

REVISED

MUNICIPAL ORDINANCES

CITY OF VIBORG, SOUTH DAKOTA

Ordinance No. 2009-02

Effective Date: August 12, 2009

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

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

ORDINANCE # _____

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

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

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

First Reading: _____

Second Reading and Adoption: _____

Publication Dates: _____ & _____

Effective Date: _____

Signed:
Mayor, City of Viborg

ATTEST:

Casey Van Beek
Finance Officer, City of Viborg

Seal

NOTICE OF ADOPTION

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

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

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

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

Casey Van Beek
Finance Officer

(Publication Dates: _____ & _____, 2009)

MUNICIPAL ORDINANCES

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

This Ordinance in Revision of the Municipal Ordinances of the City of Viborg, South Dakota, is a revision of the Ordinances of the City heretofore adopted, except special ordinances, appropriation ordinances, levying ordinances for the issuance of bonds, and other special ordinances of like character. Such ordinances not included in this revision and still having force and effect may be found in the office of the Municipal Finance Officer.

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

City or the City	The City of Viborg, South Dakota.
City Council	The Council of the City of Viborg, South Dakota, constituting the governing body of the City.
he, his, or him	Words imparting the masculine gender shall extend and be implied to females and to firms, partnerships, associations and corporations, as well as to males.

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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 - Library Board

CHAPTER 1.01 - MUNICIPAL EMPLOYEES

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

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 four years, and six aldermen, two elected from each ward, who shall hold office for three years. (SDCL 9-8-1, 4)
- 1.0202 Regular Meetings. On the first Monday of each month at 7:00 p.m., or at such other time as may be determined by the Mayor, the City Council shall meet at the City Hall or other designated place, to consider, take under advisement, and act upon such business as may come before it. (SDCL 9-8-8)
- 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 sign or veto any

ordinance or resolution passed by the City Council, and the power to veto any part or item of an ordinance or resolution appropriating money. (SDCL 9-8-1, 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 members a president and vice-president, who shall hold their respective offices for the municipal year.

The president of the council, in the absence of the mayor, shall be the presiding officer of the council, and during the absence of the mayor from the city or his temporary disability, shall be acting mayor and possess all of 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 Aldermen are to be allowed compensation as set by resolution of the City Council. Compensation of the Mayor and Aldermen as herein set forth shall be paid at such times as may be decided upon by the City Council. (SDCL 9-14-28)

- 1.0206 Supervision of Departments. The Mayor, with approval of the City Council, shall appoint each year three members of the Council to act in a supervisory capacity in each of the departments of street, water and sewer, park and recreation, police and fire and any other departments of the City, and such council members, so appointed, shall have supervision over the department and shall as requested by the Council, report as to the condition and matters in said department.

- 1.0207 Special Meetings of City Council. Special meetings of the City Council may be called by the Mayor or by any two (2) members of the City Council at any time to consider only such matters that shall be mentioned in the call for such meeting by notice thereof given to each member of the board.

CHAPTER 1.03 - FINANCE REGULATIONS

- 1.0301 Purchase of Supplies. All materials and supplies shall, when received, be checked and signed for by the persons receiving the same, and a bill showing the name of the creditor and each article with the price thereof shall be filed with the Finance Officer. (SDCL 9-14-17)

- 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 the City and shall keep such accounts and

furnish in such form and in such manner from time to time as required by the Department of Revenue of the State of South Dakota. (SDCL 9-14-18)

- 1.0303 Capital Replacement Reserve Fund. A Capital Replacement Reserve Fund pursuant to SDCL 9-21-31 shall be established to accumulate funds for acquisition, replacement, improvement and remodeling of general fixed assets of the City of Viborg.
- 1.0304 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.

CHAPTER 1.04 - LIBRARY BOARD

- 1.0401 Establishment. There shall be maintained a City Library Board of Trustees for the Viborg Public Library, as prescribed in Chapter 14-2 of the South Dakota Codified Laws, as amended. (14-2-28, 29)
- 1.0402 Members. The Library Board shall be composed of five citizens representative of the population of the City. Members of the Board shall be appointed for a three-year term. Members may serve consecutive terms.
- 1.0403 Head Librarian. The head librarian for the Public Library shall be appointed by the Mayor with approval of the City Council, and shall serve as secretary for the Library Board.
- 1.0404 By-Laws. The Library Board of Trustees shall adopt by-laws describing the duties, powers, and functions of such Board and the librarian(s), which shall be approved by the City Council. The duties, powers and functions shall be carried out in compliance with Chapter 14-2 of the South Dakota Compiled Laws, as amended. (14-2-40)
- 1.0405 Expenditures. Members of the Library Board of Trustees may receive reimbursement for necessary expenses in the performance of their duties in amounts approved by the City Council. Any expenditure considered to be out-of-the-ordinary in regard to the regular functions of the Public Library, or any contracts therefore, shall first be approved by the City Council. (14-2-39)

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)

CHAPTER 2.02 - WARDS AND VOTING PRECINCTS

- 2.0201 Wards and Voting Precincts. The City of Viborg shall be divided into three wards, each of which shall constitute an elections precinct, and shall be designated respectively as Wards One, Two, and Three:

First Ward: The first ward shall comprise and include all that part of the City of Viborg lying South of the Center Line of Park Avenue.

Second Ward: The second ward shall comprise and include all that part of the City of Viborg lying North of the Center Line of Park Avenue and East of the Center Line of Main Street.

Third Ward: The third ward shall comprise and include all that part of the City of Viborg lying North of the Center Line of Park Avenue and West of the Center Line of Main Street.

That the wards of the City of Viborg, are hereby consolidated into one precinct for voting purposes.

TITLE 3 - HEALTH AND SANITATION

Chapter 3.01 - Nuisances

Chapter 3.02 - Collection of Garbage

Chapter 3.03 - Rubble Site

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 stormwater 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 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: (1) annoys, injures, or endangers the comfort, repose, health, or

safety of others; (2) in any way renders other persons insecure in life, or in the use of property; (3) renders the ground, the water, the air, or food a hazard or any injury to human health; and in addition (4) the specific acts, conditions and things listed in Section 3.0102 are hereby declared to constitute public nuisances, but such acts, conditions and things shall not be deemed to be exclusive. (SDCL 21-10-1)

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

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. The growth of weeds or plants declared to be primary or secondary noxious weeds by the state weed and pest control commission, all weeds declared to be locally noxious by the City Council, and all other weeds and grasses growing upon any real property in the City to a height greater than six (6) inches, or which have gone or are about to go to seed, or the dense growth of brush or grasses which may constitute a health, safety or fire hazard, shall be deemed noxious, dangerous and unhealthful vegetation and are hereby declared to be a nuisance. Fallen tree limbs, diseased or dead trees, and dead tree limbs shall also be declared dangerous and a nuisance; provided, however, that vegetation that is not a primary or secondary noxious weed and is being grown as hay for livestock consumption, as a native prairie display garden, or as a wildflower display garden, or other nature areas, so long as the same are approved to be used as such by the City Council, shall not constitute a nuisance. (SDCL 9-32-12)
- D. For the owner of a dead animal to permit it to remain undisposed of longer than twenty-four (24) hours after its death. (SDCL 9-29-13)
- E. Any excavation, trench or open basement in which stagnant water is permitted to collect or which may jeopardize the life, limb or safety of the general public. (SDCL 9-29-13)
- F. Throwing or letting fall on or permitting to remain on any street, alley, or public ground any manure, garbage, rubbish, filth, fuel or wood while engaged in handling or removing any such substance. (SDCL 9-32-10)
- G. 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: (SDCL 9-33-1)
 - 1. Fires purposely set for instruction and training of public and industrial firefighting personnel when authorized by the Fire Chief or Officer of the City Volunteer Fire Department.
 - 2. Fires set for the elimination of a fire hazard which cannot be abated by any other means when authorized by the Fire Chief of the City Volunteer Fire Department.
 - 3. Fires purposely set by city maintenance personnel for the purposes as authorized by the Fire Chief of the City Volunteer Fire Department.

4. Campfires and other fires used solely for recreational purposes, for ceremonial occasions, or for outdoor preparation of foods. (SDCL 9-33-1)
- H. Maintaining, or causing or permitting the same, any building or premises which is determined to be dangerous or dilapidated. Any building or structure which has any or all of the conditions or defects hereinafter described shall be deemed to be a dangerous or dilapidated building, if such conditions or defects thereby annoy, injure or endanger the comfort, repose, health, or safety of others or, if such conditions or defects exist to the extent that the life, health, property, value of property or safety of the public or its occupants are jeopardized:
1. Whenever any building or structure is (i) vacant and unoccupied for the purpose for which it was erected and; (ii) the building is unfit for occupancy as it fails to meet minimum housing standards and; (iii) the building has remained substantially in such condition for a period in excess of six months.
 2. Whenever any building or structure through lack of maintenance or attention and by virtue of its physical appearance and presence thereby depresses the market value of surrounding properties. (SDCL 9-29-13)
- I. 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 14 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.

- J. The requirements of paragraph I 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 14 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. 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 found thereon when so notified by the City to do so. The City Council shall cause to be mailed to such owner, occupant, or person, written notice that they may appear before the said City Council at an appointed time not less than fourteen (14) days from the date of mailing of said written notice to show cause why said trees, brush, wood, or debris should not be declared a public nuisance.

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

3.0104 Noxious Vegetation and Weeds.

- A. Any weeds such as jimson, burdock, ragweed, thistle, cocklebur, or other weeds of a like kind, found growing in any lot or tract of land in the City are hereby declared to be a nuisance, and it shall be unlawful to permit any such weed to grow or remain in any such place.
- B. It shall be unlawful for anyone to permit weeds, grass or plants, other than trees, bushes, flowers, or other ornamental plants to grow to a height exceeding six (6) inches anywhere in the City; any such plants or weeds exceeding such height are hereby declared to be a nuisance.

- C. It shall be the duty of the Chief of Police to serve or cause to be served a notice upon the owner or occupant of any premises on which weeds, grass, or plants, are permitted to grow in violation of this ordinance and to demand the abatement of the nuisance within three days.
- D. If the person so served does not abate the nuisance within three days, the City may proceed to abate the nuisance, keeping an account of the expense of the abatement, and such expense, plus an administrative fee of \$25.00, shall be charged and paid by such owner or occupant.
- E. Charges for such abatement shall be a lien upon the premises. Whenever a bill for such charges remains unpaid for 60 days after it has been rendered, the Finance Officer may file with the Turner County Register of Deeds a statement of lien claim. This statement shall contain a legal description of the premises, date of abatement, the charges incurred, and a notice that the City claims a lien for the amount of charges. Notice of such lien claim shall be mailed to the owner of the premises at the last known address.

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 gutter, street 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 upon any street or other public place or upon private property within the City.
- C. No person shall drive or move any truck or other vehicle within the City unless such a 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.
- D. 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 street, 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 24 hours of the giving of the notice. After the expiration of the 24-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 or reasonable charges in taking custody of and storing such vehicles.
- 3.0108 Duty of Private Property Owners. No person owning, in charge of or in control of any real property within the City, whether as owner, tenant, occupant, lessee or otherwise, shall allow any abandoned or inoperable vehicle of any kind to remain on such property longer than 14 days.
- 3.0109 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 Ordinance. 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 requesting the removal of such motor vehicle in the time specified in this Ordinance. In the event the private property is not occupied, written notice shall be given to the owner by certified mail requesting the removal of such motor vehicle in the time specified in this Ordinance. 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.
- 3.0110 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.
- 3.0111 Content of Notice. The notice in section 3.0107 shall request removal of the abandoned or inoperable vehicle within 14 days after the date of the posting or mailing of such notice, and the notice shall advise that failure to comply with the notice to remove shall be a violation of this Ordinance, 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 Ordinance.

- 3.0112 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)
- 3.0113 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)
- 3.0114 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)
- 3.0115 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 maximum penalty of thirty (30) days in jail or a five hundred dollar (\$500.00) fine, or both. 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 Storing Garbage Prior to Collection. All garbage shall be placed in either sealed water tight bags or inside garbage containers, except leaves and grass which are to be just bagged, and set to the curb or accessible alley on days of pickup.

Whenever the premises in which garbage and rubbish accumulates are adjacent to a street or alley, the garbage and rubbish containers for such premises shall be kept in a location convenient and accessible to such street or alley; if premises are not adjacent to a street or alley, the garbage and rubbish containers shall be kept on the

premises in such a location that they will be readily accessible to the nearest street or alley without being unsightly.

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

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

- 3.0202 Private Operators. The collection of garbage and refuse in the City shall be made by private contractors or operators, who shall be subject to all local ordinances as well as all state and federal regulations. Collections shall be made at least once a week, unless otherwise required by the City Council. Garbage collectors shall be under no obligation to remove any garbage unless the payments of the removal of such garbage as provided by contract with the customer shall have been made.
- 3.0203 Permit Required. Private contractors or operators desiring to collect garbage or refuse in the City, shall apply for an annual permit to the City Council. Permit fees will be set by resolution of the City Council. Any permit approved and issued may be revoked by the City Council for violations of laws, regulations or stipulations governing such operations. Such application shall include the operator's permit number for disposal in an approved sanitary landfill.
- 3.0204 Equipment. Every garbage collector shall use equipment which will not permit any leakage or spilling and such truck or trailer shall be covered in a manner so that trash, garbage, rubbish or waste will not be dropped or spilled in transit to any place in the City. Any violation of this Section shall be sufficient cause for revocation of the collector's permit, in addition to the penalty for violation of this ordinance.
- 3.0205 City Not Liable. The City shall not be liable for any expense incurred through the failure of a contractor or operator or his agents and employees, to operate and maintain collection services in a proper and efficient manner, and for any actions that may result from, or be attributed to, such services performed. (SDCL 9-32-11)

CHAPTER 3.03 - RUBBLE SITE

- 3.0301 Rubble Defined. In this Section, "rubble" shall mean and include trees and leaves only. "Rubble" shall not mean and include stone, brick, concrete, both natural and

man-made wood debris, or similar inorganic material ash waste tires, asbestos-containing materials and hazardous waste, as defined by the South Dakota Codified Laws.

- 3.0302 Rubble Site Designated. The City of Viborg's Municipal Rubble Site shall be located in the Rubble Site Addition northeast of the City.
- 3.0303 Hours of Operation. The City of Viborg's Municipal Rubble Site shall be open with dates, fees, and time to be set by resolution by the City Council. In emergency situations, the Mayor or City Council may open the facility as needed for City of Viborg utility users only.
- 3.0304 Unauthorized or Unlawful Dumping Prohibited. It shall be a violation of this ordinance for any person to dump, discard, store or otherwise place any material at the Municipal Rubble Site in a manner which violates the provisions of this ordinance, which violates any other site restrictions established by the City Council or which is placed at the site outside of approved operating hours.

TITLE 4 - LICENSES

Chapter 4.01 - General Provisions

Chapter 4.02 - Public Dancing and Public Dance Halls

Chapter 4.03 - Peddlers

Chapter 4.04 - Alcoholic Beverages

CHAPTER 4.01 - GENERAL PROVISIONS

4.0101 License, Unlawful Without. It shall be unlawful for any person, persons, firm or corporation to engage in any activity for which a license is required without first having obtained a license, as hereinafter provided. The City Council may at any time expand the general provisions of this Chapter by requiring any person, persons, firm or corporation engaging in any trade, business or occupation within the City of Viborg which is not specified by this ordinance to obtain a license, as deemed necessary.

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 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 City Finance Officer and shall have affixed thereto the official seal of the City of Viborg.

- 4.0106 Record of Licenses. The City 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 - PUBLIC DANCING AND PUBLIC DANCE HALLS

- 4.0201 License Fees. If the City Council approves any application for a license to operate a public dance hall or conduct a public dance, as provided herein, the applicant shall pay to the Finance Officer the annual fee as set by resolution of the City Council. The applicant shall be responsible and liable for any damage or littering resulting from such activity and as such shall assume all liabilities.
- 4.0202 Age Requirement. No person or persons under the age of twenty-one (21) years shall be permitted to enter or remain in any public dance hall when alcoholic beverages are available unless accompanied by his or her father, mother, or legally appointed guardian.
- 4.0203 Supervision. Public dances conducted in any public hall licensed hereunder may be required by the City Council to retain one or more supervisors, who shall be authorized to remove any person who is intoxicated or is conducting himself or herself in an improper or disorderly manner. No public dance or public dance hall shall be conducted past the hour of 1:30 a.m.
- 4.0204 Dance Halls Defined. A public dance hall, as the term is used in this Chapter, shall be construed to mean any place or space open to public patronage in which dancing, wherein the public may participate, is carried on and to which admission may be had by the public, by payment either directly or indirectly of an admission fee price for dancing, for the personal gain or profit of the person, firm, or corporation, conducting, maintaining, or operating such public dance hall.

Nothing in this Chapter shall be construed to apply to dances conducted, maintained, or operated as a community enterprise and without personal profit to any person, firm or corporation, or any event sponsored by a non-profit organization. (SDCL 9-34-25, SDCL 42-4-1)

CHAPTER 4.03 - PEDDLERS

- 4.0301 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 of 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 90 days within any period of 12 consecutive months, or from a car, truck, other motor vehicle, trailer, or any structure other than a permanent building.

4.0302 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.

4.0303 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.

4.0304 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.

4.0305 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.

4.0306 Hours of operation. No peddler shall peddle door-to-door between the hours of 8:00 p.m. and 9:00 a.m. the following morning, except by specific appointment with or invitation from the prospective customer.

4.0307 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.

4.0308 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.

- 4.0309 Application for Permit. The application for a permit required by the provisions of this article shall:
- A. Contain a statement as to whether or not the applicant has been convicted of any crime, misdemeanor or violation of any state or federal law or municipal ordinance or code other than traffic offenses; the nature of the offense; the punishment or penalty assessed therefor, 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.
- 4.0310 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.
- 4.0311 Fee. Before any permit shall be issued under the provisions of this chapter, the applicant shall pay a fee as set by resolution of the City Council.
- 4.0312 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.
- 4.0313 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 an offense.
- 4.0314 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 4.04 - ALCOHOLIC BEVERAGES

4.0401 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.

4.0402 Traffic in Alcoholic Beverages. No person shall produce, transport, store or sell within the City any alcoholic beverage, except as authorized by SDCL Title 35.

4.0403 Unlicensed Business Prohibited. No person, unless he first obtains a license provided by SDCL Title 35, shall transact the business authorized by such Chapter to be conducted by such licensee within the City.

4.0404 Unlawful to Violate Liquor Laws. It is unlawful for any licensee under the provisions of the state alcoholic beverage law, and this Chapter, or other person to violate any of the provisions of such law or of this Chapter or to fail to comply therewith within the City.

4.0405 Place of Business of Licensee. The place of business of an alcoholic beverage licensee shall be within the premises as described in the legal description provided on the application for the license. Such premises must conform to all requirements of the State of South Dakota and the City and be a safe and proper place.

4.0406 Closing of Premises of Public Facility On-Sale and Malt Beverage Retail Dealers.

- A. Every public facility on-sale dealer in alcoholic beverages, distilled spirits, wines and malt beverages and every malt beverages retail dealer shall flash the lights of his place of business at 1:45 a.m. each day as a warning that within 15 minutes the licensed premises will close. By 2:00 a.m., every public facility on-sale dealer and malt beverage retail dealer shall clear his premises of all persons except employees and shall lock all doors to the premises and shall turn out all lights thereon, except such a night light as is approved by the City. Such night light shall burn from 2:00 a.m. until daylight of the following day. Each public facility on-sale dealer and malt beverage dealer and his employees shall leave the place of business or premises by 2:45 a.m. Each public facility on-sale dealer and malt beverage retail dealer may enter the premises or authorize one of his employees to enter his premises at any time for the purpose of reasonable maintenance of the premises. For the purpose of this section, "reasonable maintenance" means only such maintenance as is necessary to prevent the deterioration or destruction of the premises or any

fixtures located thereon. The purpose of this subsection is that such premises shall be wholly vacant during the closed period, except as provided in this subsection.

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

- 4.0407 Consumption on Public Streets or Alleys. It shall be unlawful for any person to drink or consume or attempt to drink or consume any distilled spirits, wines and malt beverages, as defined by South Dakota laws, in or upon any public street, alley, highway or public sidewalk.
- 4.0408 Purchase and Use by Persons Under 21. No person under the age of 21 years shall purchase or attempt to purchase alcoholic beverages, nor shall any person under the age of 21 years drink any alcoholic beverage in a public place or have any alcoholic beverage in his possession in a public place.
- 4.0409 Sunday Sales Permitted by Certain On-Sale Dealers. Notwithstanding any of the other provisions of this Chapter, any on-sale dealer that applies, qualifies, and receives a Sunday retail dealer classification may sell, serve and allow to be consumed, on the premises covered by their license, alcoholic beverages on Sunday except between the hours of 2:00 a.m. and 7:00 a.m.
- 4.0410 Sunday Hours of Sale of Alcoholic Beverages for Off-Sale Dealers. Any licensed off-sale dealer of alcoholic beverages may sell or allow to be sold alcoholic beverages on Sunday between the hours of 7:00 a.m. and 12:00 a.m.
- 4.0411 Violations. Any person, firm, or licensee in violation of any of the provisions of this Chapter shall be deemed guilty of a misdemeanor. For failure to correct any violation when applicable, after notice, each day of failure to do so shall constitute an additional separate offense. Whenever any person acting as clerk, servant, agent, or employee of any other person or establishment violates any of the provisions of this Chapter that person shall also be deemed as guilty as a principal. Failure to comply with all existing requirements, including the provisions in this Chapter, shall provide cause for revocation of any license granted under the provisions of South Dakota Laws. (SDCL 35-2-10)

4.0412 Indecent Exposure or Simulation Thereof Prohibited.

- A. It is unlawful for any person on premises licensed for the sale of alcoholic beverages, while in the presence of any other person, to:
 - 1. Fail to conceal, with a fully opaque covering, the sexual parts of such person's body, to include the genitals, pubic area and anus of any person, or the nipple and areola of the female breast.
 - 2. Expose any device, costume or covering which gives the appearance of, or simulates, the genitals or pubic area of the male or female body, or the nipple or areola of the breast.
- B. It is unlawful for any licensee in alcoholic beverages to cause, allow or permit any person on the licensed premises to violate the provisions of subsection (A) of this Section.

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 5.05 - Noise

CHAPTER 5.01 - OFFENSES AGAINST PUBLIC WELFARE

- 5.0101 Disorderly Conduct. A person shall be guilty of disorderly conduct if, with the purpose of causing public danger, alarm, disorder, nuisance, or if his conduct is likely to cause public danger, alarm, disorder or nuisance, he willfully does any of the following acts in a public place:
- A. Commits an act in a violent and tumultuous manner towards another whereby that other is placed in danger of life, limb or health.
 - B. Commits an act in a violent and tumultuous manner toward another whereby the property of any person is placed in danger of being destroyed or damaged.
 - C. Causes, provokes or engages in any fight, brawl, or riotous conduct so as to endanger the life, limb, health or property of another, except in exhibitions duly authorized and licensed by law.
 - D. Interferes with another's pursuit of a lawful occupation by acts of violence.
 - E. Obstructs, either singly or together with other persons, the flow of vehicular or pedestrian traffic and refuses to clear such public way or place when ordered to do so by a law enforcement officer or other authorized official.
 - F. Is in a public place under the influence of an intoxicating liquor or drug in such a condition as to be unable to exercise care for his own safety or the safety of others.
 - G. Resists or obstructs the performance of duties by the City Police or any other authorized official to the City when known to be such an official.
 - H. Incites, attempts to incite, or is involved in attempting to incite a riot.
 - I. Addresses abusive language or threats to any law enforcement 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.

- J. Damages, befouls or disturbs public property or the property of another so as to create a hazardous, unhealthy, or physically offensive condition.
- K. Makes or causes to be made any loud, boisterous, and unreasonable noise or disturbance to the annoyance of any other persons nearby, or near to any public highway, road, street, lane, alley, park, square, or common, whereby the public peace is broken or disturbed, or the traveling public annoyed.
- L. Fails to obey a lawful order to disperse by a law enforcement officer or other authorized official where one or more persons are committing acts of disorderly conduct in the immediate vicinity, and the public health and safety is imminently threatened.
- M. Throws a stone, snowball or any other missile upon or at any vehicle, building, tree or other public or private property or upon or at any person in any public or private way or place or enclosed or unenclosed ground.

As used above, the following definitions shall apply:

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

This Section shall not be construed to suppress the right of lawful assembly, picketing, public speaking, or lawful means of expressing public opinion. (SDCL 9-29-3, SDCL 22-18-35)

- 5.0102 Open Containers. It shall be unlawful to consume any beer or alcoholic beverage or to possess any glass, can or other container containing beer or any alcoholic beverage on which the seal has been broken, in any public place, vacant building, automobile, street, alley, sidewalk or place of amusement or business establishment not authorized to sell beer or alcoholic beverages, unless approved by the City Council. (SDCL 35-1-5.3, SDCL 35-1-9.3)
- 5.0103 City Parks and Public Buildings Closed to the Public at Specified Times. For the purpose of preservation and protection to the City park facilities and public buildings it shall be unlawful for any person or persons to enter or remain in such public places after closing hours as specified by the City Council.
- 5.0104 Alcohol in City Parks. No person shall consume any alcoholic beverages within any public park, except that the restriction shall not apply to malt beverages or wine as defined by SDCL 35-1-1, or where alcoholic beverages are licensed to be sold. No glass beverage containers are permitted in any park.
- 5.0105 Injury or Removal of Public or Private Property. No person shall willfully, maliciously, wantonly, negligently, or otherwise injure, deface, destroy, or remove real property or improvements thereto or moveable or personal property belonging to the City or to any person in the City. (SDCL 22-34-1)
- 5.0106 Tampering in General. No person in the City shall tamper with, injure, deface, destroy or remove any sign, notice, marker, fire alarm box, fire plug or hydrant, typographical survey marker or monument, or any other personal property erected or placed by the City. (SDCL 22-34-1)
- 5.0107 Indecency. As used in this Section, the following definitions shall apply:
- A. Obscene. To the average person applying contemporary community standards, taken as a whole, that the predominant appeal of the matter appeals to the prurient interests and (i) depicts or describes patently offensive representations or descriptions of ultimate sexual acts, normal or perverted, actual or simulated; or (ii) depicts or describes patently offensive representations or descriptions of masturbation, excretory functions, or lude exhibits of the genitals; and which, taken as a whole, lacks serious literary, artistic, political or scientific value.
 - B. Prurient Interest. Shameful or morbid interest in nudity, sex or excretion which goes substantially beyond customary limits of candor in description or representation.

- C. Material. Any book, magazine, newspaper or other printed or written material or any picture, drawing, photograph, motion picture or other pictorial representation or any statute or other figure, or any recording, transcription or mechanical, chemical or electrical reproduction or any other articles, equipment or machines.
- D. Dissemination. To transfer possession of, with or without consideration.
- E. Knowingly. Being aware of the character and content of the material.
- F. Promote. To cause, permit, procure, counsel or assist.

It shall be unlawful for any person within the City of Viborg to:

- A. Knowingly disseminate, distribute or make available to the public any obscene materials; or
- B. Knowingly engage or participate in any obscene performance made available to the public; or
- C. Knowingly engage in commerce for commercial gain with materials depicting and describing explicit sexual conduct, nudity, or excretion utilizing displays, circulars, advertisements and other public sales efforts that promote such commerce primarily on the basis of the prurient appeal; or
- D. Provide service to patrons in such a manner as to expose to public view:
 - 1. His or her genitals, pubic hair, buttocks, perineum, anal region, or pubic hair region;
 - 2. Any device, costume or covering the appearance of which simulates the genitals, pubic hair, buttocks, perineum, anal region or pubic hair region; or
 - 3. Any portion of the female breast at or below the areola thereof; or
- E. Knowingly promote the commission of any of the above listed unlawful acts. (SDCL 9-29-9)

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 shall be established by resolution by the Viborg City Council.

Allowing an animal to run at large as defined in the provisions of this section, shall also constitute a Class 2 misdemeanor. Notwithstanding any other provision, any animal not having a visible tag and running at large may be deemed a stray and destroyed immediately.

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

An owner reclaiming an impounded animal shall pay the actual cost of impoundment plus the following fee: First impoundment shall be \$25.00; second impoundment within a twelve (12) month period shall be \$50.00; any subsequent impoundment within a twelve (12) month period shall be \$100.00. Upon impounding, the owner of such animal may at any time within five (5) 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 (5) 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 (24) hours place the animal under the care and observation of the animal control officer or a licensed veterinarian for a period of not less than ten (10) days.

At the end of the ten (10) day observation period, the animal shall be examined by a licensed veterinarian and if cleared by the veterinarian, may be reclaimed by the owner upon paying the expenses incident thereto.

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

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 (48) 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 (10) days, and if cleared by a licensed veterinarian, may be claimed by the owner upon paying the expenses incidental thereto. Any animal not claimed may be disposed of as 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 man, 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 served either in person or by mailing such notice by certified mail.
- 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 (5) days of receiving the notice and presenting proof of rabies vaccination on or before March 1 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 (6) feet, and under the control of a person over sixteen (16) 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 (2) 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.
- E. The vicious animal shall be impounded by animal control at the owner's expense until all provisions of Section D are complied with. If the conditions in Section D are not complied within 10 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 four 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 Dogs and Cats Required. Each owner or keeper of a dog or cat of the age of six (6) months or over shall within thirty (30) days after the acquisition of such animal or within thirty (30) days after the time such animal becomes six (6) months old, cause such animal to be licensed by the City.

5.0212 Application for License. Every owner or keeper of a dog or cat within the City must submit an application for an animal license for each such animal owned six (6) 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 (\$1.00). The tag must be worn by all dogs and cats.

5.0213 License Fee Schedule. The fee for licenses shall be established by resolution by the Viborg City Council. 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 and cats in the custody of a veterinarian, or animal shelter or animal rescuer, or whose owners are nonresidents temporarily within the City for a period not

exceeding 30 days. Also, when a blind person, physically disabled or hearing impaired person requests that no fee be charged to license his/her guide dog, or service dog, no fee shall be charged, upon submission of medical documentation attesting to said disability and/or service animal certification from a bona fide and recognized authority.

- 5.0215 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 Disturbing the Peace.
- A. The owner or custodian of an animal shall not allow the animal to create a disturbance by making loud noises any time of the night or day.
 - B. Any animal control officer, law enforcement officer or authorized official may remove and impound any animal which is disturbing the peace when the owner of the animal cannot be located. A notice advising the owner of the impoundment shall be left on the premises.
 - C. Any person having custody or control of any female dog or cat in heat shall be required to keep such dog or cat confined in a building, secure enclosure, veterinary hospital, or boarding kennel so that it cannot attract or come into contact with another animal on public or private property except for controlled breeding purposes.
- 5.0217 Defecation Restriction. No owner, keeper, caretaker or attendant of an animal shall allow an animal to defecate on public or private property other than his own. If such animal does defecate upon public or private property, the owner, keeper, caretaker or attendant must immediately and thoroughly clean the fecal matter from such property. Animals used in parades or involved in law enforcement are exempt from this Section.
- 5.0218 Fecal Cleanup Requirement. 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 Section.
- 5.0219 Livestock in City. No person shall keep or maintain any building or enclosure where livestock is kept, unless the same be at all times kept in a clean and sanitary condition. No person shall place, keep or maintain any live hogs within the City, unless such animals are kept as household pets, and are not used for any commercial

purpose. The keeping of livestock such as cattle, sheep and any fowl shall be by permission of the City Council.

CHAPTER 5.03 - FIREWORKS AND FIREARMS

5.0301 Public Use of Fireworks. Public use of fireworks within the City shall be limited to those specific Class C/1.4G fireworks having no audible report or projectile or launching components. Examples of prohibited use fireworks include, but are not limited to, fire crackers, bottle rockets, roman candles, parachutes, and similar devices intended to propel or project flaming or explosive materials. Fireworks may not be used on any public sidewalk, street, or alleyway; fireworks may not be used on private property without the expressed knowledge and permission of the property owner. The provisions of this Section shall not apply to any person, firm or corporation duly licensed by the City Council in accordance with Chapter 4.01 of this ordinance, to discharge fireworks for public entertainment at any public celebration in the City. (SDCL 9-33-1, SDCL 34-37)

Exception: It shall be lawful for a person to discharge fireworks between the dates of June 27 and July 5 of each year, between the hours of 10:00 a.m. to 10:00 p.m. No fireworks may be discharged on Main Street of Viborg.

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. Law enforcement officers in the performance of their duties are exempted. The City Council may grant exceptions for special events or activity.

CHAPTER 5.04 - MINORS

5.0401 Curfew Hours and Exceptions. No minor under the age of eighteen (18) years shall be or remain in or upon the public streets, alleys, parks, playgrounds, public grounds, public places, public buildings, public places of amusement and entertainment, vacant lots, or other unsupervised public places within the city between the hours of 11:00 p.m. and 4:00 a.m. of the following day, unless accompanied by his parent, guardian or other adult person having the care and custody of the minor or where the minor is upon an emergency errand or legitimate business directed or authorized by his parent, guardian or such other adult person having the care and custody of the minor.

5.0402 Responsibility of Officers. It shall be the right of any authorized officer or person to arrest and detain any minor violating the curfew and to keep the minor detained until the parent, guardian or custodian is notified, when the minor may be released upon the giving of a promise by the minor and his parent or guardian or custodian that

such minor together with his parent, guardian or custodian will appear at a stated time before the proper authority to answer to the charges.

- 5.0403 Responsibility of Parents or Guardians. It shall be unlawful for the parents, guardian or other adult person having the care and custody of a minor under the age of eighteen (18) years to knowingly permit such a minor to be or remain in or upon the public streets, alleys, parks, playgrounds, public grounds, public places, public buildings, public places of amusement and entertainment, vacant lots or other unsupervised public places within the City between the hours of 11:00 p.m. and 4:00 a.m. of the following day, except when the minor is accompanied by his parent, guardian or other adult person having the care and custody of the minor or when the minor is upon an emergency errand or legitimate business directed or authorized by his or her parent, guardian or other adult person having the care and custody of the minor.

CHAPTER 5.05 - NOISE

- 5.0501 Noises Prohibited. The following acts are declared to be in violation of this chapter:

- A. Excessive Noise, Including Radios, Television Sets, Musical Instruments, and Such Similar Devices Prohibited. Using, operating, or permitting the use or operation of any radio receiving set, television set, musical instrument, drum, or other machine or device for the production or reproduction of sound in such a manner as to be plainly audible at the property boundary of the source or plainly audible at fifty (50) feet from such device when operated within a vehicle anywhere within the limits of the City, is prohibited.

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 - Building Demolition/Excavation

Chapter 6.04 - Snow and Ice Removal

Chapter 6.05 - Municipal Trees

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. All east-west thoroughfares shall be designated as avenues, and all north-south thoroughfares shall be designated as streets. Other streets shall be named in accordance with guidelines included in the city subdivision regulations. Any such act as, naming, establishing, or vacating any street, alley or other public way in the City shall be so designated on such map.
- 6.0102 Numbering Plan. A numbering plan for residences and businesses shall be maintained by the City. A listing of the assigned numbers and a map showing the location of addresses shall be maintained and filed with the Finance Officer. The Finance Officer shall be responsible for assigning new numbers and updating the listing of such numbers and the location map.
- 6.0103 Proper Number Displayed. All houses shall have the proper number for address prominently displayed and permanently affixed to the side of the structure facing the street located on the address. Such numbers shall be at least three (3) inches in height and shall be easily readable from the street. Should these numbers become unreadable through age or other such incident, it shall be the owner's responsibility to correct the situation. Anyone who is not in compliance with this ordinance may be subject to a fine as established by resolution by the Viborg City Council. If proof of compliance does not exist within 30 days following the first violation, another fine may be levied.

CHAPTER 6.02 - STREETS, SIDEWALKS, CURB AND GUTTER

- 6.0201 Street Surfacing. The hard surfacing of streets shall be at the expense of the owners of property abutting the street(s) to be surfaced, with materials to be approved by the City Council. Total cost of the street improvements including legal, engineering, grading and any other costs related to the improvement, shall be assessed against the property on a frontage foot basis. The cost of each street or alley intersection shall be assessed on a front footage basis to all lots or property included within a project area. (SDCL 9-45-31)

- 6.0202 Street Excavations. No person shall make or cause to be made any excavation in or under any street, parking area, sidewalk, alley, or public ground, or remove any earth, soil, paving, gravel, or material therefrom without first obtaining a permit therefore. . Application for such permit shall be made to the Finance Officer. Such application shall be accompanied by a fee of an amount set by resolution of the City Council and on file at the office of the Finance Officer, which amount shall be considered compensation to the City for granting of such permit and the necessary investigation prior thereto. Before any such permit is issued, the person requiring the same shall state in this application therefore where such excavation is to be made, the extent thereof, in front of what lot or lots, and for what purpose said excavation is to be made.
- 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 the proper replacement and refilling of any such excavation or to cover the costs of any damages which may be caused by such excavation. Any required deposit shall be paid to the 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 Council.
- 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 Council, and shall restore the pavement or surfacing, as the case may be, to its former condition. The City Council shall adopt and amend as necessary such requirements which shall set forth the manner in which various types of excavations shall be backfilled or refilled and the manner in which any street surfacing shall be replaced.
- 6.0205 Excavation Inspections. It shall be the duty of authorized city personnel to inspect all authorized excavation work at any stage of construction and to ensure compliance with approved requirements. If all backfilling, refilling, or surfacing is not completed in accordance with approved requirements, notice thereof in writing shall be given to the applicant, who shall put the same in proper order within a maximum of the ten (10) 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 suitable guards, fences, flares, and signals so as to prevent injury to persons, animals, or vehicles on account of such excavations. No open trench shall be left open for any more time than considered absolutely necessary or reasonable.
- 6.0207 Sidewalks. Unless otherwise determined by the 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 (4) feet nor more than five (5) 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. In the event that any new structure is constructed in or moved into the City, at a location which does not have sidewalks installed along any adjacent street right-of-way, the property owner shall be required to install sidewalks as needed and in accordance with the construction standards established in this Section. In the event that a property owner wishes to remove an existing sidewalk, the property owner shall replace the sidewalk in accordance with the specifications described in this Section. As established in SDCL 9-46-2, property owners are responsible for the maintenance and condition of abutting sidewalks. As provided for under SDCL 9-46-3 through 9-46-8, the City Council may declare a particular sidewalk to be in need of repair replacement, and may require the abutting property owners to cover the costs of such repair or replacement.

- 6.0208 Driveway Approaches. No driveway approaches shall protrude or extend into the streets beyond the curb line, unless otherwise so authorized by the Street Superintendent. Concrete driveway approaches shall be of six (6) inch Portland Cement Construction, with the slope gradual to accommodate modern vehicles. On gravel thoroughfares driveway approaches constructed shall permit flow of surface water without drainage interference and shall permit proper blading and maintaining of streets.
- 6.0209 Curb and Gutter. Curb and gutter shall be of Portland Cement Construction, not less than 3,000 PSI, with curb six (6) inches in width, and extending six (6) inches above the gutter. Gutter shall be 6.5 inches thick, extending 24 inches into the street. New homes built or moved into the City are required to have curb and gutter installed on any adjacent streets, unless the property faces an unpaved street or drainage ditch. 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 City Council 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 part of new construction are 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.
- 6.0211 Barrier-Free Construction. Whenever any person, firm or corporation makes new installations of sidewalks, curb 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 Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities. (SDCL 9-46-1.2)

CHAPTER 6.03 - BUILDING DEMOLITION/EXCAVATION

- 6.0301 Permit Required. In the event the City of Viborg shall issue a permit for the dismantling, destruction, demolition, or removal of any building or structure on any property within the corporate limits of the City of Viborg, such permit shall state the date by which such dismantling, destruction, demolition, or removal shall be completed.
- 6.0302 Reasonable Completion Time. It shall be the duty of the owner of the property and/or the person to which the permit is issued to act with due diligence to remove all debris, from the area of dismantling, destruction, demolition, or removal. In the event such action leaves any excavations, diggings, openings, or pits, such areas shall be promptly filled and leveled as is necessary to restore and maintain a level terrain.
- 6.0303 Time Extension. In the event the activity covered by the permit is not completed within the time stated in the permit, the City Council may, upon proper application and good cause shown, issue an extension of time in which the activity stated in the permit shall be done.
- 6.0304 Debris Removal and Filling Required. Such permit shall be issued conditional upon the permit holder acting with due diligence to remove all debris from the area of dismantling, destruction, demolition or removal. In the event that such action leaves any excavations, diggings, openings or similar areas, such areas shall be promptly filled and leveled as necessary to restore and maintain the original grade.
- 6.0305 City May Complete Work and Charge Owner. In the event the owner of the property and/or the person to whom the permit was issued fails or refuses to remove any debris, material, or fill, and/or fails to level and restore the premises within the time specified in the permit, and in the further event no extension of time under Section 6.0303 has been granted, the City Council may direct that the property be cleared of all debris and that all excavations, diggings, openings or pits be filled, and shall charge the cost of the removal and restoration against the owner of the property.
- 6.0306 Publication of Expenses. Upon presentation to the City Council of a statement for removal, leveling, or restoration as described in Section 6.0305 above, the City Council shall publish in the official newspaper for two (2) consecutive weeks a notice of the time and place that the Council shall meet for approval of such expense and shall send the same to the record owner of the property and applicant at their last known address.
- 6.0307 Collection of Expenses. Upon due notice given, the City Council shall approve or modify such statement and file the same with the Municipal Finance Officer. As of the date of such approval and filing of the same, such sum, together with all costs of

publishing the notices referred to in Section 6.0306, shall be a special lien against the parcel of property described and such assessment shall be collected in like manner as special assessments are now collected for municipal improvements.

- 6.0308 Permit Fees. No building demolition/excavation permit shall be issued unless the appropriate nonrefundable fee, established by resolution of the City Council, is paid to the Finance Office.

CHAPTER 6.04 - SNOW AND ICE REMOVAL

- 6.0401 Duty to Remove. It shall be the duty of the owner, tenant, or person in possession of any property abutting on any sidewalk to keep such sidewalk free from snow and to cause any accumulated snow to be removed from any such abutting sidewalk within twenty-four (24) hours after the termination of any snowfall, or snow accumulation.

- 6.0402 Disposal of Snow. It shall be the duty of the property owner, tenant, or person in possession of any public or private driveway, parking lot or parking area to dispose of accumulated snow 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, or in a manner that will obstruct or interfere with the passage or vision of vehicle or pedestrian traffic.

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

- 6.0403 Removal Costs Assessed. In the event any owner, tenant, or person in possession of any property shall neglect or fail to or refuse to remove such snow or ice within the time provided, any law enforcement officer or authorized official of the City may issue a citation for such violation and the City Council may authorize such removal with the costs to be assessed against the abutting property owner. (SDCL 9-30-5)

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 on 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 the Council 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)

- 6.0502 Permission to Plant and Maintain. No person shall plant, preserve, remove, cut above ground, or otherwise disturb any tree on any street or municipal-owned property without first receiving permission from the City Council.
- 6.0503 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 street lights, obstruct the passage of pedestrians on sidewalks, obstruct vision of traffic signs, or obstruct view of any street or alley intersection, except where such services are provided for by utility firms. The minimum clearance of any overhanging portion thereof shall be ten (10) feet whenever practicable, and twelve (12) feet over all streets except truck thoroughfares where the clearance shall be from fourteen (14) to sixteen (16) feet, unless otherwise determined by the City Council.
- 6.0504 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.
- 6.0505 Permission to Deposit Materials. No person shall deposit, place, store, or maintain upon any public place of the municipality, any stone, brick, sand, concrete or other materials which may impede the free passage of water, air, and fertilizer to the roots of any tree growing therein, except by permission of the City Council.
- 6.0506 Permission to Excavate. All trees on any street or other publicly owned property near any excavation or construction of any building, structure, or street work, shall be guarded with a good substantial fence, frame, or box, and all building material, dirt, or other debris shall be kept outside such barrier. No person shall excavate any ditches, tunnels, trenches, or lay any drive within a radius of ten (10) feet from any public tree without first obtaining permission from the City Council.
- 6.0507 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 Council to the property owner to remove such obstructions or undesirable branches or hedges within seventy-two (72) hours after receipt of notice. If not completed within that time, the Council shall take immediate action to have such items removed with all costs assessed to the property owner. (SDCL 9-38-2)
- 6.0508 Hazardous Trees in Boulevard. The City Council shall have to authority to declare any tree located in a boulevard (between the property line and the street) as

hazardous, and shall have the authority to remove the tree. When making a determination that a tree is hazardous, the City shall notify the property owner prior to removal of the tree. The City shall also arrange the removal of the tree declared hazardous, and shall be responsible for any costs incurred in the removal of said tree. The property owner is not authorized to remove said tree or hire a private contractor to remove said tree, unless the property owner has secured approval from the City Council. Any disputes regarding the classification of any tree as hazardous shall be resolved by the City Council.

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 7.01 - GENERAL PROVISIONS

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

to expedite traffic or to safeguard pedestrians, Fire Department Personnel may direct traffic as conditions may require.

- 7.0104 Obedience to Enforcement. No person shall refuse or fail to comply with any lawful order, signal or direction of any law enforcement officer, or refuse to submit to any lawful inspection or fail to comply with the provisions or requirements of any warning ticket issued under this Title.
- 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. (SDCL 32-14-5)
- 7.0108 Obedience to Traffic Control Devices. The operator of any vehicle shall obey the instructions of any official traffic control device applicable thereto placed or held in accordance with the provisions of this Title unless otherwise directed by a law enforcement officer subject to the exceptions granted the driver of an authorized emergency vehicle in this Chapter.

CHAPTER 7.02 - OPERATION OF VEHICLES

- 7.0201 Driver's License Required. It shall be unlawful for any person to drive or operate upon any of the streets or highways within the City any motor vehicle without first having secured and having in their possession a valid license or permit to do so.
- 7.0202 License Plates. No person shall operate or drive a motor vehicle within the City without having conspicuously displayed thereon license plates as required by state law, securely fastened, and which shall be kept free from mud, dirt or other obstruction so that the entire license plate shall be clearly legible by other persons upon the highway.

- 7.0203 Drive on Right Side of Street. Upon all streets the operator of a vehicle shall drive the same upon the right half of the street and shall drive a slow-moving vehicle as closely as possible to the right-hand edge or curb of a street unless it is impractical to travel on such side of the street, and except when overtaking and passing another vehicle, subject to the limitations applicable to overtaking and passing set forth in this Title. (SDCL 32-26-1)
- 7.0204 Vehicles Shall Not Be Driven on Sidewalk. The operator of any vehicle except bicycles shall not drive within any sidewalk area except at a permanent or temporary driveway. (SDCL 32-26-21.1)
- 7.0205 Operation of Vehicles on Approach of Authorized Emergency Vehicle. Upon the approach of any authorized emergency vehicle or vehicles giving audible signal by lights or siren, the operator of every other vehicle shall immediately drive the same to a position as near as possible and parallel to the right-hand edge or curb of the street, clear of any intersection, and shall stop and remain in such position until the authorized emergency vehicle or vehicles shall have passed, unless otherwise directed by a law enforcement officer. (SDCL 32-31-6)
- It shall be unlawful for the driver of any vehicle, other than one on official business, to follow (closer than five hundred (500) feet) to any fire apparatus, or to park any vehicle within the block where such fire apparatus has stopped to answer a fire alarm. It shall be further unlawful for the driver of any vehicle to drive over any unprotected hose of the Fire Department without the consent of authorized personnel. (SDCL 32-31-7)
- 7.0206 Backing Around Corners or into Intersection Prohibited. It shall be unlawful for the operator of any vehicle to back such vehicle around a corner at an intersection or into an intersection of public streets. (SDCL 32-30-20)
- 7.0207 Reckless Driving. Any person who drives any vehicle upon a street, avenue, or alley carelessly and heedlessly in disregard of the rights or safety of others, or without due caution, and at a speed or in a manner so as to endanger or be likely to endanger any person or property, shall be guilty of reckless driving. (SDCL 32-24-1)
- 7.0208 Careless Driving. Any person who drives any vehicle carelessly and without due cautions at a speed or in a manner so as to endanger any person or property, not amounting to reckless driving as defined in the previous Section, shall be guilty of careless driving. (SDCL 32-24-8)
- 7.0209 Exhibition Driving. Any person who drives any vehicle within the limits of the City in such a manner that creates or causes unnecessary engine noise, tire squeal, skid or slide upon acceleration or stopping; or that simulates a temporary race, or that causes the vehicle to unnecessarily turn abruptly or away, shall be guilty of exhibition driving. (SDCL 32-24-9)

- 7.0210 Right-of-Way at Intersection. The right-of-way rule as between vehicles at intersections is hereby declared as follows: (SDCL 32-26-13)
- A. The operator of a vehicle approaching an intersection shall yield the right-of-way to a vehicle which has fully entered the intersection.
 - B. When two vehicles approach an intersection at approximately the same time, the operator of the vehicle at the left shall yield the right-of-way to the vehicle on the right.
 - C. The operator of any vehicle traveling at an unlawful speed shall forfeit any right-of-way which he or she may otherwise have hereunder.
- 7.0211 U-Turn at Intersection. At any intersection where warned by a traffic control sign displaying the words "No U-Turn," it shall be unlawful for the operator of a vehicle to turn at the intersection in a half circle so as to proceed in the opposite direction. (SDCL 32-26-25)
- 7.0212 Right-of Way, Left Turn. The operator of a vehicle within an intersection intending to turn to the left shall yield the right-of-way to any vehicle approaching from the opposite direction which is within the intersection, or so close thereto as to constitute an immediate hazard. The operator, having so yielded and having given a signal when and as required, may make such left turn and the operators of all other vehicles approaching the intersection from said opposite direction shall yield the right-of-way to the vehicle making the left turn. (SDCL 32-26-18)
- 7.0213 Turning Around in Midblock Prohibited. The operator of a vehicle shall not turn such vehicle so as to park in the opposite direction except at an intersection. (SDCL 32-26-25)
- 7.0214 Action Required at Stop Sign. Except when directed to proceed by a law enforcement officer or traffic control signal, every operator of a vehicle approaching a stop intersection indicated by a stop sign shall come to a full stop at a clearly marked stop line, but if none, before entering the crosswalk on the near side of the intersection, or if none, then at the point nearest the intersection roadway where the driver has a view of approaching traffic on the intersecting roadway before entering the intersection. After having stopped, the operator shall yield the right-of-way to any vehicle which has entered or is approaching the intersection from another highway and shall not proceed into the intersection until certain that such intersecting roadway is free from oncoming traffic which may affect safe passage.
- 7.0215 Action Required at Yield Sign. The operator of a vehicle approaching an authorized sign bearing the word "Yield" or "Yield Right-of-Way" shall in obedience to such sign slow down to a speed reasonable for the existing conditions or shall stop if necessary and shall yield the right-of-way to any pedestrian legally crossing the roadway on which such operator is driving, and to any vehicle in the intersection or approaching on another highway so closely as to constitute an immediate hazard.

Said operator having so yielded may proceed and the operators of all other vehicles approaching the intersection shall yield to the vehicle so proceeding.

- 7.0216 Stop Required Before Operator Entering From Alley, Building or Private Road. The operator of a vehicle emerging from an alley, building, private road or driveway within a business or residence district shall stop such vehicle immediately prior to driving onto a sidewalk or onto the sidewalk area extending across such alley, building entrance, road or driveway, or in the event there is no sidewalk areas, shall stop at the point nearest the street to be entered where said operator has a view of approaching traffic thereon. (SDCL 32-29-2.2)
- 7.0217 Pedestrian's Right-of-Way. The operator of any vehicle shall yield the right-of-way to a pedestrian crossing the roadway within any marked crosswalk or within any unmarked crosswalk at the end of a block, except at intersections where the movement of traffic is being regulated by law enforcement officers or traffic control signals. Whenever any vehicle has stopped at a marked crosswalk or at any intersection to permit a pedestrian to cross a roadway, it shall be unlawful for the operator of any other vehicle approaching from the rear to overtake and pass such stopped vehicle. (SDCL 32-27-1)

CHAPTER 7.03 - VEHICLE EQUIPMENT

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

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

- 7.0302 Lights Required. A motor vehicle in motion, during the period from half an hour after sunset to half an hour before sunrise, shall display at least two (2) lighted lamps on the front and one (1) on the rear of such motor vehicle, such lamps to conform to the state law; provided that a motorcycle or a motor bicycle shall be required to display but one (1) lighted lamp in front and one (1) in the rear.
- 7.0303 Headlights Dimmed. No person shall use headlights upon any vehicle on any street unless the same are dimmed in such a way as to prevent the light being dazzling or blinding to persons using the streets.
- 7.0304 Warning Devices. Every motor vehicle operated or driven in the City shall be provided with a suitable or adequate horn or other device for signaling which shall

be in good working order at all times such vehicle is operated on the streets of the municipality.

- 7.0305 Emergency Vehicle Warning Device. Every law enforcement, Fire Department and ambulance vehicle used for emergency calls shall be equipped with lights and siren. It shall be unlawful for any other vehicle to be so equipped.
- 7.0306 Red and Blue Lights. Except as to law enforcement or Fire Department vehicles, or tow trucks or wreckers operating under such circumstances as may be provided by law, it shall be unlawful for any person to operate a vehicle in the City with any red or blue light thereon visible from directly in front or to the sides thereof.
- 7.0307 Brakes. Every motor vehicle shall be provided with foot pedal brakes in good working order and sufficient to control such motor vehicle at all times when same is in use.
- 7.0308 Mufflers. No person shall operate a motor vehicle on any street within the City unless such vehicle is equipped with a muffler in good working order and in constant operation to prevent excessive or unusual noise or annoying smoke. It shall be unlawful for any person to use a muffler cutout on any motor vehicle within the City.
- 7.0309 Projecting Loads. No person shall operate a vehicle upon any street with any load or part of a load projecting more than four (4) feet beyond the rear end or front end, or more than two (2) feet beyond the sides of the body, or carrying part of such vehicle, unless there be attached to the extreme ends and sides of such projecting load a warning sign or signal plainly discernible to other drivers which clearly indicates the projecting parts of such load.
- 7.0310 Weight and Size of Vehicle and Loads. No person shall operate any motor vehicle upon any street the gross weight of which including the load or the size of which do not comply with the requirements of the state law governing such vehicle.
- 7.0311 Windshields Must be Unobstructed. It shall be unlawful for any person to drive any motor vehicle upon any street with the front windshield obstructed or with any signs, posters, or other non-transparent material upon the front windshield side wings, sides or rear windows of such motor vehicle other than a certificate or other paper required to be so displayed by law or other temporary driving instruction placed thereon by the manufacturer.
- 7.0312 Protection of Load. No motor vehicle shall be driven or moved on any street unless such vehicle is so constructed or loaded as to prevent any of its load from dripping, sifting, leaking or otherwise escaping therefrom, except that sand may be dropped for the purpose of securing traction, or water or other substances may be sprinkled on a roadway in cleaning or maintaining such roadway. No person shall operate on any street any vehicle with any load unless said load and any covering is securely fastened so as to prevent said covering or load from becoming loose, detached or in any manner a hazard to other users of the highway. (SDCL 32-15-18)

- 7.0313 Loud Noises Prohibited. No person shall operate a vehicle in such a manner as to create loud unnecessary or unusual noise likely to disturb or interfere with the peace and quiet of any other person.

CHAPTER 7.04 - SPEED RESTRICTIONS

- 7.0401 General Restrictions. It shall be unlawful for any person to drive a vehicle on a street or highway at a speed greater than is reasonable and prudent under the conditions than existing or at a speed in excess of those fixed by this Chapter. (SDCL 32-25-16)
- 7.0402 Establishment of Speed Zones.
- A. The City Council is authorized and empowered to determine and establish upon any public street in the City or any part thereof, limited speed zones which speed limit shall constitute the maximum speed at which any person may drive or operate any vehicle upon such zones, street or highway or portion thereof so zoned, and on which highway the maximum speed permissible in the zone has been conspicuously posted by signs authorized by the Council;
 - B. The beginning of such limited speed zones shall be indicated by signs showing the speed limits.
- 7.0403 Speed Zones - Establishment. No person shall drive a motor vehicle at a speed in excess of fifteen (15) miles per hour while passing through a school zone when children are present, or while traveling upon any street on or across which children are passing going to and from school during school days when such school children are present. Unless otherwise posted, a twenty (20) mile per hour speed limit shall prevail on all streets and avenues and a ten (10) mile per hour speed limit for all alleys. Speed limits other than those stated shall also include, but not be limited to, the following: Main Street, 30 miles per hour; Park Avenue, 25 miles per hour; 300 Block of North State Street, 15 miles per hour.

CHAPTER 7.05 - PARKING, STOPPING

- 7.0501 Obstruction of Traffic. No vehicle shall be operated or allowed to remain upon any street under the jurisdiction of the City in such a manner as to form an unreasonable obstruction to traffic. Whenever any law enforcement officer finds a vehicle which constitutes an obstruction, such officer shall be authorized to provide for the removal of such vehicle by towing, if necessary, at owner's expense. (SDCL 32-30-1, 2, 3)
- 7.0502 Parking in Streets During Snow Removal. Whenever the United States Weather Bureau has forecast snowfall of two (2) or more inches of snow for southeastern South Dakota, or there is an accumulation of two (2) inches or more of snow on the streets of Viborg, a snow removal emergency shall be declared, and street parking

shall be prohibited. Parking on any public street shall be completely prohibited, on both sides and regardless of the directional run of that street, during the existence of a snow removal emergency. The snow removal emergency shall terminate, and parking may resume whenever such street has been cleared of snow completely, until the next snow removal alert is declared.

All major streets, church areas and school zones may be designated as emergency snow routes, and it shall be unlawful to park vehicles on such emergency snow routes during the time that snow blading and/or removal operations are in progress.

- 7.0503 Ticketing and Towing Vehicles. Any authorized City official or law enforcement official 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 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 restored to the owner or operator of such vehicle upon payment of a penalty of fifty (50) dollars for each offense plus the cost of towing. The City shall not be liable for any damages to property or persons incurred as a result of such towing or storage.
- 7.0504 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 Section 3.0104 of these Ordinances. (SDCL 32-30-12.1)
- 7.0505 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.
- 7.0506 Towing Costs. When a vehicle is removed from either public or private property as authorized by order of the City Council, the owner of the vehicle shall be responsible for all towing costs in addition to the fees provided in Section 7.0503 hereof. In addition, the City shall not be liable for any damages to property or persons incurred as a result of such towing or storage.
- 7.0507 Parking Prohibited in Certain Places. At any time it shall be unlawful to permit any vehicle to stop, stand, or park in any of the following places, except when necessary to avoid conflict with other traffic or in compliance with the directions of a law enforcement officer or traffic control device:
- A. In any intersection.
 - B. In a crosswalk.
 - C. Within fifteen (15) feet of a fire hydrant.
 - D. At any place where the vehicle would block the use of a driveway.
 - E. On any sidewalk.

- F. At any place where the vehicle would block the use of a sidewalk.
- G. In any portion of a street so designated as a fire lane.
- H. In any portion of a street so designated as a traffic lane.
- I. At any place where official signs prohibit parking.
- J. Inside of curb, on street right-of-way. Area between the back of the curb to the property line.

7.0508 General Parking Restrictions. It shall be unlawful to park any motor vehicle on any private property without the consent of the owner of the property.

7.0509 No Parking Areas. The City Council shall cause signs to be posted in all areas where parking is limited or prohibited, indicating such limitations or prohibitions, except that yellow curb painting may be used to indicate "No Parking" in certain street areas. (SDCL 32-30-6.2)

7.0510 Handicapped Parking Areas. Parking in those areas so designated as handicapped parking areas by signs and pavement striping shall be restricted to those vehicles identified, by window sticker and/or license plate, as being operated by handicapped drivers. It shall be unlawful for any person to park in a handicapped area without such identification on his or her vehicle. (SDCL 32-30-11.1, 11.2, 11.3, 11.4, 11.6)

CHAPTER 7.06 - TRUCKS

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

- A. Truck – Any motor vehicle, trailer, semi-trailer, tractor and farm wagon designed or operated for the transportation of property.
- B. Motor Vehicle – All machines propelled by any power other than muscular used upon the streets or highways for the transportation of property.
- C. Trailer – A vehicle of the trailer type, without a power unit of its own, designed and used in conjunction with a motor vehicle for the transportation of property.
- D. Truck Route – Streets and highways designated as truck routes by the City Council.
- E. 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 Viborg 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.

No Truck or other vehicle having a gross vehicle weight of twenty thousand (20,000) pounds or more shall stand or be parked on a truck route for a period longer than two hours.

No Truck or other vehicle having a gross vehicle weight of twelve thousand (12,000) pounds or more shall stand with engine or motor idling for more than (30) minutes during any 24-hour period in any residential area of the city.

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

7.0606 Load Limits. Trucks may operate on any City street or highway as long as the gross vehicle weight does not exceed ten thousand (10,000) pounds.

Trucks whose gross weight is more than ten thousand (10,000) pounds may operate only on designated truck routes as defined in the Ordinance.

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

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

- A. A truck arriving at the end of any designated truck route may be driven over the most direct course to the nearest truck route which extends in the same general direction.
- B. The provisions of this Ordinance relating to the operation of trucks shall not apply to emergency vehicles of the Police Department, Fire Department or to any public utility vehicles where actually engaged in the performance of emergency duties necessary to be performed by said public departments or public utilities, nor to any vehicle owned by or performing work for the City, the United States of America or the State or any of its political subdivisions.
- C. Any contractor or material men, while engaged in the repair, maintenance or construction of City streets or City improvements, provided that these vehicles shall only use the City streets within the immediate work area and shall only use the shortest route from the truck route to the work area.

- D. Whenever any truck route has been established and identified, any person driving a truck having a gross weight of or more than ten thousand (10,000) pounds shall drive such truck on such routes and none other, except when it is impracticable to do so or where it becomes necessary to traverse another street or streets to a destination for the purpose of loading or unloading commodities, or for the purpose of towing a disabled or damaged motor vehicle to or from public or private property, and then only by such deviation from the nearest truck route as is reasonably necessary.

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, except when returning to the operator's residence by the most direct route available.
- 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. No person shall operate a snowmobile on any public school grounds, public sidewalks, park property, park, roads, playgrounds and recreational areas within the City. Snowmobiles may be operated over snow-

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

- 7.0707 Crossing Streets at Right Angles. Persons operating snowmobiles are permitted to cross streets at right angles but only may do so after stopping and yielding the right-of-way to all approaching traffic and crossing as closely as possible to an intersection or approach.
- 7.0708 Speed. No person shall operate a snowmobile at a greater than is reasonable or proper, under all existing circumstances.
- 7.0709 Careless, Reckless or Negligent Operation Prohibited. No person shall operate a snowmobile in a careless, reckless or negligent manner so as to be likely to endanger the person or property of another or to 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 vehicle, and no person shall use a muffler cutout, bypass or similar device on such vehicle.
 - B. Adequate brakes in good working condition.
 - C. A safety or “deadman” throttle in operating condition, such being a device which when pressure is removed from the accelerator, the throttle causes the motor to disengage from the driving tract.
 - D. At least one headlight and one tail light in good working condition.

- 7.0713 Unattended Vehicles. No owner or operator of a snowmobile shall leave or allow the snowmobile to be or remain unattended on public property or streets while the motor is running, or where the keys for starting the vehicle are left in the ignition.
- 7.0714 Sidewalk Operation Prohibited. No person shall operate a snowmobile upon any public sidewalk in the City.
- 7.0715 Operation Under the Influence. The operator of a snowmobile shall be deemed the driver or operator of a motor vehicle and be subject to South Dakota law relating to driving while under the influence of intoxicating liquor, drugs or otherwise therein provided and such operator shall be punishable for any violation of such laws.
- 7.0716 Towing. No person operating a snowmobile shall tow any person or object behind such snowmobile except when such person or object is situated upon a conveyance which is attached to such snowmobile by means of a rigid hitch or tow bar.
- 7.0717 Exception. Notwithstanding the provisions of any other Section, any governmental official in charge of public school ground, park property, playgrounds, or parking lots shall have authority to supervise and regulate events or programs conducted thereon or to designate such areas as recreation areas available for use of snowmobiles and the hours of such use.

CHAPTER 7.08 - MISCELLANEOUS PROVISIONS

- 7.0801 Clinging to Moving Vehicles. No person traveling upon any bicycle, motorcycle, coaster, sled, roller skates, or any toy vehicle shall cling to or attach himself or such vehicle to any other moving vehicle upon any street.
- 7.0802 Riding on Outside of Vehicle. No person shall ride on any vehicle upon any portion thereof not designated or intended for the use of passengers.
- 7.0803 Tampering with Vehicles. Any person who shall tamper with the motor vehicle of another, with intent to injure the same or cause inconvenience to the owner thereof, or who shall take and operate the motor vehicle of another without the consent of the owner or person lawfully in charge thereof, under such circumstances as not to constitute larceny, shall be guilty of a misdemeanor.
- 7.0804 Immediate Notice of Accident. The operator of a vehicle involved in an accident resulting in injury to or death of any person, or resulting in any property damage, shall immediately by the quickest means of communication give notice of such accident to a law enforcement officer. (SDCL 32-34-7)
- 7.0805 When Driver Unable to Report. An accident report shall not be required from any person who is physically incapable of making such report during the period of incapacity. Whenever the operator of a vehicle is physically incapable of making such report or is physically incapable of giving an immediate notice of an accident

and there is another occupant in the vehicle at the time of the accident capable of doing so, such occupant in the vehicle at the time of the accident shall cause to be given the notice not given by the operator. (SDCL 32-34-8,9)

- 7.0806 Duty to Give Information, Render Aid. The operator of any vehicle involved in an accident resulting in injury to or death of any person or damage to any vehicle which is driven or attended by any person shall give his name, address and if applicable, the license number of the vehicle he is driving and his operator's or chauffeur's license to the person struck or to the driver or occupant or person attending any vehicle collided with. The operator shall also render to any person injured in such accident reasonable assistance, including the carrying, or making of arrangements for the carrying of such person to a physician, surgeon or hospital for medical or surgical treatment if it is apparent that such treatment is necessary or if such carrying is requested by the injured person. (SDCL 32-34-3)
- 7.0807 Personal Injury. The operator of any vehicle involved in an accident resulting in injury to or death of any person shall immediately stop such vehicle at the scene of such accident or as close thereto as possible but shall then forthwith return to and in every event shall remain at the scene of the accident until he has fulfilled the requirements of Section 7.0806. (SDCL 32-34-7)
- 7.0808 Property Damage. The operator of any vehicle involved in an accident resulting only in damage to a vehicle which is driven or attended by any person shall immediately stop such vehicle at the scene of such accident or as close thereto as possible but shall forthwith return to and in every event shall remain at the scene of such accident until he has fulfilled the requirements of Section 7.0806. Every such stop shall be made without obstructing traffic more than is necessary. Any person failing to stop or comply with said requirements under such circumstances shall be guilty of a misdemeanor. (SDCL 34-34-4)
- 7.0809 Unattended Vehicle, Property. The operator of any vehicle which collides with any other vehicle or property which is unattended shall immediately stop and shall then and there either locate and notify the operator or owner of such vehicle of the name and address of the driver and owner, of the vehicle striking the unattended vehicle or shall attach securely in a conspicuous place in or on the vehicle struck a written notice giving the name and address of the driver and of the owner of the vehicle doing the striking and a statement of the circumstances thereof. Such driver shall without unnecessary delay notify a law enforcement officer of such accident. (SDCL 32-34-4)
- 7.0810 Duty Upon Striking Fixtures. The operator of any vehicle involved in an accident resulting only in damage to fixtures or other property legally upon or adjacent to a street shall take reasonable steps to locate and notify the owner or person in charge of such property of such fact and of his name and address and of the registration number of the vehicle he is driving and shall upon request and if available exhibit his operator's license and shall make report of such accident when and as required in Section 7.0808 or statute. (SDCL 32-34-4)

7.0811 Duty Upon Striking Animal. The operator of any vehicle which collides with any dog or domestic animal causing injury thereto shall stop and attempt to ascertain the owner of such animal and notify a law enforcement officer of such accident.

7.0812 Manner of Arrest. Except in cases of driving while intoxicated or under the influence of intoxicating liquor or any stupefying or exhilarating drug and except in the more serious and aggravated cases of speeding or careless and reckless driving and except when reasonably necessary to secure appearance, a person charged with a violation of this Title by a law enforcement officer need not be arrested in the regular manner but may first be given an opportunity after notice to appear voluntarily to answer for such traffic violation.

7.0813 Notice to Appear. A person charged with violation of this Title by notice shall be given notice to appear before a court of competent jurisdiction at the time or within the time stated in such notice, and that in event of failure to do so a warrant will be issued for his arrest.

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

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

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

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

7.0815 Attest on Failure to Appear. Upon the failure of a person to appear in response to a notice of traffic violation he shall be subject to arrest in the manner otherwise provided by law.

7.0816 Repair of Vehicle with Reportable Damage Prohibited Unless Required Notice Affixed. The person in charge of any garage or repair shop shall not commence repair on any motor vehicle which shows evidence of having been involved in a

reportable accident or struck by any bullet unless the vehicle bears the notice provided for in SDCL 32-34-23.

- 7.0817 Off-Road Vehicles; Operation on Highway Prohibited. No person may operate on a public street or highway any off-road vehicle except for crossing from one side of the road to the other. An off-road vehicle shall be defined as any self-propelled, two or more wheeled vehicle designed primarily to be operated on land other than a highway and includes, but is not limited to, all terrain vehicles, dune buggies, go-carts and any vehicle whose manufacturer's statement of origin (MSO) or manufacturer's certificate of origin (MCO) states that the vehicle is not for highway use. A person may operate an off-road vehicle in a highway ditch if the vehicle is operated as close as possible to the outer edge of the highway right-of-way. However, no person may operate an off-road vehicle in a ditch along the interstate highway system and no person may operate an off-road vehicle except a snowmobile in a highway ditch that is designated as part of the state snowmobile trails system pursuant to SDCL 41-19. (SDCL 32-20-12)

TITLE 8 - WATER AND SEWER

Chapter 8.01 - General Provisions

Chapter 8.02 - Water Provisions

Chapter 8.03 - Sewer Provisions

Chapter 8.04 - Water and Sewer Rates

CHAPTER 8.01 - GENERAL PROVISIONS

- 8.0101 Utility Service-Application Required. Any person desiring any utility service furnished by the City, including water or sewer service, shall make application for the same to the City Council. 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 premise 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 they may be revised from time to time in addition to conditions and agreements as the Council shall deem advisable.
- 8.0102 Utility Deposit. The application for utility service shall be accompanied by a deposit in the sum of one hundred dollars (\$100.00), provided that if utility service is currently or has previously been provided to said applicant at other premises and said applicant has a history of payment without delinquency for a period of two (2) years, then no deposit shall be due. The deposit shall be held by the City and applied to any charges for the applicant's utility service remaining unpaid at the time of termination of services. Upon termination of service, any unused portion of said deposit shall be returned to the applicant. The amount of said deposit may be adjusted from time to time by resolution of the City Council.
- 8.0103 Same-Not Available to Debtors. The City may decline or fail or cease to furnish utility service to any person who may be in debt to the City for any reason, except ad valorem taxes and special assessments.
- 8.0104 Termination of Service. The City shall have the right to disconnect or refuse to connect any municipal utility service for the following reasons:
- A. Failure to meet the applicable provisions of law.
 - B. Violation of the rules and regulations pertaining to utility service.
 - C. Nonpayment of bills.
 - D. Willful or negligent waste of service due to improper or imperfect pipes, fixtures, appliances or otherwise.

- E. Tampering with any meter, seal, or other equipment controlling or regulating the supply of utility service.
- F. Theft or diversion and/or use of service without payment therefore.
- G. Vacancy of premises.

The City shall give the municipal utility service customer at least five (5) days notice before termination of municipal utility service. At any time before the date of termination, a customer may dispute the correctness of all or a part of the amount shown on the utility bill or the determination that a violation of this Section has occurred giving rise to termination hereunder. A customer shall not be entitled to dispute the correctness of all or part of the amount shown on the municipal utility bill if all or a part of the amount shown were the subject of a previous dispute under this Section.

8.0105 Customer Disputes. The procedure for customer disputes shall be as follows:

- A. Before the date of termination, the customer shall notify the Finance Officer orally or in writing that the customer disputes all or a part of the amount shown on the municipal utility bill or the determination that a violation of this Section has occurred giving rights to a termination stating as completely as possible the basis for the dispute.
- B. If the Finance Officer determines that the present dispute is untimely or invalid pursuant to Section 8.0105, the Finance Officer shall notify the customer and proceed as if the customer had not notified the municipal utility of the dispute.
- C. If the Finance Officer determines that the present dispute is not untimely or invalid pursuant to Section 8.0105 within three (3) days after the receipt of the customer's notice, the Finance Officer shall arrange an informal meeting between the customer and the Finance Officer.
- D. Based upon the municipal utility's records, the customer's allegations and all other relevant materials available to the official, the Finance Officer shall resolve the dispute, attempting to do so in a manner satisfactory to both the municipal utility and the customer.
- E. Within five (5) days after the meeting, the Finance Officer shall mail to the customer a copy of the Finance Officer's decision resolving the dispute.
- F. If the decision is unsatisfactory to the customer, within five (5) days of receipt of the decision, the customer may request, in writing, a formal hearing before the City Council.
- G. The formal hearing shall be held within ten (10) days of the receipt of the request.

- H. At the hearing, the municipal utility and the customer shall be entitled to present all evidence that is, in the committee's view, relevant and material to the dispute, be represented by counsel, and examine and cross-examine witnesses. A tape recorded record of the hearing shall be maintained.
- I. Based upon the record established at the hearing, the committee shall, within five (5) days of the completion of the hearing, issue its written decision formally resolving the dispute, which decision shall be final and binding upon the municipal utility and the customer.

Utilization of this dispute procedure shall not relieve a customer of his or her obligation to timely and completely pay all other undisputed municipal utility charges and the undisputed portions of any amounts subject to the present dispute. Failure to so pay shall subject the customer to termination.

8.0106 Termination After Customer Disputes. Until the date of the Municipal Finance Officer or the Council's decision, whichever is later, the municipal utility shall not terminate the utility service of the customer and shall not issue a notice of termination solely for nonpayment of the disputed amounts. If it is determined that the customer must pay some or all of the disputed amounts, the utility shall promptly mail to or personally serve upon the customer a notice of termination containing the following:

- A. Amount to be paid or violation under this Section;
- B. Date of notice of termination;
- C. Date of termination which shall be at least five (5) days after notice;
- D. Notice that unless the municipal utility receives complete payment of the amount shown, if any, prior to the date of termination, municipal utility service shall be terminated.

8.0107 Termination Procedures. Except as provided in Section 8.0105 with respect to disputes, all terminations of municipal utility services for violations of Section 8.0104 shall follow these procedures:

- A. If by the payment date shown on the municipal utility bill, complete payment has not been received by the municipal utility, or another violation of Section 8.0104 has occurred, the municipal utility shall mail to, or personally serve upon, the customer a notice of termination at least three (3) days after the payment date containing: (i) the amount to be paid or a statement of violation of Section 8.0104; (ii) the date of the notice of termination; (iii) the date of termination which shall be at least five (5) days from the notice of termination; (iv) notice that unless the municipal utility receives complete payment of the amount shown, if any, service shall be terminated, or notice that service shall be terminated for another violation of Section 8.0104.

- B. If prior to the date of termination when the termination is for non-payment; (i) the municipal utility has not received complete payment of the amount shown on the notice of termination; or (ii) the customer has not notified the municipal utility that he or she disputes the correctness of termination; or (iii) if, prior to the date of termination for other violation of Section 8.0104, the customer has not notified the municipal utility that he or she disputes the violation, then the municipal utility shall terminate municipal utility service provided to the customer on the date of termination.

8.0108 Provisions for Termination of Service. The municipal utility shall terminate service hereunder only during the hours of 9:00 a.m. to 3:00 p.m. Monday through Thursday, except no termination shall be permitted on a legal holiday.

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

8.0109 Service Taps - Extensions. Tapping of any water or sewer main for the purpose of making connection shall be done only by authorized personnel of the City. Upon being notified by any abutting property owner along a city water main that the said owner desires to make a connection with the trunk-main, the City of Viborg shall make a connection from the water main to the customer's property line abutting parallel with the water main. The property owner shall pay for the cost of materials and labor incurred in the installation as determined by the prevailing cost of the same to the City of Viborg at the time of installation. In determining the footage of installation to be paid by the property owner, and whereas the water mains lay on one side of the streets or alleys, the property owner on the far side shall pay no more footage from his property line than if he were on the near side of the water main in the street. The City of Viborg assumes the difference in cost of footage on the long side only. The property owner shall deposit seventy-five percent (75%) of the estimated cost of the installation with the City prior to installation with the balance of the final determined cost to be paid immediately upon completion of the installation.

8.0110 Extension of Lines. The City may extend water or sewer customer lines within and outside the municipal corporate limits solely at the discretion of the City Council. Said water and sewer lines shall be constructed and maintained by the customer, with all parties connecting onto such lines being regulated and charged connection fees and other fees as set forth and regulated by the City.

8.0111 Private Lines. Private water or sewer mains shall not be installed in the City unless authorized by the City Council. For the purposes of this Section, the phrase "private water and sewer mains" shall be construed to include any rural water pipelines, pipes or waterlines.

- 8.0112 Responsibility of Property Owners. The owner of the property served by City water and sewer shall be responsible for the maintenance and repair of the water line from the curb stop to the point of connection to the building or other point where water is used on the premises, and shall be responsible for the maintenance and repair of the sewer line from the property line to the point of connection with the building or place of use of the sewer on the premises. The property owner shall also be responsible for the protection from all damage, including damage from freezing, of all meters, valves and other apparatus for the use of City water and sewer which are owned by the City and located within the owner's premises. The property owner and/or water user shall place and maintain a brass stop inside the basement of any building where water is to be used so that the water may be turned on or off by the owner or occupant of the premises. Damage by the property owner resulting in service connection repairs to the curb stop shall be the responsibility of the property owner.
- 8.0113 Responsibility of City. The City should be responsible for the maintenance and repair of the water line from the point of connection on the City water main to and including the curb stop, and shall be responsible for the maintenance and repair of the sewer line at the point of connection on the City sewer.
- 8.0114 Excavation Permits. For the purposes of water and sewer connections and or extensions, no person shall make or cause to be made any excavation in or under any street, parking area, sidewalk, alley, or public ground, or remove any earth, soil, paving, gravel, or material therefrom without having first obtained a permit therefore as hereinafter provided. Applications for such permit shall be made to the Finance Officer and accompanied by a deposit in such sum as deemed necessary by said Finance Officer to insure the replacement and refilling of any such excavation or to cover any damages which may be caused to any street or for replacement of bituminous surfacing. Any unused portion of said permit shall be refunded to the applicant.
- 8.0115 Excavation Requirements. All excavations required for the installation of water and sewer facilities shall be open trench work or ditch, unless otherwise approved by the Water Superintendent. No backfill shall be placed until the work has been inspected, and backfilling on City streets, avenues, or alleys shall be according to approved specifications. Water and Sewer Department personnel shall be allowed to inspect the work at any stage of construction and, in any event, the applicant for the permit shall notify the department when the work is ready for final inspection and before underground portions are covered.
- 8.0116 Guarding Excavations. Any person receiving a permit to make excavations in or upon any street, alley, sidewalk or public ground shall, during the progress and continuance of the work, erect and maintain around the same both day and night suitable guards, fences, flares, and signals so as to prevent injury to persons, animals, or vehicles on account of such excavations. No open trench shall be left open for any more time than considered absolutely necessary or reasonable.

- 8.0117 Liability of City. The City shall not be liable for any damage to the property of any customer of any water and sewer service furnished by the City due to backflow of the sewage system, failure of water supply, interruption of service or from any cause outside the direct control of the City.
- 8.0118 Right of Entry. Any person authorized by the City shall have free access at any time to all premises supplied with any water and sewer service by the City for the purpose of examination in order to protect the utility services from abusive use.
- 8.0119 Damage, Trespass of Equipment. It shall be unlawful for any person, not having authority to do so, to open any water hydrant or tamper with any water and sewer service furnished by the City to consumers, or to in any other way molest, damage or trespass upon any equipment or premises belonging to the City connected with any such service.
- 8.0120 Razing Permit. No person shall raze or remove any building or structure which is connected to a water or sewer main or disconnect any building or structure from such main without first having obtained permission from the Water and Sewer Superintendent.
- 8.0121 Unlawful Use. No person, other than employees of the City, shall be authorized to connect, turn on, turn off or disconnect any water and sewer service offered by the City, or remove, replace or repair any equipment connected to any such service.
- 8.0122 Violations. The City may, in its discretion, notify any person violating any provision of this Title with written notice stating the nature of the violation and providing a reasonable time for the correction thereof, but such notice shall not be necessary for the prosecution of any violations hereof. Any person, whether receiving such notice or not, violating any provision of this Title shall be liable to the City for any expense, loss, or damage, occasioned the City by reason of such violation. All provisions of this Title shall be subject to applicable state and federal law. (SDCL 9-47, SDCL 9-48)

CHAPTER 8.02 - WATER PROVISIONS

- 8.0201 Water Meters. Water meters shall be installed in all new and buildings using City water service or as otherwise authorized by the City Council. The City Water and Sewer Department shall install, replace, and repair household water meters on service lines up to one-inch (1") outside diameter. The installation, replacement or repair shall be done without cost to property owners or users, unless occasioned by the property owner's or user's negligence, misuse, or violations of federal, state, or city law, rule, ordinance, or regulation. The cost of the purchase, installation, replacement, or repair of water meters on service lines exceeding one inch (1") outside diameter shall be the responsibility of the owner of the property using City water service.

8.0202 Second Water Meter. A property owner may install at the property owner's expense, subject to inspection by the City, a second water meter to record water usage of irrigation systems and other outdoor water usage which does not discharge into the City's sanitary sewer system. Said meter shall be purchased from the City and installed on the consumer side of the main meter. No sewer charges shall be assessed on the water usage recorded through said second meter.

8.0203 Inspection of Meters. Any person authorized by the City Council to read water meters or make inspections shall be allowed free access at all reasonable hours to any building or premises where water is used. If such persons are not allowed such access, the City, in its discretion, may estimate the water use, shut off the water, make additional charges, or take other action not inconsistent with the law.

8.0204 Testing Meters. If a water customer desires a flow check of his meter to determine if it is functioning properly, he may request a check from the Street and Utilities Superintendent. If the meter is found to be accurate and without defect, the customer will be required to pay a service charge in the amount of fifteen dollars (\$15.00). If the meter is found to be defective, it will be repaired or replaced with no charge to the customer.

The city may flow check said meters at its discretion to determine if the meter is functioning properly. If the meter is found to be defective, the property owner or water user thereon shall repair or replace said meter at his expense.

8.0205 Water Lines How Laid. All service lines shall be at least six (6) feet below the established grade of the street, avenue, or alley in which they shall be laid, and in all places at least six (6) feet below the surface of the ground. All plumbing fixtures, piping or apparatus shall be installed with such material as to withstand safety the perils surrounding their conditions of operation and use.

When service pipes are found disconnected at the corporation stop at any main, they may be reconnected only by the City or on its order. No water main or service may be laid in the same trench with other foreign conduits. Special permission may be granted, however, when deemed advisable by the City Council, for laying of water lines in trenches with sewer lines, and then only with the placement of water lines well above sewer lines to prevent subsequent possible contamination of water mains.

8.0206 Payment of Water Rates. All meters shall be read at such times as the Water and Sewer Department or Committee shall determine in their discretion, and following said reading the City shall bill the property owner for water service, and amounts due from property owners for water used shall be due and payable on or before the 15th day of the month following the month of billing.

Failure of property owners to comply with the time of payment of water bills shall subject them to be shut off from water service in accordance with Section 8.0104.

Rates for water service shall be set as the City Council in its discretion shall from time to time declare by resolution.

All monthly water bill payments received after the 15th day of the month will be considered delinquent and the account will be assessed a delinquent payment charge in the sum of ten dollars (\$10.00) added to the regular bill. The amount of the delinquent payment charge may be adjusted from time to time by resolution of the City Council.

The property owner shall be primarily responsible for the payment of all charges arising out of the use of water at its premises or any other charges provided for in this ordinance and assessed by the City Council, Water and Sewer Committee, or Water and Sewer Department. Such charges shall constitute a perpetual lien and continuing lien upon such property until paid in full, and no water shall be furnished to any property against which any charge hereunder remains unpaid.

- 8.0207 Reconnection After Disconnection. In the event that any water service is disconnected for nonpayment of a bill, every property owner shall have the right to have the same reconnected only upon payment of the amount due and a reconnection fee as established by resolution by the Viborg City Council.
- 8.0208 Voluntary Discontinuance of Service. Persons wishing to discontinue the use of any water service shall give proper notice thereof at the City Hall. Failure to do so shall render them liable for the payment of all bills until such notice has been given.
- 8.0209 Interruption of Service. The users of any water service furnished by the City are hereby notified that the supply of such utility may be temporarily shut off at any time. Notice shall be given, if feasible, of the contemplated shutoff, but accidents may render this impossible; hence the City hereby warns those dependent upon the utility service for any purpose of this hazard. Immediately upon finding the supply shutoff it becomes the duty of the occupant of the premises to take prompt precautions to prevent damages.
- 8.0210 Restricting Use. The City hereby reserves the right to at any time restrict or prevent the use of any water service furnished by the City during periods of emergency or circumstances demanding such restriction or prevention of use. Water shall be used only for beneficial purposes and shall never be wasted. The right is reserved to suspend the use of sprinklers and hoses for watering lawns, yards, and gardens whenever, in the opinion of the Water and Sewer Committee, a public emergency exists.
- 8.0211 Joint Water Users Liable. In the case that two or more users are supplied with water from the same service pipe, if any of the parties fail to pay the water charge when due, or to comply with any rule of the City, the City reserves the right to cut off the water from the whole service until such charge is paid, or the rules strictly complied with, and it is expressly stipulated that no claim for damage or otherwise may be made against said City by any user whose water charge has been paid, or who has

complied with the rules of said City, because of such turn-off, it being expressly stipulated that the necessity for such turn-off shall be deemed to be the joint act of all served through such service.

- 8.0212 Use Assumed. All premises connected to any utility service of the City shall be assumed to be using such service and the owner or occupant shall be charged therefore as long as such premises shall remain connected to the utility service of the City. (SDCL 9-47)

CHAPTER 8.03 - SEWER PROVISIONS

- 8.0301 Definitions. Unless the context specifically indicates otherwise, the meaning of terms used in this ordinance shall be as follows:
- A. Biochemical Oxygen Demand (BOD). The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at 20 degrees Centigrade, expressed in milligrams per liter.
 - B. Building Drain. That part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five (5) feet (1.5 meters) outside the inner face of the building wall.
 - C. Building Sewer. The extension from the building drain to the public sewer or other place of disposal, also called house connection.
 - D. Combined Sewer. A sewer intended to receive both wastewater and storm or surface water.
 - E. Easement. An acquired legal right for the specific use of land owned by others.
 - F. Floatable Oil. Oil, fat, or grease in a physical state such that it will separate by gravity from wastewater by treatment in an approved pretreatment facility. Wastewater shall be considered free of floatable fat if it is properly pretreated and the wastewater does not interfere with the collection system.
 - G. Garbage. The animal and vegetable waste resulting from the handling, preparation, cooking, and serving of foods.
 - H. Industrial Wastes. The wastewater from industrial processes, trade, or business as distinct from domestic or sanitary wastes.
 - I. Natural Outlet. Any outlet, including storm sewers and combined sewer overflows, into a watercourse, pond, ditch, lake, or other body of surface or underground.

- J. May is permissive (see “shall”, Sec. R).
- K. Person. Any individual, firm, company, association, society, corporation, or group.
- L. pH. 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} .
- M. Properly Shredded Garbage. The wastes from the preparation, cooking, and dispensing of food that has been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particles greater than ½ inch (1.27 centimeters) in any dimension.
- N. Public Sewer. A common sewer controlled by a governmental agency or public utility.
- O. Sanitary Sewer. 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.
- P. Sewage. The spent water of a community. The preferred term is “wastewater”, Sec. 24.
- Q. Sewer. A pipe or conduit that carries wastewater or drainage water.
- R. Shall is mandatory (see “may”, Sec. J).
- S. Slug. Any discharge of water or wastewater which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than fifteen (15) minutes more than five (5) times the average twenty-four (24) hour concentration or flow during normal operation and shall adversely affect the collection system and/or performance of the wastewater treatment works.
- T. Storm Drain (sometimes termed “storm sewer”). A drain or sewer for conveying water, groundwater, subsurface water, or unpolluted water from any source.
- U. Superintendent. The superintendent of wastewater facilities of the city of Viborg, or his authorized deputy, agent, or representative.
- V. Suspended Solids. Total suspended matter that either floats on the surface of, or is in suspension in water, wastewater, or other liquids, and that is removable

by laboratory filtering as prescribed in “Standard Methods for the Examination of Water and Wastewater” and referred to as nonfilterable residue.

- W. Unpolluted Water. A 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.
- X. 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 ground-water, surface water, and storm water that may be present.
- Y. Wastewater Facilities. The structures, equipment, and processes required to collect, carry away, and treat domestic and industrial wastes and dispose of the effluent.
- Z. Wastewater Treatment Works. 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.”
- AA. Watercourse. A natural or artificial channel for the passage of water either continuously or intermittently.

8.0302 Use of Public Sewers Required.

- A. It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the city of Viborg, or in any area under the jurisdiction of said city, or any human or animal excrement or garbage, or any objectionable waste.
- B. It shall be unlawful to discharge to any natural outlet within the city of Viborg, or in any area under the jurisdiction of said city, any sewage or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this ordinance.
- C. Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of wastewater.
- D. The owner(s) of all houses, buildings, or properties used for human occupancy, employment, recreation, or other purposes, situated within the 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 or combined sewer of the city, is hereby required at the owner(s) expense to install suitable toilet facilities therein, and to connect such facilities therein, and to connect such facilities directly with the

proper public sewer in accordance with the provisions of this ordinance, within 30 days after date of official notice to do so, provided that said public sewer is within 400 feet of the property line.

8.0303 Private Wastewater Disposal.

- A. Where a public sanitary or combined sewer is not available under the provisions of Section 8.0304, the building sewer shall be connected to a private wastewater disposal system complying with the provisions of this article.
- B. Before commencement of construction of a private wastewater disposal system the owner(s) shall first obtain a written permit signed by the superintendent. The application for such permit shall be made on a form furnished by the city, which the applicant shall supplement by any plans, specifications, or other information as are deemed necessary by the superintendent.
- C. A permit for a private wastewater disposal system shall not become effective until the installation is completed to the satisfaction of the superintendent. The superintendent shall be allowed to inspect the work at any stage of construction, and, in any event, the applicant for the permit shall notify the superintendent when the work is ready for final inspection, and before any underground portions are covered. The inspection shall be made within 8 hours of the receipt of notice by the superintendent.
- D. The type, capacities, location, and layout of a private wastewater disposal system shall comply with all recommendations of the department of public health of the State of South Dakota. No septic tank or cesspool shall be permitted to discharge to any natural outlet.
- E. At such time as a public sewer becomes available to a property served by a private wastewater disposal system, a direct connection shall be made to the public sewer within sixty (60) days in compliance with this ordinance, and any septic tanks, cesspools, and similar private wastewater disposal facilities shall be cleaned of sludge and filled with suitable material.
- F. The owner(s) shall operate and maintain the private wastewater disposal facilities in a sanitary manner at all times, at no expense to the city.
- G. No statement contained in this article shall be construed to interfere with any additional requirements that may be imposed by the health officer.

8.0304 Sanitary Sewers, Building Sewers and Connections.

- A. No unauthorized person(s) shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the superintendent.

- B. There shall be two (2) classes of building sewer permits: (a) for residential and commercial service, and (b) for service to establishments producing industrial wastes. In either case, the city may require the owner(s) or his agent shall make application on a special form furnished by the city. The permit application, if required, shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the superintendent.
- C. All costs and expense incidental to the installation and connection 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 an 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 aforementioned.
- E. Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the superintendent, to meet all requirements of this ordinance.
- 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 building 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 A.S.T.M. and W.P.C.F. Manual of Practice No. 9 shall apply.
- G. Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all building in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer.
- H. No person(s) shall make connection of roof down spouts, 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 superintendent 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 A.S.T.M. and the W.P.C.F. Manual of Practice No. 9. All such connections shall be made gastight and watertight and verified by proper testing. Any deviation from the prescribed procedures and materials must be approved by the superintendent before installation.
- J. The applicant for the building sewer permit shall notify the superintendent 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 superintendent or his representative.
- K. All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the city.

8.0305 Use of the Public Sewers.

- A. No person(s) shall discharge or cause to be discharged any unpolluted waters such as storm water, surface water, groundwater, roof runoff, subsurface drainage, or cooling water to any sewer, except storm water runoff from limited areas, which storm water may be polluted at times, may be discharged to the sanitary sewer by permission of the superintendent.
- B. Storm water other than that exempted under Section 8.0305 (A), and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as combined sewers or storm sewers, or to a natural outlet approved by the superintendent and other regulatory agencies. Unpolluted industrial cooling water or process waters may be discharged, on approval of the superintendent, to a storm sewer, combined sewer, or natural outlet.
- C. No person(s) shall discharge or cause to be discharged any of the following described water or wastes to any public sewers:
 - 1. Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid, or gas.
 - 2. Any waters containing toxic or poisonous solids, liquids, or gases in sufficient quantity, either singly or by interaction with other wastes, to contaminate the sludge of any municipal system, to injure or interfere with any sewage treatment process, constitute a hazard 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, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.
- D. The following described substances, materials, waters, or waste shall be limited in discharges to municipal systems to concentrations or quantities which will not harm either the sewers, wastewater treatment process or equipment, will not otherwise endanger lives, limb, public property, or constitute a nuisance. The superintendent may set limitations lower than the limitations established in the regulations below if in his opinion such more severe limitations are necessary to meet the above objectives. In forming his opinion as to the acceptability, the superintendent will give consideration to such factors as the quantity of subject waste in relation to flows and velocities in the sewers, materials of construction of the sewers, the wastewater treatment process employed, capacity of the wastewater treatment plant, degree of treatability of the waste in the wastewater treatment plant, and other pertinent factors. The limitations or restrictions on materials or characteristics of waste or wastewater discharged to the sanitary sewer which shall not be violated without approval of the (superintendent) are as follows:
1. Wastewater having a temperature higher than 150 degrees Fahrenheit (65 degrees Celsius).
 2. Wastewater containing more than 25 milligrams per liter of petroleum oil, nonbiodegradable cutting oils, or product of mineral oil origin.
 3. Wastewater from industrial plants containing floatable oils, fat, or grease.
 4. Any garbage that has not been properly shredded. 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 superintendent for such materials.

6. Any waters or wastes containing odor-producing substances exceeding limits which may be established by the superintendent.
 7. Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the (superintendent) in compliance with applicable state or federal regulations.
 8. Quantities of flow, concentrations, or both which constitute a "slug" as defined herein.
 9. Waters or wastes containing substances which are not amenable to treatment or reduction by the wastewater 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 waste or wastes in the public sewer system, release obnoxious gases, form suspended solids which interfere with the collection system, or create a condition deleterious to structures and treatment processes.
- E. If any waters or wastes are discharged, or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in Section 8.0305 (D), and which in the judgment of the superintendent, 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 superintendent may:
1. Reject the wastes,
 2. Require pretreatment to an acceptable condition for discharge to the public sewers,
 3. Require control over the quantities and rates of discharge, and/or
 4. Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges under the provisions of Section 8.0310.

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

- F. Grease, oil and sand interceptors shall be provided when, in the opinion of the (superintendent), they are necessary for the proper handling of liquid wastes

containing floatable grease in excessive amounts as specified in Section 8.0305 (D) (4), 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 superintendent, 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 which are subject to review by the superintendent. Any removal and hauling of the collected materials not performed by owner(s) personnel must be performed by current licensed waste disposal firms.

- G. Where pretreatment or flow equalizing facilities are provided or required for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner(s) at his expense.
- H. When required by the superintendent, the owner(s) of any property serviced by a building sewer carrying industrial wastes shall install a suitable structure together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling, and measurement of the wastes. Such structures, when required, shall be accessibly and safely located, and shall be constructed in accordance with plans approved by the superintendent. 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 superintendent may require a user of sewer services to provide information needed to determine compliance with this ordinance. These requirements may include:
 - 1. Wastewater discharge peak rate and volume over a specified time period.
 - 2. Chemical analyses of wastewater.
 - 3. Information on raw materials, processes, and products affecting wastewater volume and quality.
 - 4. Quantity and disposition of specific liquid, sludge, oil, solvent, or other materials important to sewer use control.
 - 5. A plot plan of sewers on 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 water and wastes to which reference is made in this ordinance shall be determined in accordance with the latest edition of "Standard Methods for the Examination of Water and Wastewater," published by the American Public Health Association. Sampling methods, location, times, durations, and frequencies are to be determined on an individual basis subject to approval by the superintendent.
- K. No statement contained in this article shall be construed as preventing any special agreement or arrangement between the city and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the city for treatment.

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

8.0307 Powers and Authorities of Inspectors.

- A. The superintendent and other duly authorized employees of the city bearing proper credentials and identifications shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling, and testing pertinent to discharge to the community system in accordance with the provisions of this ordinance.
- B. The superintendent or other duly authorized employees are authorized to obtain information concerning industrial processes which have a direct bearing on the kind and source of discharge to the wastewater collection system. The industry may withhold information considered confidential. The industry must establish that the revelation to the public if the information in question might result in an advantage to competitors.
- C. While performing the necessary work on private properties referred to in 8.0307 (A), above, the superintendent or duly authorized employees of the city shall observe all safety rules applicable to the premises established by the company, and the company shall be held harmless for injury or death to the city employees, and the city shall indemnify the company against loss or damage to its property by city employees and against liability claims and demands for personal injury or property damage asserted against the company growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions as required in 8.0305 (H).
- D. The superintendent and other duly authorized employees of the city bearing proper credentials and identification shall be permitted to enter all private properties through which the city holds a duly negotiated easement for the purposes of, but not limited to, inspection, observation, measurement,

sampling, repair, and maintenance of any portion of the wastewater facilities lying within said easement. All entry and subsequent work, if any, on said easement, shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

8.0308 Penalties.

- A. Any person found to be violating any provision of this ordinance except Section 8.0306 shall be served by the city with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.
- B. Any person who shall continue any violation beyond the time limit provided for in 8.308 (A), shall be fined in the amount as set by resolution by the Viborg City Council. Each day in which any such violation shall continue shall be deemed a separate offense.
- C. Any person violating any of the provisions of this ordinance shall become liable to the city for any expense, loss, or damage occasioned the city by reason of such violation.

8.0309 Surcharge Rate Schedule for Above Normal Strength Wastes. The City of Viborg, or its Engineer, has determined that the average total suspended solids (TSS) and 5-day biochemical oxygen demand (BOD) daily loadings for the average residential user are 200 ppm BOD and 220 ppm TSS. The City of Viborg, or its Engineer, has assessed a surcharge rate for all non-residential users discharging wastes with BOD and TSS strengths greater than the average residential user. The surcharge will be sufficient to cover the costs of treating such users above normal strength wastes. Such users will pay an additional service charge to be negotiated for each 25 ppm over 200 ppm of BOD and each 25 ppm over 220 ppm TSS.

8.0310 Wastewater Facilities Replacement Fund Schedule. The reserve fund called the Wastewater Facilities Replacement Fund established within the wastewater utility fund as an interest-bearing account shall be funded by a deposit of \$3,500.00 per year obtained from the wastewater utility fund at the end of each fiscal year.

8.0311 Sanitary Sewer Required. A separate and independent sanitary sewer shall be provided for every building; except where one building stands at the rear of another on an interior lot and no sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway, the sewer from the front building may be extended to the rear building and the whole considered as one sanitary sewer.

8.0312 Existing Sewer Connections. Existing building sewers may be used in connection with new buildings only when they are found, on examination and test by the Water and Sewer Superintendent, to meet all requirements of this Title.

8.0313 Disconnection. When a disconnection from the sanitary sewer is made, the sewer service shall be closed to the satisfaction of the Water and Sewer Superintendent. Closure shall be at the curb line on residential property and at the property line on commercial property.

8.0314 Sewer Requirements. All sanitary sewer shall be cast iron soil pipe, ASTM specification (A74-42) or equal, vitrified clay sewer pipe, ASTM specification (CI3-441) or equal; PVC or other suitable material. Additional requirements may be provided when any part of a building sewer is located near a water service pipe, or where the sewer is exposed to damage by tree roots or unstable ground.

The size and slope of sanitary sewer shall be subject to the approval of the Streets and Utilities Superintendent, but in no event shall the diameter be less than four (4) inches. The slope of such pipe shall be not less than one-eighth inch per foot. Whenever possible the sewer shall be brought to the building at an elevation below the basement floor. No sewer shall be laid parallel to or within three (3) feet of any bearing wall, which might thereby be weakened. The depth shall be sufficient to afford protection from frost. The sewer shall be laid at uniform grade and in straight alignment in so far as possible. Changes in direction shall be made only with properly curved pipe and fittings.

The connection of the sanitary sewer into the public sewer shall be made at the "y" branch, if such branch is available at a suitable location. Where the public sewer is greater than twelve (12) inches in diameter, and no properly located "y" branch is available, a neat hole may be cut into the public sewer to receive the sewer connection, with entry in the downstream direction at an angle of about forty-five degrees. A forty-five degree (45°) ell may be used to make such connection, with the spigot end cut so as not to extend past the inner surface of the public sewer. A smooth, neat joint shall be made, and the connection made secure and watertight. The connection into the public sewer shall be made under the supervision of the Water and Sewer Superintendent.

8.0315 Certain Acts Prohibited. It shall be unlawful to discharge to any natural outlet within the City of Viborg, or in any area under the jurisdiction of said City, any sanitary sewage, industrial wastes, or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this Chapter.

The disposal by any and all persons of garbage, cans, washers, filters and other foreign debris into the sanitary sewer system of the City shall also be prohibited.

8.0316 Petroleum Products Prohibited. The use of the sewer system of the City, for the disposal of crude oil, refined oil or any and all other petroleum products, shall be prohibited.

Grease, oil, and sand interceptors shall be provided when, in the opinion of the Water and Sewer Committee, they are necessary for the proper handling of wastes.

Where installed, such interceptors shall be maintained by the owner, at his expense, in continuously efficient operation at all times.

- 8.0317 Private Disposal System. Before commencement of construction of a private sewage disposal system the owner shall first obtain a written permit issued by the City Council. The permit for a private sewage disposal system shall not become effective until the installation is completed to the satisfaction of the City. The type, capacities, location, and layout of a private sewage disposal system shall comply with all recommendations of the City of Viborg and the Department of Water and Natural Resources, State of South Dakota. The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the City.

No connection from any private sewage disposal system shall be made with any public sanitary sewer under jurisdiction of the City. (SDCL 9-48)

CHAPTER 8.04 - WATER AND SEWER RATES

- 8.0401 Purpose. The purpose of this Chapter shall be to generate sufficient revenue to pay all costs for the operation and maintenance of the complete water and wastewater system. The costs shall be distributed to all users of the system in proportion to each user's contribution to the total loading of the treatment works. Factors such as strength (BOD and TSS), volume, and delivery flow rate characteristics shall be considered and included as the basis for the user's contribution to ensure a proportional distribution of operation and maintenance costs to each user (or user class).
- 8.0402 Water Rates Established. Water usage shall be billed monthly and the minimum monthly water rate per commercial and residential unit shall be \$10.00 for 100 cubic feet of water used and that the rate for each 100 cubic feet over the minimum amount used in the monthly period shall be \$4.00. In addition, a monthly fee of \$5.00 to be designated the Water Improvement Fee shall be added to the monthly billing and used for payment of improvements to water system. At its discretion, the City council may from time to time amend these user charges by Resolution.
- 8.0403 Rate Schedule. Sewer usage shall be billed monthly and the minimum monthly sewer rate per commercial and residential unit shall be \$9.00 for 100 cubic feet of water used and that the rate for each 100 cubic feet over the minimum amount used in the monthly period shall be \$1.00. In addition, a monthly fee of \$2.00 to be designated the Sewer Improvement Fee shall be added to the monthly billing and used for payment of improvements to sewer system. At its discretion, the City Council may from time to time amend these user charges by Resolution.

Any non-residential user with BOD and TSS greater than the average residential user's strength will pay a surcharge to be negotiated between the city and the user in accordance with the projected load to be placed on the system.

8.0404 Determining the Total Annual Cost of Operation and Maintenance. The City of Viborg, or its City Engineer, shall determine the total annual costs of operation and maintenance of the wastewater system which are necessary to maintain the capacity and performance, during the service life of the treatment works, for which such works were designed and constructed. The total annual cost of operation and maintenance shall include, but not be limited to, labor, repairs, equipment replacement, maintenance, necessary modifications, power, sampling, laboratory tests, and a reasonable contingency fund.

8.0405 Determining each User's Wastewater Contribution Percentage. The City of Viborg, or its City Engineer, shall determine for each user or user class the average daily volume of wastewater discharged to the wastewater system which shall then be divided by the average daily volume of all wastewater discharged to the wastewater system to determine such user's Volume Contribution Percentage. The amount used as the total average daily volume of wastewater shall include infiltration and inflow. The City of Viborg, or its City Engineer, shall determine for each user or user class the average daily poundage of 5-day 20-degree Centigrade Biochemical Oxygen Demand (BOD) discharged to the wastewater system which shall then be divided by the average daily poundage of all 5-day BOD discharged to the wastewater system to determine such user's BOD Contribution Percentage.

The City of Viborg, or its City Engineer, shall determine for each user or user class the average daily total Suspended Solids (TSS) poundage discharged to the wastewater system which shall then be divided by the average daily poundage of all TSS discharged to the wastewater system, to determine such user's TSS Contribution Percentage. The Volume Contribution Percentage, BOD Contribution Percentage for each user or user class shall be multiplied by the annual operation and maintenance costs for wastewater treatment of the total volume flow, total 5-day 20-degree centigrade BOD and total TSS, respectively.

8.0406 Determining a Surcharge System for Users with Excess BOD and TSS. The City of Viborg, or its City Engineer, will assess a surcharge rate for all non-residential users discharging wastes with BOD and TSS strengths greater than the average residential user. Such users will be assessed a surcharge sufficient to cover the cost of treating their above-normal strength wastes. Normal wastes are considered to be 200 ppm BOD and 220 ppm TSS.

8.0407 Determining Each User's Wastewater Service Charge. Each non-residential user's wastewater treatment cost contributions shall be added together to determine such user's annual wastewater service charge. Residential users may be considered to be one class of user and an equitable service charge may be determined for each user based on an estimate of the total wastewater contribution of this class of user. The governing body may classify industrial, commercial, and other non-residential establishments as a residential user, provided that the wastes from these establishments are equivalent to the wastes from the average residential user with respect to volume total suspended solids, and BOD.

- 8.0408 Review of Each User's Wastewater Service Charge. The City shall review the total annual cost of operation and maintenance as well as each user's Wastewater Contribution Percentage not less often than every two years and will revise the system as necessary to assure equity of the service charge system established herein and to assure that sufficient funds are obtained to adequately operate and maintain the wastewater treatment works. The City shall apply excess revenues collected from a class of users to the costs of operation and maintenance attributable to that class for the next year and adjust the rate accordingly. If a significant user, such as an industry, has completed in-plant modifications which would change that user's wastewater Contribution Percentage, the user can present, at a regularly scheduled meeting of the governing body, such factual information and the City shall then determine if the user's Wastewater Contribution Percentage is to be changed. The City shall notify the user of its findings as soon as possible.
- 8.0409 Notification. Each user will be notified, at least annually, in conjunction with a regular bill, of the rate and that portion of the user charges which are attributable to wastewater treatment services.
- 8.0410 Wastes Prohibited from Being Discharged to the Wastewater Treatment System. The discharge of any wasters containing toxic or poisonous solids, liquids, or gases in sufficient quantity, either singly, or by interaction with other wastes, to contaminate the sludge of any municipal systems, or to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in or have an adverse effect on the waters receiving any discharge from the treatment works is hereby prohibited.
- Each user which discharges any toxic pollutants which cause an increase in the cost of managing the effluent or the sludge of the Viborg treatment works shall pay for such increased costs.
- 8.0411 Prohibition of Clear Water Connections. No person shall make connection of roof down spouts, exterior 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.
- 8.0412 Proper Design and Construction of New Sewers and Connections. The size, slope, alignment, materials of construction of all sanitary sewers and sewer connections, and the methods to be used in excavating, placing the pipe, jointing, testing, and backfilling the trench, shall all conform to the requirements of the building and plumbing code or other applicable rules and regulations of the City of Viborg and the State of South Dakota. In the absence of code provision or in amplification thereof, the materials and procedures set forth in appropriate specifications of the A.S.T.M. and W.P.C.F. Manual of Practice No. 9 shall apply.

TITLE 9 - PLANNING AND BUILDING CODES

Chapter 9.01 - General Provisions

Chapter 9.02 - Planning Commission

Chapter 9.03 - Building Permits

Chapter 9.04 - Moving of Structures

CHAPTER 9.01 - GENERAL PROVISIONS

- 9.0101 Ordinances Saved from Repeal. Nothing in this Chapter shall be construed to repeal or otherwise affect in any manner:
- A. Any zoning ordinance of the City or amendment thereto.
 - B. Any subdivision ordinance of the City or amendment thereto.
 - C. Any ordinance dedicating, accepting or vacating any plat or subdivision in the City or any part thereof.

CHAPTER 9.02 - PLANNING COMMISSION

- 9.0201 Creation of Planning Commission. There shall be created a planning and zoning commission, which shall be referred to as the Planning Commission. (SDCL 11-6-2)
- 9.0202 Membership and Terms. The Planning Commission shall consist of not less than five (5) members appointed by the Mayor and subject to approval by the City Council. If deemed necessary, the City Council may appoint one or more of its members to the Planning Commission. The term of each member shall be for five (5) years, except that when the Planning Commission is first appointed at least three (3) of the members shall be appointed for five (5) years. Thereafter, appointments of each member shall be for terms of five (5) years so that there will be an overlapping of tenure. Administrative officials of the City may be appointed as ex-officio members of the Planning Commission; however, all members of the Planning Commission shall serve as such without compensation.
- 9.0203 Organization. The Planning Commission shall elect a Chairman from among its members for a term of one year, with eligibility of re-election, and shall also elect a Vice-Chairman and Secretary in a manner prescribed by the rules of the members. The City Planning Commission shall hold at least one regular meeting a year and keep a record of its resolutions, transactions, findings and determinations which shall be a public record. The City 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.

9.0204 Powers and Duties. The Planning Commission, its members and employees, shall have all such powers as may be necessary to enable it to perform its functions, promote planning and carry out all the purposes and powers enumerated in SDCL 11-4 and 11-6 and acts amendatory thereof.

9.0205 Preparation of Comprehensive Plan. It shall be the function and duty of the Planning Commission to 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. (SDCL 11-6-14)

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 recommendation.

9.0206 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, building or set-back lines and the subdivision or platting of land within the municipality in accordance with SDCL 11-4 and 11-6. All applications and proposals for changes in or amendments to the zoning regulations shall be first submitted to the Planning Commission for its recommendations.

The City Council shall act as the Board of Adjustment to make special exceptions or grant variances to the terms of the zoning regulations.

9.0207 Subdivision Plats and Regulations. All plans, plats, or re-plats of subdivisions or resubdivisions of land within the jurisdiction of this Ordinance 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 9.03 - BUILDING PERMITS

9.0301 Permits Required. It shall be unlawful for any person to commence or proceed with the construction, reconstruction, alteration, enlargement, moving or demolition of any building or structure or any portion thereof, or with the construction of curb and gutter, sidewalk, or driveway approaches, or with other types of construction as provided by ordinance, within the City, unless a building permit has been issued in accordance with the provisions of this Chapter.

- 9.0302 Applications. Applications for building permits shall be made to the City Finance Office on official forms provided by the City, along with a fee as established by the City Council. A building permit shall be issued by the Authorized Official.
- 9.0303 Concrete Construction. Permits for concrete construction, including curb and gutter, sidewalks and driveway approaches, shall be required for both new construction and repair, and in compliance with other ordinances, specifications, and other state or federal regulations that may be applicable.
- 9.0304 Compliance with Zoning Regulations. No building permit shall be approved that is not in conformance with adopted zoning ordinance requirements, and no construction involving accessory buildings, fences, mobile homes, signs or other areas regulated by such zoning ordinance shall be done without first obtaining a building permit.
- 9.0305 Expiration of Permits. If the work described in any permit has not begun within six (6) months from the date of issuance, the permit shall expire by limitation and written notice shall be given to the applicant that further work as described in the expired permit shall not proceed unless and until a new permit has been authorized.
- 9.0306 Authorization. Permits issued on the basis of applications, plans and specifications approved by the City Council authorize only the construction activity as set forth by such approval, and any other construction activity at variance with that as authorized shall be a violation of this ordinance.

The owner or tenant of any building, structure or premises, any builder contractor, agent or other person who commits, participates in, assists in, or maintains such violation may be found guilty of a separate offense and penalized as provided by law.

CHAPTER 9.04 - MOVING OF STRUCTURES

- 9.0401 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)
- 9.0402 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.
- 9.0403 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, 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.

9.0404 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 (24) consecutive hours.

9.0405 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.

9.0406 Removal, Demolition or Relocation of Structures. Upon the removal, demolition or relocation of structures from or on any lot within the City of Viborg, 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.

9.0407 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.

9.0408 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.

9.0409 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.

TITLE 10 - TAXATION

Chapter 10.01 - Municipal Sales and Service Tax and Use Tax

Chapter 10.02 - Assessment of Malt Beverage Licenses

Chapter 10.03 - Gross Receipts Tax

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 City of Viborg, Turner County, South Dakota, by imposing a municipal retail sales and use tax pursuant to the powers granted to the municipality by the State of South Dakota, by SDCL 10-52 entitled Uniform Municipal Non-Ad Valorem Tax Law, and acts amendatory thereto.
- 10.0102 Effective Date. From and after the first day of July, 2006, there is hereby imposed as a municipal retail occupational sales and service tax upon the privilege of engaging in business a tax measured by Two Percent (2%) on the gross receipts of all persons engaged in business within the jurisdiction of the City of Viborg, Turner County, South Dakota, who are subject to the South Dakota Retail Occupational Sales and Service Tax, SDCL 10-45 and acts amendatory thereto.
- 10.0103 Use Tax. In addition there is hereby imposed an excise tax on the privilege of use, storage and consumption within the jurisdiction of the City of tangible personal property or services purchased from and after the first day of January, 2006, at the same rate as the municipal sales and service tax upon all transactions or use, storage and consumption which are subject to the South Dakota Use Tax Act, SDCL 10-46, and acts amendatory thereto.
- 10.0104 Collection. Such tax is levied pursuant to authorization granted by SDCL 10-52 and acts amendatory thereto, and shall be collected by the South Dakota Department of Revenue and Regulation in accordance with the same rules and regulations applicable to the State Sales Tax and under such additional rules and regulations as the Secretary of Revenue and Regulation of the State of South Dakota shall lawfully prescribe.
- 10.0105 Interpretation. It is declared to be the intention of this Chapter and the taxes levied hereunder that the same shall be interpreted and construed in the same manner as all sections of the South Dakota Retail Occupational Sales and Service Act, SDCL 10-45 and acts amendatory thereto and the South Dakota Use Tax, SDCL 10-46 and acts amendatory thereto, and that this shall be considered a similar tax except for the rate thereof to that tax.
- 10.0106 Penalty. Any person failing or refusing to make reports or payments prescribed by this Chapter and the rules and regulations relating to the ascertainment and collection of the tax herein levied shall be guilty of a misdemeanor and upon

conviction shall be fined not more than five hundred dollars (\$500.00) or imprisoned for thirty (30) days or both such fine and imprisonment. In addition, all such collection remedies authorized by SDCL 10-45, and acts amendatory thereto, and SDCL 10-46, and acts amendatory thereto are hereby authorized for the collection of these excise taxes by the Department of Revenue and Regulation.

- 10.0107 Separability. If any provision of this Chapter is declared unconstitutional or the application thereof to any person or circumstances held invalid, the constitutionality of the remainder of the Chapter and applicability thereof to other persons or circumstances shall not be affected thereby.

CHAPTER 10.02 - ASSESSMENT OF MALT BEVERAGE LICENSES

- 10.0201 Licenses. All licensees licensed under SDCL 35-4-2(17) and SDCL 35-4-2(18) within the City of Viborg shall purchase all malt beverages for resale from the City of Viborg, and the City of Viborg shall sell these beverages to the licensees at a cost which shall be five percent (5%) greater than the City's cost for those beverages.

Said assessment shall be made by the City on a monthly basis and shall be paid by the said licensees within ten (10) days of the assessment.

All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed. This ordinance shall be in full force and effect as of June 1, 1988, unless suspended by operation of a referendum.

CHAPTER 10.03 - GROSS RECEIPTS TAX

- 10.0301 Purpose. The purpose of this Chapter is to provide additional needed revenue for the City of Viborg, Turner County, South Dakota, by imposing a municipal gross receipts tax pursuant to the powers granted to the municipality by the State of South Dakota, by SDCL 10-52A, and acts amendatory thereto.

- 10.0302 Effective Date. From and after the first day of July, 2006, there is hereby imposed a municipal gross receipts tax of One Percent (1%) upon the gross receipts from the sale of leases or rentals of hotel, motel, campsites or other lodging accommodations within the City of Viborg 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 City of Viborg, Turner County, South Dakota, who are subject to the South Dakota Retail Occupational Sales and Service Tax, SDCL 10-45 and acts amendatory thereto.

- 10.0303 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.
- 10.0304 Interpretation. It is declared to be the intention of this Chapter and the taxes levied hereunder that the same shall be interpreted and construed in the same manner as all sections of the South Dakota Retail Occupational Sales and Service Act, SDCL 10-45 and acts amendatory thereto, and that this shall be considered a similar tax except for the rate thereof to that tax.
- 10.0305 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 City, its facilities, attractions and activities.
- 10.0306 Penalty. Any person failing or refusing to make reports or payments prescribed by this Chapter and the rules and regulations relating to the ascertainment and collection of the tax herein levied shall be guilty of a misdemeanor and upon conviction shall be fined not more than five hundred dollars (\$500.00) or imprisoned for thirty (30) days or both such fine and imprisonment. In addition, all such collection remedies authorized by SDCL 10-45, and acts amendatory thereto, are hereby authorized for the collection of these excise taxes by the Department of Revenue.
- 10.0307 Separability. If any provision of this Chapter is declared unconstitutional or the application thereof to any person or circumstances held invalid, the constitutionality of the remainder of the Chapter and applicability thereof to other persons or circumstances shall not be affected thereby.

TITLE 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 to exceed the fine established by SDCL 22-6-2(2), by imprisonment not exceeding thirty days, or by both the fine and imprisonment. Each day in which a violation of this Code or other ordinance continues shall constitute a separate offense. (SDCL 9-19-3)
- 11.0102 Conflicting Ordinances Repealed. All ordinances and parts of ordinances in conflict with the provisions of this ordinance, or relating to the subject matter of this ordinance and not re-enacted as part of this ordinance, are hereby repealed; provided however, that nothing herein shall be construed as repealing any special ordinances, appropriation ordinances, levying ordinances for issuance of bonds, or other special ordinances of like character, nor shall this ordinance repeal or modify the provisions of any ordinance heretofore adopted by the City of Viborg unless provisions of this ordinance in effect, either modify, repeal or amend such ordinances.
- 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.