.

[F] **2702.1.1 Stationary generators.** Not adopted by the City of Beresford.

[F] **2702.2 Where required.** Not adopted by the City of Beresford.

[F] **2702.2.1 Group A occupancies.** Not adopted by the City of Beresford.

[F] **2702.2.2 Smoke control systems.** Not adopted by the City of Beresford.

[F] **2702.2.3 Exit signs.** Not adopted by the City of Beresford.

[F] **2702.2.4 Means of egress illumination.** Not adopted by the City of Beresford.

[F] **2702.2.5 Accessible means of egress elevators.** Not adopted by the City of Beresford.

[F] **2702.2.6 Accessible means of egress platform lifts.** Not adopted by the City of Beresford.

- [F] **2702.2.7 Horizontal sliding doors.** Not adopted by the City of Beresford.
- [F] **2702.2.8 Semiconductor fabrication facilities.** Not adopted by the City of Beresford.
- [F] **2702.2.9 Membrane Structures.** Not adopted by the City of Beresford.
- [F] **2702.2.10 Hazardous materials.** Not adopted by the City of Beresford.
- [F] **2702.2.11 Highly toxic and toxic materials.** Not adopted by the City of Beresford.
- [F] **2702.2.12 Organic peroxides.** Not adopted by the City of Beresford.
- [F] **2702.2.13 Pyrophoric materials.** Not adopted by the City of Beresford.
- [F] **2702.2.14 Covered and open mall buildings.** Not adopted by the City of Beresford.
- [F] **2702.2.15 High-rise buildings.** Not adopted by the City of Beresford.
- [F] **2702.2.16 Underground buildings.** Not adopted by the City of Beresford.
- [F] **2702.2.17 Group I-3 occupancies.** Not adopted by the City of Beresford.
- [F] **2702.2.18 Airport traffic control towers.** Not adopted by the City of Beresford.
- [F] **2702.2.19 Elevators.** Not adopted by the City of Beresford.
- [F] **2702.2.20 Smokeproof enclosures.** Not adopted by the City of Beresford.
- [F] **2702.3 Maintenance.** Not adopted by the City of Beresford.

[P] **2901.1 Scope.** All Plumbing regulations within the City of Beresford will be governed by the South Dakota Plumbing Commission. This can include but is not limited to inspections, permits, requirements, plan reviews, or any other function determined necessary by the City of Beresford. An agreement between the City of Beresford and the South Dakota Plumbing Commission may be enacted in order to allow for a change in permitting, inspection, and other powers.

- [P] **2902.1 Minimum number of fixtures.** Not adopted by the City of Beresford.
- [P] **2902.1.1 Fixture calculations.** Not adopted by the City of Beresford.
- [P] **2902.1.2 Family or assisted use toilet and bath fixtures.** Not adopted by the City of Beresford.
- [P] **2902.2 Separate facilities.** Not adopted by the City of Beresford.
- [P] **2902.3 Employee and public toilet facilities.** Not adopted by the City of Beresford.
- [P] **2901.3.1 Access.** Not adopted by the City of Beresford.
- [P] **2902.3.2 Location of toilet facilities in occupancies other than malls.** Not adopted by the City of Beresford.

[P] 2902.3.3 Location of toilet facilities in malls. Not adopted by the City of Beresford.

[P] 2902.3.4 Pay facilities. Not adopted by the City of Beresford.

[P] 2902.4 Signage. Not adopted by the City of Beresford.

[P] 2902.4.1 Directional signage. Not adopted by the City of Beresford.

3109.1 General. Swimming pools shall comply with the requirements of this section and other applicable sections of this code. These requirements shall be applicable to all new swimming pools hereafter constructed and shall apply to all existing pools which have a depth of 18 inches or more of water. No person in possession of land within the City, either as an owner, purchaser, lessee, tenant, or a licensee, upon which is situated a swimming pool having a depth of 18 inches or more shall fail to provide and maintain such a fence or wall as herein provided.

3109.2 Definition. The following word and term shall, for the purposes of this section and as used elsewhere in this code, have the meaning shown herein.

SWIMMING POOLS. Any structure intended for swimming, recreational bathing, or wading that contains water over 18 inches (457 mm) deep. This includes in-ground, above-ground, and on-ground pools; hot tubs; spas and fixed-in-place wading pools.

3109.4.1 Barrier height and clearances. The top of the barrier shall be at least 42 inches (1,066 mm) above grade measured on the side of the barrier that faces away from the swimming pool. The maximum vertical clearance between grade and the bottom of the barrier shall be 2 inches (51 mm) measured on the side of the barrier that faces away from the swimming pool. Where the top of the pool structure is above grade, the barrier is authorized to be at ground level or mounted on top of the pool structure, and the maximum vertical clearance between the top of the pool structure and the bottom of the barrier shall be 4 inches (102 mm).

3109.4.1.2 Solid barrier surfaces. Not adopted by the City of Beresford.

3109.4.1.3 Closely spaced horizontal members. Not adopted by the City of Beresford.

3109.4.1.4 Widely spaced horizontal members. Not adopted by the City of Beresford.

3109.4.1.5 Chain-link dimensions. Not adopted by the City of Beresford.

3109.4.1.6 Diagonal members. Not adopted by the City of Beresford.

3109.4.1.8 Dwelling wall as a barrier. Not adopted by the City of Beresford.

3109.4.4 Modifications. Modification in individual cases, upon a showing of good cause with respect to height, nature, or location of a fence, wall, gates, or latches, or the necessity thereof, may be made by the building official, provided the protection as sought hereunder is not reduced thereby. The building official may grant permission for other protective devices or structures to be used as long as the degree of protection afforded by this substitute device or structure is not less than the protection afforded by the wall, fence, gate, and latch described herein. A reasonable period within which to comply with the requirements of this section for existing swimming pools shall be allowed, which period shall not exceed 90 days after notification by the building official.

3303.1 Construction documents. No person shall demolish or wreck a building or structure without first obtaining a razing permit. Permit fees shall be paid in accordance with Item 5 of Table 3-C. *Construction documents* and a schedule for demolition must be submitted when required by the *building official*.

Where such information is required, no work shall be done until such *construction documents* or schedule, or both, are *approved*. The applicant shall secure insurance covering any possible liability that could incur during demolition.

3303.6 Utility connections. Service utility connections shall be discontinued and capped in accordance with the *approved* rules and the requirements of the applicable governing authority.

Before a razing permit can be issued, the applicant must furnish approval from the City that applicable permits have been secured to assure that all utilities will be properly disconnected and inspected as per City's specifications. The applicant shall be responsible for notifying other utilities of such anticipated demolition.

3401.3 Compliance. Alterations, repairs, additions, and changes of occupancy to existing structures shall comply with the provisions for alterations, repairs, additions, and changes of occupancy in the *Fire Code*, *Mechanical Code*, *Plumbing Code*, *Property Maintenance Code*, *Residential Code*, and NFPA 70.

3410.1 Conformance. Structures moved into or within the jurisdiction shall comply with the provisions of this code for new structures.

Exceptions:

1. Mobile homes used as a dwelling and located in a mobile home park operated under a valid license.
2. Mobile homes used as a dwelling and located in a manufactured housing park.
3. Structures used as a temporary office or shelter on a construction or development site when approved by the building official.
4. Structures used as a temporary business office for a period not to exceed one year when approved by the building official and provided it meets the applicable accessibility requirements of this code.
5. Mobile homes/manufactured homes used as a sales office at a location where such homes are offered for sale provided it meets the applicable accessibility requirements of this code.

3410.2 Definitions. For the purpose of this section, the following words and phrases mean:

1. *Building mover.* Any person, firm, partnership, corporation, or association who engages in the business or work of moving a building across public property within the City.
2. *Building moving.* The moving of any house, building, structure, or any part or parts thereof, except structures or parts of structures less than 12 feet wide and 13.5 feet high when loaded, from one location to another when moving requires traveling upon, across, along, or over any street, avenue, highway, thoroughfare, alley, sidewalk, or other public ground in the City. This term does not apply to manufactured or modular structures or assemblies which do not exceed 15 feet in height and 16.6 feet in width including all nonstructural appendages, or a length of 80.6 feet including all nonstructural appendages.

3. *Agency.* The planning and building services department, police department, municipal maintenance department, and City Engineer.

3410.3 Permits required. No person shall engage in building moving unless and until he has obtained a building moving permit, which will not be issued to anyone except a person licensed as the building mover. Such permit shall be obtained not less than 48 hours prior to the move.

3410.4 Prerequisites to a permit. No permit to move a building shall be issued as hereunder provided until the following conditions have been satisfied.

- A. A building permit is required to place a one- or two-family dwelling in a residential zoning district on the property described on the application if located in the City. Before a City building permit can be issued for a one- or two-family dwelling to be moved in a residential zoning district, the applicant shall post the property. A hearing before the building board of appeals will be required prior to the issuance of the building permit upon request from the public. A hearing will be initiated and scheduled at the request of the public within the time period of posting the signs per Item 1 below. The request shall be in writing on forms provided by building services.

Before any action can be taken by the board, the applicant shall:

1. Post the property where the dwelling is to be moved for a continuous period of not less than five working days with signs furnished by the building official. At least two signs shall be posted. The applicant shall submit a written oath that the signs were properly posted.
 2. Submit one certified copy of the restrictions and covenants of the property where the dwelling is proposed to be moved. Those portions applicable to the dwelling shall be highlighted. If the property contains no restrictions or covenants, a statement to that fact shall be submitted.
 3. Submit a proposed site plan containing the legal description where the dwelling is proposed to be moved.
 4. Submit the inspection report from the building inspector.
 5. Submit original clear photographs of the front, rear, and side elevations of the dwelling to be moved.
- C. Any person filing an application for a moving permit shall file with the City a liability insurance policy issued by the insurance company authorized to do business in this state and approved as to form by the City Attorney in the following amounts: \$250,000.00 per person, \$500,000.00 per accident, \$500,000.00 property damage.
 - D. When required by the building official, satisfactory evidence from a licensed pest control company that all nuisance pests have been exterminated from the structure.
 - E. Approval of the route and time of move by the City.
 - F. Approval from the planning and building services department concerning the moving of any building or structure in the historic district.

3410.5 Permit application. The application shall contain the date or dates of the moving of the building, house, or structure, a detailed statement setting forth the proposed route to be followed, the name of the person in charge of the move, the location of the premises to which the structure or building is to be moved, and an agreement that the applicant will immediately report any damage done by the moving operation to any public property and will indemnify and hold the City harmless from any claims or damages for injuries to persons or property resulting from the moving of the building or structure.

3410.6 Denial. If the applicant fails to agree or comply with the conditions as set forth herein or, in the judgment of the building official, the building or structure is in such a state of disrepair that it would not be safe to move the building or, if in the judgment of the City, the proposed move would result in an undue hazard to public traffic or undue damage to streets, sidewalks, trees, or other public property, the permit will be denied and reasons therefore endorsed upon the application.

3410.7 Restrictions on moving through streets. All moving of the building once started shall continue until completed, and no building shall be parked along the route unless deemed an emergency and approved by the City. The City may require police escorts, temporary removal of traffic devices, or may restrict or specify the day and hours during which the moving operation must be accomplished.

3410.8 Posting. Two moving placards must be posted on a visible location of opposite ends of the building being moved during the entire move, and the person moving the building must carry a signed duplicate of the permit.

3410.9 Escorts. Movers shall provide a front and rear escort for all movements.

3410.10 Flags. Red and orange flags, 12 inches by 12 inches, must be fastened to the rear corners of the moving structure.

3410.11 Notice to public service companies, cable TV operations, and the City of Beresford. Before moving any building, the building shall make arrangements with the police department forty-eight hours prior to the move if a police escort is required. The mover shall also give forty-eight hours notice to all City departments, public service operations, and cable TV operators whose wires, traffic control devices, or other appliances which affect the moving of such building of the time when the move is to take place and request and arrange for the passage of such building. Such building mover shall pay to the City and said corporation and operators the reasonable cost and expense of the work required to be done.

3410.12 Tampering with private property. The mover during all moves shall obey all laws pertaining to tampering with private property and vehicles on the street. Tampering with any wires or facilities belonging to private or public service companies is prohibited.

3410.13 Reporting damage. The building mover shall immediately report any damage done by the moving operation to any street, sidewalk, curb, utility equipment, tree sign, or other public or private property to the City Maintenance Supervisor.

3412.2 Applicability. Structures existing prior to _____, in which there is work involving additions, alterations, or changes of occupancy shall be made to comply with the requirements of this section or the provisions of Sections 3403 through 3409. The provisions in Sections 3412.2.1 through 3412.2.5 shall apply to existing occupancies that will continue to be, or are proposed to be, in Groups A, B, E, F, M, R, S, and U. These provisions shall not apply to buildings with occupancies in Group H or I.

CHAPTER 9.03 - RESIDENTIAL CODE

9.0301 Adopted. The International Residential Code, 2012 edition—including Appendix E, Appendix G, and Appendix H—as published by the International Code Council Inc. as amended is hereby adopted as the residential building code by the City of Beresford for regulating the design, construction, quality of materials, erection, installation, alteration, movement, repair, equipment, use and occupancy, location, removal, and demolition of detached one- and two-family dwellings and townhouses not more than three stories in height with a separate means of egress and their accessory structures, and provides for the issuance of permits and the collection of fees therefore. The minimum building standards in the 2012 edition of the International Residential Code and amendments thereto shall be applied to any building permit issued after (EFFECTIVE DATE).

A printed copy as amended is on file with the Beresford Finance Officer.

9.0302 Modifications by the City of Beresford to the 2012 International Residential Code. The following sections and subsections of the 2012 International Residential Code adopted in this Chapter shall be amended, added, or not adopted by the City as set forth below. All other sections or subsections of the 2012 International Residential Code as published shall remain the same as published.

R101.1 Title. These provisions shall be known as the *Residential Code for One- and Two-family Dwellings* of the City of Beresford, and shall be cited as such and will be referred to herein as “this code.”

R101.2 Scope. The provisions of the *International Residential Code for One- and Two-family Dwellings* shall apply to the construction, *alteration*, movement, enlargement, replacement, repair, equipment, use and occupancy, location, removal, and demolition of detached one- and two-family dwellings and townhouses not more than three stories above *grade plane* in height with a separate means of egress and their *accessory structures*.

Exceptions:

1. Live/work units complying with the requirements of Section 419 of the *International Building Code* shall be permitted to be built as one- and two-family *dwellings* or townhouses. Fire suppression required by Section 419.5 of the *International Building Code* when constructed under the *International Residential Code for One- and Two-family Dwellings* shall conform to Section 903.3.1.3 of the *International Building Code*.

R103.1 Enforcement officer. There is hereby created the position of *building official* who shall be in charge of this code.

R103.2 Appointment. The *building official* shall be appointed by the Mayor subject to approval by the City Council.

R104.8 Liability. The *building official* or employee charged with the enforcement of this code, while acting for the *jurisdiction* in good faith and without malice in the discharge of the duties required by this code or other pertinent law or ordinance, shall not thereby be rendered liable personally and is hereby relieved from personal liability for any damage accruing to persons or property as a result of any act or by reason of an act or omission in the discharge of official duties. Any suit instituted against an officer

or employee because of an act performed by that officer or employee in the lawful discharge of duties and under the provisions of this code shall be afforded all the protection provided by the City's insurance and any immunities and defenses provided by other applicable state and federal law. The *building official* or any subordinate shall not be liable for cost in any action, suit, or proceeding that is instituted in pursuance of the provisions of this code.

This code shall not be construed to relieve from or lessen the responsibility of any person owning, operating, or controlling any building or structure for any damages to persons or property caused by defects, nor shall the code enforcement agency or the City be held as assuming any such liability by reason of the inspection authorized by this code or any permits or certificates issued under this code.

R105.1 Required. Any owner or authorized agent who intends to construct, enlarge, alter, repair, move, demolish, or change the occupancy of a building or structure, or to erect, install, enlarge, alter, repair, remove, convert, or replace any electrical, gas, mechanical, or plumbing system, the installation of which is regulated by this code, or to cause any such work to be done, shall first make application to the *building official* and obtain the required *permit*. The building official may exempt permits for minor work.

R105.2 Work exempt from permit. *Permits* shall not be required for the following. Exemption from *permit* requirements of this code shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of this code or any other laws or ordinances of this *jurisdiction*.

Building:

1. One-story detached *accessory structures* used as tool and storage sheds, playhouses, and similar uses, provided the floor area does not exceed 200 square feet (18.58 m²).
2. Retaining walls that are not over 4 feet (1,219 mm) in height measured from the bottom of the grade elevation to the top of the wall, unless supporting a surcharge.
3. Water tanks supported directly upon *grade* if the capacity does not exceed 5,000 gallons (18,927 L) and the ratio of height to diameter or width does not exceed 2 to 1.
4. Painting, papering, tiling, carpeting, cabinets, counter tops, and similar finish work.
5. Prefabricated swimming pools that are less than 24 inches (610 mm) deep.
6. Swings and other playground equipment.
7. Window awnings supported by an exterior wall which do not project more than 54 inches (1,372 mm) from the exterior wall and do not require additional support.
8. Decks not exceeding 200 square feet (18.58 m²) in area, that are not more than 30 inches (762 mm) above *grade* at any point, are not attached to a *dwelling* and do not serve the exit door required by Section R311.4.
9. Replacement or repairing siding.

Electrical: Not adopted by the City of Beresford.

Gas: Not adopted by the City of Beresford.

Mechanical: Not adopted by the City of Beresford.

R106.1 Submittal documents. Submittal documents consisting of *construction documents* and other data shall be submitted with each application for a *permit*. The *construction documents* shall be prepared by a registered *design professional* where required by the statutes of the *jurisdiction* in which the project is to be constructed. Where special conditions exist, the *building official* is authorized to require additional *construction documents* to be prepared by a registered *design professional*.

Exception: The *building official* is authorized to waive the submission of *construction documents* and other data not required to be prepared by a registered *design professional* if it is found that the nature of the work applied for is such that reviewing of *construction documents* is not necessary to obtain compliance with this code.

R106.3.1 Approval of construction documents. When the *building official* issues a *permit*, the *construction documents* shall be submitted and reviewed. One set of *construction documents* so reviewed shall be retained by the *building official*.

R108.2 Schedule of permit fees. On buildings, structures or *alterations* requiring a *permit*, a fee for each *permit* shall be paid as required, in accordance with the schedule as established by the City. The fee schedule for the City of Beresford shall be set by resolution by the City Council.

R108.6 Work commencing before permit issuance. Any person who commences work requiring a *permit* on a building or structure before obtaining the necessary permits shall be subject to a fee established by resolution by the City Council that shall be in addition to the required *permit* fees. Legal and/or civil proceedings may also be commenced.

R108.7 Delinquent accounts. The administrative authority may refuse to issue permits or conduct inspections for any person or business whose account is delinquent.

R109.1.1 Footing inspection. Inspection of the footings shall be made after poles or piers are set or trenches or *basement* areas are excavated and any required forms erected and any required reinforcing steel is in place and supported prior to the placing of concrete. The footing inspection shall include excavations for thickened slabs intended for the support of bearing walls, partitions, structural supports, or *equipment* and special requirements for wood foundations.

R109.1.3 Floodplain inspections. For construction in areas prone to flooding as established by Chapter the Floodplain Management Ordinance upon placement of the lowest floor, including *basement*, and prior to further vertical construction, the floodplain administrator shall require submission of documentation, prepared and sealed by a registered *design professional*, of the elevation of the lowest floor, including *basement*, required in the Floodplain Management Ordinance.

R110.1 Use and occupancy. No building or structure shall be used or occupied, and no change in the existing occupancy classification of a building or structure or portion thereof shall be made until the *building official* has issued a certificate of occupancy therefor as provided herein. An inspection placard shall be posted on the electrical panel, which is signed after final inspections have occurred by the electrical inspector and plumbing inspector for new one- and two-family dwelling units and multiple single-family dwellings (townhouses). Issuance of a certificate of occupancy shall not be construed as an approval of a violation of the provisions of this code or of other ordinances of the City. Certificates presuming to give authority to violate or cancel the provisions of this code or other ordinances of the City shall not be valid.

Exceptions:

1. Certificates of occupancy are not required for work exempt from permits under Section R105.2.
2. Accessory buildings or structures.

R110.6 Placards. Placards or inspection record tags placed on the job by the inspectors to indicate approval of the work inspected shall not be removed, except when authorized by the building official.

R112.1 General. The City Council shall act as the 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 board in exercising its authority over house moving may deny the building request, or may require additional stipulations to be placed on the building permit to address the protection of the property values and neighborhood compatibility.

R112.2 Limitations on authority. An application for appeal shall be based on a claim that the true intent of this code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this code do not fully apply, or an equally good or better form of construction is proposed. 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.

R113.3 Prosecution of violation. If the notice of violation is not complied with in the time prescribed by such notice, the *building official* is authorized to request the City Attorney to deem the violation as a strict liability offense and institute the appropriate proceeding at law or in equity to restrain, correct, or abate such violation, or to require the removal or termination of the unlawful occupancy of the building or structure in violation of the provisions of this code or of the order or direction made pursuant thereto.

Section R202. Definitions. Add the following definition.

Strict liability offense. An offense in which the prosecution in a legal proceeding is not required to prove criminal intent as a part of its case. It is enough to prove that the defendant either did an act which was prohibited, or failed to do an act which the defendant was legally required to do.

Table R301.2(1)
Climatic and Geographic Design Criteria

1. Ground Snow Load (Footnote l).....	35 psf contour
2. Wind Speed (Footnote d).....	100 mph
3. Topographic Effects (Footnote k).....	no
4. Seismic Design Category (Footnote f).....	A
5. Weathering (Footnote a).....	Severe
6. Frost Line Depth (Footnote b).....	42 inches (1,067 mm)
7. Termite Damage (Footnote c).....	Slight to Moderate
8. Winter Design Temperature.....	-10 Degrees Fahrenheit
9. Ice Barrier Underlayment Requirement (Footnote i)	yes (one course ice barrier for 4/12 roof and steeper and two course ice barrier for less than 4/12 roof)
10. Flood Hazards (Footnote g) Beresford entered the regular phase of the National Flood Insurance Program on _____.	
11. Air Freezing Index (Footnote i)	3000

12. Mean Annual Temperature46 Degrees Fahrenheit

For SI: 1 pound per square foot = 0.0479 kPa, 1 mile per hour = 0.447 m/s.

- a. Weathering may require a higher strength concrete or grade of masonry than necessary to satisfy the structural requirements of this code. The weathering column shall be filled in with the weathering index (i.e., “negligible,” “moderate,” or “severe”) for concrete as determined from the Weathering Probability Map [Figure R301.2(3)]. The grade of masonry units shall be determined from ASTM C 34, C 55, C 62, C 73, C 90, C 129, C 145, C 216, or C 652.
- b. The frost line depth may require deeper footings than indicated in Figure R403.1(1). The jurisdiction shall fill in the frost line depth column with the minimum depth of footing below finish grade.
- c. The jurisdiction shall fill in this part of the table to indicate the need for protection depending on whether there has been a history of local subterranean termite damage.
- d. The jurisdiction shall fill in this part of the table with the wind speed from the basic wind speed map [Figure R301.2(4)]. Wind exposure category shall be determined on a site-specific basis in accordance with Section R301.2.1.4.
- e. The outdoor design dry-bulb temperature shall be selected from the columns of 97 1/2 percent values for winter from Appendix D of the *Plumbing Code*. Deviations from the Appendix D temperatures shall be permitted to reflect local climates or local weather experience as determined by the building official.
- f. The jurisdiction shall fill in this part of the table with the seismic design category determined from Section R301.2.2.1.
- g. To establish flood hazard areas, the City has adopted a flood hazard map and supporting data. The flood hazard map shall include, at a minimum, areas of special flood hazard as identified by the Federal Emergency Management Agency in an engineered report entitled “The Flood Insurance Study for the City of Beresford, South Dakota” dated _____, as amended or revised with the accompanying Flood Insurance Rate Map (FIRM) and Floodway Map (FBFM) and related supporting data along with any revisions thereto. The adopted flood hazard map and supporting data are hereby adopted by reference and declared to be part of this section. If there is a conflict between the provisions of this code and the City’s floodplain management ordinance, the provisions of the floodplain management ordinance shall prevail.
- h. In accordance with Sections R905.2.7.1, R905.4.3.1, R905.5.3.1, R905.6.3.1, R905.7.3.1, and R905.8.3.1, where there has been a history of local damage from the effects of ice damming, the jurisdiction shall fill in this part of the table with “YES.” Otherwise, the jurisdiction shall fill in this part of the table with “NO.”
- i. The jurisdiction shall fill in this part of the table with the 100-year return period air freezing index (BF-days) from Figure R403.3(2) or from the 100-year (99%) value on the National Climatic Data Center data table “Air Freezing Index- USA Method (Base 32°)” at www.ncdc.noaa.gov/fpsf.html.

- j. The jurisdiction shall fill in this part of the table with the mean annual temperature from the National Climatic Data Center data table “Air Freezing Index-USA Method (Base 32°F)” at www.ncdc.noaa.gov/fpsf.html.
- k. In accordance with Section R301.2.1.5, where there is local historical data documenting structural damage to buildings due to topographic wind speed-up effects, the jurisdiction shall fill in this part of the table with “YES.” Otherwise, the jurisdiction shall indicate “NO” in this part of the table.
- l. On roof systems that are not engineered, conventionally framed roof slopes with a rise of 3 inches (76.2 mm) or less to 12 inches (305 mm) shall be designed for a full or unbalanced snow load of not less than 30 pounds per square foot (1.44 kN/square meter) of horizontal projection. Where a roof system is designed to slope less than 1/4 inch (6.35 mm) per 12 inches (305 mm), a surcharge load of not less than 5 pounds per square foot (0.24 kN/square meter) in addition to the required live load due to snow shall be designed for.

Roof slopes with over 3 inches (76.2 mm) of rise per 12 inches (305 mm) shall be designed for a full or unbalanced snow load of not less than 25 pounds per square foot (1.2 kN/square meter) of horizontal projection.

Potential unbalanced accumulation of snow at valleys, parapets, roof structures, and offsets in roofs of uneven configuration shall be considered.

Table R301.5
Minimum Uniformly Distributed Live Loads
(in pounds per square foot)

USE	LIVE LOAD
Attics without storage ^b	10
Attics with limited storage ^{b, g}	20
Habitable attics and attics served with fixed stairs	30
Balconies (exterior) and decks ^e	40
Fire escapes	40
Guardrails and handrails ^d	200 ⁱ
Guardrails in-fill components ^f	50 ⁱ
Passenger vehicle garages ^a	50 ^a
Rooms	40

For SI: 1 pound per square foot = 0.0479 kPa, 1 square inch = 645 mm², 1 pound = 4.45 N.

- a. Elevated garage floors shall be capable of supporting a 2,000-pound load applied over a 20-square-inch area.
- b. Attics without storage are those where the maximum clear height between joist and rafter is less than 42 inches, or where there are not two or more adjacent trusses with the same web configuration capable of containing a rectangle 42 inches high by 2 feet wide, or greater,

located within the plane of the truss. For attics without storage, this live load need not be assumed to act concurrently with any other live load requirements.

- c. Individual stair treads shall be designed for the uniformly distributed live load or a 300-pound concentrated load acting over an area of 4 square inches, whichever produces the greater stresses.
- d. A single concentrated load applied in any direction at any point along the top.
- e. See Section R502.2.2 for decks attached to exterior walls.
- f. Guard in-fill components (all those except the handrail), balusters, and panel fillers shall be designed to withstand a horizontally applied normal load of 50 pounds on an area equal to 1 square foot. This load need not be assumed to act concurrently with any other live load requirement.
- g. For attics with limited storage and constructed with trusses, this live load need be applied only to those portions of the bottom chord where there are two or more adjacent trusses with the same web configuration capable of containing a rectangle 42 inches high or greater by 2 feet wide or greater, located within the plane of the truss. The rectangle shall fit between the top of the bottom chord and the bottom of any other truss member, provided that each of the following criteria is met.
 - 1. The attic area is accessible by a pull-down stairway or framed in accordance with Section R807.1.
 - 2. The truss has a bottom chord pitch less than 2:12.
 - 3. Required insulation depth is less than the bottom chord member depth.

The bottom chords of trusses meeting the above criteria for limited storage shall be designed for the greater of the actual imposed dead load or 10 psf, uniformly distributed over the entire span.
- h. Glazing used in handrail assemblies and guards shall be designed with a safety factor of 4. The safety factor shall be applied to each of the concentrated loads applied to the top of the rail, and to the load on the in-fill components. These loads shall be determined independent of one another, and loads are assumed not to occur with any other live load.

Table R302.1
Exterior Walls

Exterior Wall Element		Minimum Fire-Resistance Rating	Minimum Fire Separation Distance
Walls	(Fire-resistance rated)	1 hour tested in accordance with ASTM E 119 or UL 263 with exposure from both sides	<5 feet
	(Not fire-resistance rated)	0 hours	>5 feet
Projections	(Fire-resistance rated)	1 hour on the underside	< 3 feet
	(Not fire-resistance rated)	0 hours	> 3 feet
Openings	Not allowed	N/A	< 3 feet
	25% Maximum of Wall Area	0 hours	3 feet
	Unlimited	0 hours	5 feet
Penetrations	All	Comply with Section R317.3	< 5 feet
		None required	5 feet

N/A = Not Applicable

R310.1 Emergency escape and rescue required. Basements, habitable attics, and every sleeping room shall have at least one operable emergency escape and rescue opening and is provided with a bulkhead enclosure, the bulkhead enclosure shall comply with Section R310.3. The net clear opening dimensions required by this section shall be obtained by the normal operation of the emergency escape and rescue opening from the inside. Emergency escape and rescue openings with a finished sill height below the adjacent ground elevation shall be provided with a window well in accordance with Section R310.2. Emergency escape and rescue openings shall open directly into a public way, or to a *yard* or court that opens to a public way.

Exception: *Basements* used only to house mechanical *equipment* and not exceeding total floor area of 200 square feet (18.58 m²).

R310.1.1 Minimum opening area. All emergency escape and rescue openings shall have a minimum net clear opening of 5.0 square feet (0.465 m²).

R310.2.1 Ladder and steps. Window wells with a vertical depth greater than 48 inches (1,220 mm) shall be equipped with a permanently affixed ladder or steps usable with the window in the fully open position. Ladders or steps required by this section shall not be required to comply with Sections R311.7 and R311.8. Ladders or rungs shall have an inside width of at least 12 inches (305 mm), shall project at least 3 inches (76 mm) from the wall, and shall be spaced not more than 18 inches (457 mm) on center vertically for the full height of the window well.

R311.3.1 Floor elevations at the required egress doors. Landings or floors at the required egress door shall not be more than 1 1/2 inches (38 mm) lower than the top of the threshold.

Exception: The exterior landing or floor shall not be more than 8 inches (202 mm) below the top of the threshold provided the door does not swing over the landing or floor.

When exterior landings or floors serving the required egress door are not at *grade*, they shall be provided with access to *grade* by means of a ramp in accordance with Section R311.8 or a stairway in accordance with Section R311.7.

R311.3.2 Floor elevations for other exterior doors. Doors other than the required egress door shall be provided with landings or floors not more than 8 inches (202 mm) below the top of the threshold.

Exception: A landing is not required where a stairway of two or fewer risers is located on the exterior side of the door, provided the door does not swing over the stairway.

R311.7.8.2 Continuity. Handrails for stairways shall extend for the full length of the flight, from a point directly above the top riser of the flight to a point directly above the lowest riser of the flight. Handrail ends shall be returned or shall terminate in newel posts or safety terminals. Handrails adjacent to a wall shall have a space of not less than 1 1/2 inch (38 mm) between the wall and the handrails.

Exceptions:

1. Handrails shall be permitted to be interrupted by a newel post at the turn.
2. The use of a volute, turnout, starting easing, or starting newel shall be allowed over the lowest tread.

R311.7.8.3 Grip-size. All required handrails shall be of one of the following types or provide equivalent graspability.

1. Type I. Handrails with a circular cross section shall have an outside diameter of at least 1 1/4 inches (32 mm) and not greater than 2 inches (51 mm). If the handrail is not circular, it shall have a perimeter dimension of at least 4 inches (102 mm) and not greater than 6 1/4 inches (160 mm) with a maximum cross section of dimension of 2 1/4 inches (57 mm). Edges shall have a minimum radius of 0.01 inch (0.25 mm).
2. Type II. Handrails with a perimeter greater than 6 1/4 inches (160 mm) shall have a graspable finger recess area on both sides of the profile. The finger recess shall begin within a distance of 3/4 inch (19 mm) measured vertically from the tallest portion of the profile and achieve a depth of at least 5/16 inch (8 mm) within 7/8 inch (22 mm) below the widest portion of the profile. This required depth shall continue for at least 3/8 inch (10 mm) to a level that is not less than 1 3/4 inches (45 mm) below the tallest portion of the profile. The minimum width of the handrail above the recess shall be 1 1/4 inches (32 mm) to a maximum of 2 3/4 inches (70 mm). Edges shall have a minimum radius of 0.01 inch (0.25 mm).

Exception: Exterior stairs are allowed to have a horizontal 2X member to form a 1 1/2-inch graspable dimension in lieu of the above-referenced perimeter dimensions.

R312.3 Opening limitations. Required *guards* shall not have openings from the walking surface to the required *guard* height which allow passage of a sphere 5 inches (127 mm) in diameter.

Exception: The triangular openings at the open side of a stair, formed by the riser, tread, and bottom rail of a *guard*, shall not allow passage of a sphere 6 inches (153 mm) in diameter.

R313.1 Townhouse automatic fire sprinkler systems. Not adopted by the City of Beresford.

R313.1.1 Design and installation. Not adopted by the City of Beresford.

R313.2 One- and two-family dwellings automatic fire systems. Not adopted by the City of Beresford.

R313.2.1 Design and installation. Not adopted by the City of Beresford.

R314.3 Location. Smoke alarms shall be installed in the following locations:

1. In each sleeping room.
2. Outside each separate sleeping area in the immediate vicinity of the bedrooms.
3. On each additional *story* of the *dwelling*, including *basements* and habitable attics but not including crawl spaces and uninhabitable *attics*. In *dwellings* or *dwelling units* with split levels and without an intervening door between the adjacent levels, a smoke alarm installed on the upper level shall suffice for the adjacent lower level provided that the lower level is less than one full *story* below the upper level.
4. Where the ceiling height of a room is open to the hallway serving a bedroom exceeds that of the hallway by 24 inches (610 mm) or more, smoke detectors shall be installed in the hallway and in the adjacent room.

Exception. Hallways less than 4 feet (1,220 mm) in length are allowed to omit the smoke detector within the hallway adjacent to the bedrooms.

When more than one smoke alarm is required to be installed within an individual *dwelling* unit, the alarm devices shall be interconnected in such a manner that the actuation of one alarm will activate all of the alarms in the individual unit.

R314.3.1 Alterations, repairs, and additions. When *alterations*, repairs, or *additions* requiring a *permit* occur with a valuation in excess of \$1,000, or when one or more sleeping rooms are added or created in existing *dwellings*, the new individual *dwelling unit* shall be equipped with smoke alarms located as required for new *dwellings*.

Exceptions:

1. Work involving the exterior surfaces of *dwellings*, such as the replacement of roofing or siding, or the *addition* or replacement of windows or doors, or the *addition* of a porch or deck, are exempt from the requirements of this section.
2. Installation, *alteration*, or repairs of plumbing or mechanical systems are exempt from the requirements of this section.

R317.1 Location required. Protection of wood and wood based products from decay shall be provided in the following locations by the use of naturally durable wood or wood that is preservative-treated in accordance with AWPA U1 for the species, product, preservative, and end use. Preservatives shall be listed in Section 4 of AWPA U1.

1. Wood joists or the bottom of a wood structural floor when closer than 18 inches (457 mm) or wood girders when closer than 12 inches (305 mm) to the exposed ground in crawl spaces or unexcavated area located within the periphery of the building foundation.

2. All wood framing members that rest on concrete or masonry exterior foundation walls and are less than 6 inches (152 mm) from the exposed ground.
3. Sills and sleepers supporting bearing walls on a concrete or masonry slab that is in direct contact with the ground unless separated from such slab by an impervious moisture barrier.
4. The ends of wood girders entering exterior masonry or concrete walls having clearances of less than 1/2 inch (12.7 mm) on tops, sides, and ends.
5. Wood siding, sheathing, and wall framing on the exterior of a building having a clearance of less than 6 inches (152 mm) from the ground or less than 2 inches (51 mm) measured vertically from concrete steps, porch slabs, patio slabs, and similar horizontal surfaces exposed to the weather.
6. Wood structural members supporting moisture-permeable floors or roofs that are exposed to the weather, such as concrete or masonry slabs, unless separated from such floors or roofs by an impervious moisture barrier.
7. Wood furring strips or other wood framing members attached directly to the interior of exterior masonry walls or concrete walls below *grade* except where an *approved* vapor retarder is applied between the wall and the furring strips or framing members.

R319.1 Address numbers. New and existing buildings shall have *approved* address numbers, building numbers, or *approved* building identification placed in a position that is plainly legible and visible from the street or road fronting the property. These numbers shall contrast with their background. Address numbers shall be Arabic numbers or alphabetical letters. Numbers shall be a minimum of 4 inches (102 mm) high with a minimum stroke width of 1/2 inch (12.7 mm). Where access is by means of a private road and the building address cannot be viewed from the public way, a monument, pole, or other sign or means shall be used to identify the structure. Multi-building campus/complex developments addressed on private or public streets shall be provided with signage at the entrance to the campus/complex indicative of the address ranges within.

R401.3 Drainage. Surface drainage shall be diverted to a storm sewer conveyance or other *approved* point of collection that does not create a hazard or cause surface drainage to be diverted to or infiltrate the City's sanitary sewer system. *Lots* shall be graded to drain surface water away from foundation walls. The *grade* shall fall a minimum of 6 inches (152 mm) within the first 10 feet (3,048 mm).

Exceptions:

1. Where *lot lines*, walls, slopes, or other physical barriers prohibit 6 inches (152 mm) of fall within 10 feet (3,048 mm), the final grade shall slope away from the foundation at a minimum slope of 2 percent and the water shall be directed to drains or swales to ensure drainage away from the structure. Swales shall be sloped a minimum of 1 percent.
2. Impervious surfaces within 10 feet (3,048 mm) of the building foundation shall be sloped a minimum of 2 percent away from the building.

R403.1.4.1 Frost protection. Except where otherwise protected from frost, foundation walls, piers, and other permanent supports of buildings and structures shall be protected from frost by one or more of the following methods:

1. Extended below the frost line specified in Table R301.2.(1);
2. Constructing in accordance with Section R403.3;
3. Constructing in accordance with ASCE 32; or
4. Erected on solid rock.

Exceptions:

1. Protection of freestanding *accessory structures* with an area of 1,500 square feet (139 m²) or less, of light-frame construction, with an eave height of 10 feet (3,048 mm) or less shall not be required.
2. Protection of freestanding *accessory structures* with an area of 400 square feet (37 m²) or less, of other than light-frame construction, with an eave height of 10 feet (3,048 mm) or less shall not be required.
3. Decks not supported by a dwelling need not be provided with footings that extend below the frost line.

Footings shall not bear on frozen soil unless the frozen condition is permanent.

R404.4 Retaining walls. Retaining walls that are not laterally supported at the top and that retain in excess of 48 inches (1,220 mm) of unbalanced fill shall be designed to ensure stability against overturning, sliding, excessive foundation pressure, and water uplift. Retaining walls shall be designed for a safety factor of 1.5 against lateral sliding and overturning.

R502.3.1 Sleeping areas and attic joists. Table R502.3.1(1) shall be used to determine the maximum allowable span of floor joists that support sleeping areas and *attics* that are accessed by means of a fixed stairway in accordance with Section R311.7, provided that the design live load does not exceed 40 pounds per square foot (1.92 kPa) and the design dead load does not exceed 20 pounds per square foot (0.96 kPa). The allowable span of ceiling joists that support *attics* used for limited storage or no storage shall be determined in accordance with Section R802.4.

TABLE R602.3(1) FASTENER SCHEDULE FOR STRUCTURAL MEMBERS; Row 5

Description of Building Elements	Number and Type of Spacing of Fastener a, b, c, d	Spacing of
Top or sole plate to stud, end nail	2-12d (3½" x 0.135)	--

R703.2.1 Weather-resistive sheathing papers. House wraps or weather-resistive sheathing papers consisting of spun bonded olefin sheets of high density polyethylene fibers are required to be installed on the exterior side of the sheathing material directly underneath the exterior veneer.

R907.3 Recovering versus replacement. New roof coverings shall not be installed without first removing all existing layers of roof coverings where any of the following conditions exist:

1. Where the existing roof or roof covering is water-soaked or has deteriorated to the point that the existing roof or roof covering is not adequate as a base for additional roofing.

2. Where the existing roof covering is wood shake, slate, clay, cement, or asbestos-cement tile.
3. Where the existing roof has two or more applications of any type of roof covering.

Exceptions:

1. Complete and separate roofing systems, such as standing-seam metal roof systems, that are designed to transmit the roof loads directly to the building's structural system and that do not rely on existing roofs and roof coverings for support, shall not require the removal of existing roof coverings.
2. Installation of metal panel, metal shingle, and concrete and clay tile roof coverings over existing wood shake roofs shall be permitted when the application is in accordance with Section R907.4.
3. The application of new protective coating over existing spray polyurethane foam roofing systems shall be permitted without tear-off of existing roof coverings.

M1305.1.4.1 Ground clearance. *Equipment* and *appliances* supported from the ground shall be level and firmly supported on a concrete slab or other *approved* material extending not less than 1 1/2 inches (38 mm) above the adjoining ground. Such support shall be in accordance with the manufacturer's installation instructions. *Appliances* suspended from the floor shall have a clearance of not less than 6 inches (152 mm) from the ground.

M1403.1 Heat pumps. The minimum unobstructed total area of the outside and return air ducts or openings to a heat pump shall be not less than 6 square inches per 1,000 Btu/h (13,208 mm²/kW) output rating or as indicated by the conditions of the listing of the heat pump. Electric heat pumps shall conform to UL 1995.

M1403.2 Foundations and supports. Not adopted by the City of Beresford.

M1411.5 Insulation of refrigerant piping. Piping and fittings for refrigerant vapor (suction) lines shall be insulated with insulation having a thermal resistivity of at least R-2 and having external surface permeance not exceeding 0.05 perm [2.87 ng/(s - m² - Pa)] when tested in accordance with ASTM E 96.

M1502.4.4.1 Specified length. The maximum length of the exhaust duct shall be 35 feet (10668 mm) from the connection to the transition duct from the dryer to the outlet terminal. Where fittings are used, the maximum length of the exhaust duct shall be reduced in accordance with Table M1502.4.4.1.

Section M1508. Subslab Soil Exhaust Systems.

M1508.1 General. When a subslab soil exhaust system is provided, the duct shall conform to the requirements of this section.

M1508.2 Materials. Subslab soil exhaust system duct material shall be air duct material listed and labeled to the requirements of UL 181 for Class 0 air ducts, or any of the following piping materials that comply with the *International Plumbing Code* as building sanitary drainage and vent pipe: cast iron; galvanized steel; brass or copper pipe; copper tube of a weight not less than that of copper drainage tube, Type DWV; and plastic piping.

M1508.3 Grade. Exhaust system ducts shall not be trapped and shall have a minimum slope of 1/8 unit vertical in 12 units horizontal (1-percent slope).

M1508.4 Termination. Subslab soil exhaust system ducts shall extend through the roof and terminate at least 6 inches (152 mm) above the roof and at least 10 feet (3,048 mm) from any operable openings or air intake.

Table M1601.1.1(2)
Gages of Metal Ducts and Plenums Used for Heating or Cooling

Duct Size	Minimum Thickness Inches and (mm)	Equivalent Galvanized Sheet No.	Minimum Thickness (In.)
Round ducts and enclosed rectangular ducts	0.0157 (0.3950 mm)		
14 inches or less	0.0187 (0.4712 mm)	30	0.0175
>14 to 18 inches	0.0236 (0.6010 mm)	26	0.018
>18 inches and over		24	0.023
Exposed rectangular ducts	0.0157 (0.3950 mm)	28	0.0175
14 inches or	0.0187 (0.4712 mm)	26	0.018
Over 14 ² inches			

For SI: 1 inch = 25.4 mm.

- a. For duct gages and reinforcement requirements at static pressures of 1/2 inch, 1 inch and 2 inches w.g., SMACNA Duct Construction Standard Tables 2-1:2-2 and 2-3 shall apply.

M1601.2 Factory-made ducts. Factory-made air ducts or duct material shall be *approved* for the use intended, and shall be installed in accordance with the manufacturer's installation instructions. Each portion of a factory-made air *duct system* shall bear a *listing* and *label* indicating compliance with UL 181 and UL 181A or UL 181B.

Flexible air ducts shall be limited in length to 14 feet. Flexible air connectors are not allowed.

M1601.4.3 Support. Metal ducts shall be supported by 1/2-inch (13 mm) wide 18-gage, 1-inch (25 mm) wide 24 gage, or 1 1/2-inch (39 mm) wide 26 gage metal straps or 12-gage galvanized wire at intervals not exceeding 10 feet (3,048 mm) or other *approved* means. Nonmetallic ducts shall be supported in accordance with the manufacturer's installation instructions.

G2407.6 (304.6) Outdoor combustion air. Outdoor *combustion* air shall be provided through opening(s) to the outdoors in accordance with Section G2407.6.1, G2407.6.2, or G2407.6.3. The minimum dimension of air openings shall be not less than 3 inches (76 mm).

Combustion air intake openings located on the exterior of a building shall have the lowest side of such openings located not less than 12 inches (305 mm) vertically from the adjoining grade level.

Combustion air intake opening shall be located a minimum of 3 feet from a gas meter.

G2407.6.3 Alternate combustion air sizing. As an alternate to the above-referenced combustion air openings, the net free area of openings, ducts, or plenums supplying air to an area containing fuel-burning appliances shall be as specified below.

When all air is taken from the outdoors for appliances and the total input of the appliances is less than 300,000 Btu/hr (1,704,000 W/ meters squared K), one outside air duct may be used and shall terminate below the draft hood. An exterior opening may be used in place of a duct provided that it is located at least 1 foot below the draft hood.

**Combustion Air Requirements for Appliances Requiring an Outside Air Opening in
Areas with 5,000 degrees Fahrenheit
(2,777 degrees Celsius) or Greater Heating Days**

Total Input of Appliances Thousands of Btu/hr	Required Free Area of Air Supply Opening or Duct, Square Inches	
25 (26.4 KJ/h)	7 (4,516 mm ²)	1. For total inputs that fall between the listing figures, use the next largest listed input.
50 (52.8 KJ/h)	7 (4,516 mm ²)	
75 (79.1 KJ/h)	11 (7,097 mm ²)	
100 (106 KJ/h)	14 (9,032 mm ²)	
125 (132 KJ/h)	18 (11,610 mm ²)	
150 (158 KJ/h)	22 (14,190 mm ²)	
175 (185 KJ/h)	25 (16,130 mm ²)	
200 (211 KJ/h)	29 (18,710 mm ²)	
225 (237 KJ/h)	32 (20,650 mm ²)	
250 (264 KJ/h)	36 (23,230 mm ²)	
275 (290 KJ/h)	40 (25,810 mm ²)	2. These
300 (317 KJ/h)	43 (27,740 mm ²)	

figures are based on the maximum equivalent duct length of 20 feet (6.1 m). For equivalent duct lengths in excess of 20 feet (6.1 m) to and including a maximum of 50 feet (15.2 m), increase round duct diameter by one size. A square or rectangular duct may be used only where the required duct size is 9 square inches (5,800 mm²) or larger and the smaller dimension must be not less than 3 inches (76.2 mm).

G2427.4.1 Plastic piping. Plastic *piping* used for venting *appliances* listed for use with such venting materials shall be *approved*.

Plastic pipe and fittings used to vent appliances shall be installed in accordance with the pipe manufacturer's installation instructions and the appliance manufacturer's installation instructions. Solvent cement joints between ABS pipe and fittings shall be cleaned. Solvent cement joints between CPVC and PVC pipe and fittings shall be primed. The primer shall be a contrasting color.

Exception: Where compliance with this section would conflict with the appliance manufacturer's installation instructions.

Part VII—Plumbing. Not adopted by the City of Beresford.

Part VIII—Electrical. Not adopted by the City of Beresford.

AG102.1 General. For the purposes of these requirements, the terms used shall be defined as follows and as set forth in Chapter 2.

ABOVE-GROUND/ON-GROUND POOL. See “Swimming pool.”

BARRIER. A fence, wall, building wall, or combination thereof which completely surrounds the swimming pool and obstructs access to the swimming pool.

HOT TUB. See “Swimming pool.”

IN-GROUND POOL. See “Swimming pool.”

RESIDENTIAL. That which is situated on the premises of a detached one- or two-family dwelling or a one-family *townhouse* not more than three stories in height.

SPA, NONPORTABLE. See “Swimming pool.”

SPA, PORTABLE. A nonpermanent structure intended for recreational bathing, in which all controls, water-heating, and water-circulating *equipment* are an integral part of the product.

SWIMMING POOL. Any structure intended for swimming or recreational bathing that contains water over 18 inches (457 mm) deep. This includes in-ground, above-ground and on-ground swimming pools, hot tubs, and spas.

SWIMMING POOL, INDOOR. A swimming pool which is totally contained within a structure and surrounded on all four sides by the walls of the enclosing structure.

SWIMMING POOL, OUTDOOR. Any swimming pool which is not an indoor pool.

AG105.1 Application. The provisions of this chapter shall control the design of barriers for residential swimming pools, spas, and hot tubs. These design controls are intended to provide protection against potential drownings and near drownings by restricting access to swimming pools, spas, and hot tubs.

This requirement shall be applicable to all new swimming pools hereafter constructed, other than indoor pools, and shall apply to all existing pools, which have a depth of 18 inches (457 mm) or more of water. No person in possession of land within the City, either as owner, purchaser, lessee, tenant, or a licensee, upon which is situated a swimming pool having a depth of 18 inches (457 mm) or more shall fail to provide and maintain such barrier as herein provided.

AG105.2 Outdoor swimming pool. An outdoor swimming pool, including an in-ground, aboveground or on-ground pool, hot tub, or spa shall be surrounded by a barrier that shall be installed, inspected, and approved prior to filling with water that completely surrounds and obstructs access to the swimming pool, which shall comply with the following:

1. The top of the barrier shall be at least 42 inches (1,067 mm) above *grade* measured on the side of the barrier which faces away from the swimming pool. The maximum vertical clearance between grade and the bottom of the barrier shall be 2 inches (51 mm) measured on the side of the barrier which faces away from the swimming pool. Where the top of the pool structure is

above grade, such as an above-ground pool, the barrier may be at ground level, such as the pool structure, or mounted on top of the pool structure. Where the barrier is mounted on top of the pool structure, the maximum vertical clearance between the top of the pool structure and the bottom of the barrier shall be 4 inches (102 mm).

2. Openings in the barrier shall not allow passage of a 4-inch-diameter (102 mm) sphere.
3. Where an aboveground pool structure is used as a barrier or where the barrier is mounted on top of the pool structure, and the means of access is a ladder or steps, then:
 - 3.1. The ladder or steps shall be capable of being secured, locked, or removed to prevent access; or
 - 3.2. The ladder or steps shall be surrounded by a barrier, which meets the requirements of Item 1 above. When the ladder or steps are secured, locked, or removed, any opening created shall not allow the passage of a 4-inch-diameter (102 mm) sphere.
4. All gates or door openings through the barrier shall be equipped with self-closing and self-latching devices for keeping the door or gate securely closed at all times when the pool is not in actual use, except that the door of any dwelling that form part of the enclosure need not be so equipped.

AG105.3 Indoor swimming pool. Not adopted by the City of Beresford.

AG105.4 Prohibited Locations. Not adopted by the City of Beresford.

AG105.5 Barrier exceptions. Spas or hot tubs with a safety cover which complies with ASTM F 1346, as listed in Section AG107, shall be exempt from the provisions of this appendix.

Modifications in individual cases, upon a showing of good cause with respect to height, nature, or location of a fence, wall, gates, or latches, or the necessity thereof, may be made by the building official, provided the protection as sought hereunder is not reduced thereby. The building official may grant permission for other protective devices or structures to be used as long as the degree of protection afforded by this substitute device or structure is not less than the protection afforded by the wall, fence, gate, and latch described herein. A reasonable period within which to comply with the requirements of this section for existing swimming pools shall be allowed, which period shall not exceed 90 days after notification by the building official.

CHAPTER 9.04 - PROPERTY MAINTENANCE CODE

- 9.0401 Adopted. The *International Property Maintenance Code*, 2012 edition, published by the International Code Council, as amended, is hereby adopted as the Property Maintenance Code 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 jurisdiction 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 2012

International Property Maintenance Code will become effective after (_____).

A printed copy as amended is on file with the City Finance Officer.

9.0402 Amendments, additions, and deletions to the 2012 International Property Maintenance Code. The following sections and subsections of the property maintenance code adopted in this article shall be amended, added, or deleted as follows. All other sections or subsections of the 2012 International Property Maintenance Code shall remain the same.

101.1 Title. These regulations shall be known as the *Property Maintenance Code* of City of Beresford, South Dakota hereinafter referred to as “this code.”

102.3 Application of other codes. Repairs, additions or alterations to a structure, or changes of occupancy, shall be done in accordance with the procedures and provisions of the *International Building Code, International Residential Code, Uniform Plumbing Code, National Electrical Code, Uniform Mechanical Code*, and NFPA 70. Nothing in this code shall be construed to cancel, modify or set aside any provision of the *Zoning Ordinance* of the City of Beresford, South Dakota.

103.2 Appointment. The Building Inspector or his or her designee is designated as the *code officials* and shall enforce the provisions of this code.

103.4 Liability. The *code official*, member of the board of appeals or employee charged with the enforcement of this code, while acting for the jurisdiction, in good faith and without malice in the discharge of the duties required by this code or other pertinent law or ordinance, shall not thereby be rendered liable personally, and is hereby relieved from 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 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 *code official* or any subordinate shall not be liable for costs in an action suit or proceeding that is instituted in pursuance of the provisions of this code.

103.5 Fees. The fees for building permits, activities and services performed by the department in carrying out its responsibilities under this code shall be as established by resolution of the City Council.

In addition, an administrative fee of \$250 may be assessed for the preparation of bids and contracts to correct or abate a violation.

107.7 Extension of time agreement. If the code official determines that an extension of time will not create or perpetuate a situation imminently dangerous to life or property, the code 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.

110.1 General. The *code official* shall order the *owner* of any *premises* upon which is located any structure, which in the *code official* judgment after review is so deteriorated or dilapidated or has become so out of repair as to be dangerous, unsafe, insanitary or otherwise unfit for human habitation or occupancy, and such that it is unreasonable to repair the structure, to demolish and remove such structure; or if such structure is capable of being made safe by repairs, to repair and make safe and sanitary, or to board up and hold for future repair or to demolish and remove at the *owner's* option; or where there has been a cessation of normal construction of any structure for a period of more than 18 months, the *code official* shall order the *owner* to demolish and remove such structure.

SECTION 111 MEANS OF APPEAL. This section is deleted in its entirety and replaced with the following:

Section 111.1 Application for appeal. Any person directly affected by a decision of the Code Official or a Notice and Order issued under this code shall have the right to appeal such Notice and Order to the Beresford City Council, provided that a written application for appeal is filed within 20 days after the day a decision, notice or order was served. An application for appeal shall be based upon 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 that the requirements of this code are adequately satisfied by other means. An application for appeal will be deemed timely filed if filed in the office of the City Finance Officer at Beresford City Hall within the timeframe set forth hereinabove.

Section 111.2 Appeal hearing. Upon receipt of a properly filed application for appeal, the Beresford City Council shall hear the appeal within 30 days after the date of the filing of the application for appeal at a regularly scheduled meeting of the Beresford City Council or a special meeting of the Beresford City Council which is properly noticed under South Dakota law. At the hearing before the Beresford City Council, the appellant, the appellant's representative, the Code Official and any person whose interests are affected shall be given an opportunity to be heard.

Section 111.3 Council decision. At the close of the hearing or at the next regularly scheduled council meeting, the City Council shall uphold, modify or reverse the Notice and Order of the Code Official. Notice of said decision shall be sent, in writing, to the appellant and the Code Official at their last known addresses.

Section 111.4 Court review. The decision of the Beresford City Council is subject to judicial review by the circuit court as provided for in the Codified Laws of the State of South Dakota.

Section 111.5 Stays of enforcement. Any appeals filed on notice and orders, other than Imminent Danger notices, shall stay the enforcement of the notice and order until the appeal is heard by the appeals board. If an Imminent Danger notice is issued by the Code Official and upheld on an appeal, the Code Official may take immediate action to insure compliance with the Immediate Danger notice. All other notice and orders shall be enforced by the Code Official upon exhaustion of all appeals by the appellant.

112.4 Failure to comply. Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be subject to administrative citations through the code enforcement process.

201.3 Terms defined in other codes. Where terms are not defined in this code and are defined in the *International Building Code*, *International Residential Code*, *Uniform Plumbing Code*, *National Electrical Code*, *Municipal and Zoning Code* of the City of Beresford, *Uniform Mechanical Code*, or NFPA 70, such terms shall have the meanings ascribed to them as stated in those codes.

302.4 Weeds. All *premises* and *exterior property* shall be maintained free from weeds or plant growth pursuant to Title 3 of the City of Beresford Municipal Code.

302.8 Motor vehicles. Abandoned and inoperative vehicles shall be regulated by Title 7 of the City of Beresford Municipal Code.

302.9 Defacement of property. Placement of graffiti shall be regulated by Title 3 and Title 5 of the City of Beresford Municipal Code.

303.2 Enclosures. Private swimming pools, hot tubs and spas, containing water more than 24 inches (610 mm) in depth shall be completely surrounded by a fence or barrier at least 44 inches (1,066 mm) 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. Self-closing and self-latching gates shall be maintained such that the gate will positively close and latch when released from an open position. No existing pool enclosure shall be removed, replaced or changed in a manner that reduces its effectiveness as a safety barrier.

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

304.14 Insect screens. During the period from April 1 to September 30, every door, window and other outside opening required for *ventilation* of habitable rooms, food preparation areas, food service areas or any areas where products to be included or utilized in food for human consumption are processed, manufactured, packaged or stored shall be supplied with *approved* tightly fitting screens of not less than 16 mesh per inch (16 mesh per 25 mm), 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.

308.2 Disposal of rubbish. Every *occupant* of a structure shall dispose of all *rubbish* pursuant to Title 3 of the City of Beresford Municipal Code.

308.2.1 Rubbish storage facilities. The *owner* of every occupied *premises* shall supply *approved* covered containers for *rubbish*, and the *owner* of the *premises* shall be responsible for the removal of *rubbish* in accordance with Title 3 of the City of Beresford Municipal Code.

308.2.2 Refrigerators. Refrigerators, iceboxes or other similar airtight containers or equipment not in operation shall not be discarded, abandoned or stored on *premises* in accordance with Title 3 of the City of Beresford Municipal Code.

308.3 Disposal of garbage. Every *occupant* of a structure shall dispose of garbage in a clean and sanitary manner by placing such garbage in an *approved* garbage disposal facility or *approved* garbage containers in accordance with Title 3 of the City of Beresford Municipal Code.

308.3.1 Garbage facilities. Every dwelling shall be supplied with an *approved* leak-proof, covered, outside garbage container in accordance with Title 3 of the City of Beresford Municipal Code.

308.3.2 Containers. The *operator* of every establishment producing garbage shall provide, and at all times cause to be utilized, *approved* leak-proof containers provided with close-fitting covers for the

storage of such materials until removed from the *premises* for disposal in accordance with Title 3 of the City of Beresford Municipal Code.

402.1 Habitable spaces. Every *habitable space* shall have at least one window of *approved* size facing directly to the outdoors or to a court. The minimum total glazed area for every *habitable space* shall be 8 percent of the floor area of such room. Wherever walls or other portions of a structure face a window of any room and such obstructions are located less than 3 feet (914 mm) from the window and extend to a level above that of the ceiling of the room, such window shall not be deemed to face directly to the outdoors nor to a court and shall not be included as contributing to the required minimum total window area for the room.

Exception:

1. Where natural light for rooms or spaces without exterior glazing areas is provided through an adjoining room, the unobstructed opening to the adjoining room shall be at least 8 percent of the floor area of the interior room or space, but not less than 25 square feet (2.33 m²). The exterior glazing area shall be based on the total floor area being served.
2. The glazed areas need not be provided in rooms where artificial light is provided capable of producing an average illumination of six footcandles (6.46 lux) over the area of the room at a height of 30 inches (762 mm) above the floor level.

404.5 Overcrowding. The number of persons occupying a *dwelling unit* shall not create conditions that, in the opinion of the *code official or City Council*, endanger the life, health, safety or welfare of the *occupants*.

505.1 General. Every sink, lavatory, bathtub or shower, drinking fountain, water closet or other plumbing fixture shall be properly connected to either a public water system or to an *approved* private water system. All kitchen sinks, lavatories, laundry facilities, bathtubs and showers shall be supplied with hot or tempered and cold running water in accordance with the applicable *South Dakota Plumbing Commission Code*.

602.2 Residential occupancies. Dwellings shall be provided with heating facilities capable of maintaining a room temperature of 68°F (20°C) in all habitable rooms, *bathrooms* and *toilet rooms*. Cooking appliances shall not be used to provide space heating to meet the requirements of this section.

602.3 Heat supply. Every *owner* and *operator* of any building who rents, leases or lets one or more *dwelling units* or *sleeping units* on terms, either expressed or implied, to furnish heat to the *occupants* thereof shall supply heat during the period from September 1st to April 30th to maintain a temperature of not less than 68°F (20°C) in all habitable rooms, *bathrooms* and *toilet rooms*.

Exception:

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.

602.4 Occupiable work spaces. Indoor occupiable work spaces shall be supplied with heat during the period from September 1st to April 30th to maintain a temperature of not less than 65°F (18°C) during the period the spaces are occupied.

Exceptions:

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

CHAPTER 9.05 - ZONING REGULATIONS

(See Appendix A)

CHAPTER 9.06 - SUBDIVISION REGULATIONS

(See Appendix B)

TITLE 10 - TAXATION

Chapter 10.01 - Municipal Sales and Service Tax and Use Tax

Chapter 10.02 - Gross Receipts Tax

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 Beresford, Union and Lincoln Counties, 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, 2005, 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 Beresford, Union and Lincoln Counties, 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, 2005, at the same rate as the municipal sales and service tax upon all transactions or use, storage and consumption which are subject to the South Dakota Use Tax Act, SDCL 10-46, and acts amendatory thereto.
- 10.0104 Collection. Such tax is levied pursuant to authorization granted by SDCL 10-52 and acts amendatory thereto, and shall be collected by the South Dakota Department of Revenue and Regulation in accordance with the same rules and regulations applicable to the State Sales Tax and under such additional rules and regulations as the Secretary of Revenue and Regulation of the State of South Dakota shall lawfully prescribe.
- 10.0105 Interpretation. It is declared to be the intention of this Chapter and the taxes levied hereunder that the same shall be interpreted and construed in the same manner as all sections of the South Dakota Retail Occupational Sales and Service Act, SDCL 10-45 and acts amendatory thereto and the South Dakota Use Tax, SDCL 10-46 and acts amendatory thereto, and that this shall be considered a similar tax except for the rate thereof to that tax.

CHAPTER 10.02 - GROSS RECEIPTS TAX

- 10.0201 Purpose. The purpose of this Chapter is to provide additional needed revenue for the Municipality of Beresford, Union and Lincoln Counties, South Dakota, by imposing a municipal gross receipts tax pursuant to the powers granted to the municipality by the State of South Dakota, by SDCL 10-52A, and acts amendatory thereto.

- 10.0202 Effective Date. From and after the first day of January, 2005, there is hereby imposed a municipal gross receipts tax of One Percent (1%) upon the gross receipts from the sale of leases or rentals of hotel, motel, campsites or other lodging accommodations within the municipality for periods of less than twenty-eight (28) consecutive days, the sale of alcoholic beverages as defined in SDCL 35-1-1, establishments where the public is invited to eat, dine or purchase and carry out prepared food for immediate consumption, and ticket sales or admissions to places of amusement, athletic and cultural events. The tax applies to the gross receipts of all persons engaged in business within the jurisdiction of the Municipality of Beresford, Union and Lincoln Counties, South Dakota, who are subject to the South Dakota Retail Occupational Sales and Service Tax, SDCL 10-45 and acts amendatory thereto.
- 10.0203 Collection. Such tax is levied pursuant to authorization granted by SDCL 10-52A and acts amendatory thereto, and shall be collected by the South Dakota Department of Revenue and Regulation in accordance with the same rules and regulations applicable to the State Sales Tax and under such additional rules and regulations as the Secretary of Revenue of the State of South Dakota shall lawfully prescribe.
- 10.0204 Interpretation. It is declared to be the intention of this Chapter and the taxes levied hereunder that the same shall be interpreted and construed in the same manner as all sections of the South Dakota Retail Occupational Sales and Service Tax, SDCL 10-45 and acts amendatory thereto and the South Dakota Use Tax, SDCL 10-46 and acts amendatory hereto, and that this shall be considered a similar tax except for the rate thereof to that tax.
- 10.0205 Use of Revenue. Any revenues received under this Chapter may be used only for the purpose of land acquisition, architectural fees, construction costs, payment for civic center, auditoriums or athletic facility buildings, including the maintenance, staffing and operations of such facilities, and the promotion and advertising of the municipality, its facilities, attractions and activities.

CHAPTER 10.03 - URBAN AND RURAL SERVICE DISTRICTS

- 10.0301 Service Districts Established. Pursuant to the authority granted in SDCL ch. 9-21A, the City is hereby divided in area into an urban service district and a rural service district constituting separate taxing districts for the purpose of levying all City ad valorem property taxes, except those levied for the payment of bonds.
- 10.0302 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 a fine not exceeding five hundred dollars or by imprisonment for a period not exceeding thirty days or both such fine and imprisonment. Each day in which a violation of this Code or other ordinance continues shall constitute a separate offense. (SDCL 9-19-3)
- 11.0102 Conflicting Ordinances Repealed. All former ordinances or parts of former ordinances in conflict with the provisions of this ordinance or relating to the subject matter of this ordinance, except as stated in this chapter, are hereby repealed; provided however, that nothing herein shall be construed as repealing any special ordinances, appropriation ordinances, franchise ordinances establishing fees and charges, levy ordinances for the issuance of bonds, or special ordinances of like character, nor shall this ordinance repeal or modify the provisions of any zoning ordinances or any other ordinances requiring a special method of adoption, nor shall this ordinance repeal or modify the provisions of any resolution heretofore adopted by the City of Beresford unless the provisions of this ordinance either modify, repeal, or amend such resolution; and all such ordinances and resolutions shall remain in full force and effect.
- 11.0103 Unconstitutionality. Should any section, paragraph, sentence, clause or phrase of this ordinance be declared unconstitutional or invalid for any reason, the remainder of this ordinance shall not be affected thereby.
- 11.0104 Publication and Effect. This ordinance shall take effect immediately upon its adoption and publication of the notice of such adoption as provided by SDCL 9-19-17.