REVISED ORDINANCES OF THE CITY OF VOLGA, SOUTH DAKOTA

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REVISED ORDINANCES
OF THE
CITY OF VOLGA, SOUTH DAKOTA

CHAPTER 1.
GENERAL PROVISIONS

Section 1-1 – Definitions and rules of construction
The following definitions and rules of construction apply to this Code and to all ordinances and resolutions of the city unless the context requires otherwise:

City – The term "city" means the City of Volga, South Dakota.

City council or *council* – The terms "city council" or "council" means the City Council of the City of Volga, South Dakota.

City hall – The term "city hall" means the Volga City Hall.

Code – The term "Code" means the Code of Ordinances of the City of Volga, South Dakota.

Codified – The term "codified" means to reduce to a code, as in organizing and adopting a systematic collection of ordinances or regulations.

Computation of time – In computing any period of time provided in the provisions of this Code, the day of the act, event or default after which the designated period of time begins to run is not to be included, and the last day of the period so computed is to be included.

Conjunctions – In a provision involving two or more items, conditions, provisions or events, which items, conditions, provisions or events are connected by the conjunction "and," or "or" or "either or," the conjunction shall be interpreted as follows, except that when appropriate from the context, the terms "and" and "or" are interchangeable:

(a) "And" indicates that all the connected terms, conditions, provisions or events apply.

(b) "Or" indicates that the connected terms, conditions, provisions or events apply singly or in any combination.

(c) "Either or" indicates that the connected terms, conditions, provisions or events apply singly but not in combination.

County – The term "county" means Brookings County, South Dakota.

Delegation of authority – A provision which authorizes or requires a city official, a city officer, a city employee, designee or authorized representative to perform an act or make a decision authorizes such official, officer, employee, designee or authorized representative to act or make a decision through subordinates.

Following – The term "following" means next after.

Gender – Words of one gender include all other genders.

Generally – When provisions conflict, the specific provision will prevail over the general. All provisions will be liberally construed so the intent of the city council may be effectuated. Words and phrases will be construed according to the common and approved usage of the language, but

technical words, technical phrases and words and phrases that have acquired peculiar and appropriate meanings in law will be construed according to such meanings.

Includes – The term "includes" does not limit a term to a specified example.

Joint authority – Words giving a joint authority to three or more persons gives such authority to a majority of such persons.

Lot – The term "lot" means a piece, plot or parcel of land, or group of abutting and contiguous parcels of land, established by survey, plat or deed, occupied or to be occupied by a building, or a group of buildings and accessory buildings thereto, and having its frontage on a dedicated public street.

May – The term "may" is to be construed as being permissive and not mandatory.

May not – The term "may not" states a prohibition.

Month – The term "month" means a calendar month.

Must – The term "must" is construed to be mandatory.

Number – Words used in the singular number shall include the plural, and the plural shall include the singular except when a contrary intention plainly appears.

Oath – A solemn affirmation is the equivalent of an oath and a person will be deemed to have sworn upon oath if such person makes such an affirmation.

Officials, officers, departments, etc. – References to officials, directors, managers, officers, departments, boards, council, commissions or employees are to city officials, directors, managers, officers, city departments, city boards, city council members, commission members and city employees.

Official time – References to a specific time of day are to Central Standard Time or Central Daylight Savings Time, as appropriate.

Owner – The term "owner," as applied to property, includes any part owner, joint owner, tenant in common or joint tenant of the whole or part of such property.

Person – The term "person" means any human being, any governmental or political subdivision or public agency, any public or private corporation, any limited liability company, partnership, any firm, association or other organization, any receiver, trustee, assignee, agent or any other legal entity.

Personal property – The term "personal property" means any property other than real property.

Preceding – The term "preceding" means next before.

Premises – The term "premises," as applied to real property, includes land and structures located upon such land.

Property – The term "property" includes real property and personal property.

Real property, real estate, land, lands – The terms "real property," "real estate," and "land" include lands, improvements, buildings, structures, fixtures and trees, and all rights and interests therein except chattel interests.

Reasonable – When any ordinance shall require any act to be done in a reasonable time or that reasonable notice be given, such reasonable time or notice shall be deemed to mean such time only as may be necessary for the prompt execution of such duty or compliance with such notice.

SDCL – The abbreviation "SDCL" means the South Dakota Codified Laws, as amended.

Shall – The term "shall" is to be construed as being mandatory.

Sidewalk – The term "sidewalk" means that portion of a street between the curbline, or the lateral lines of a roadway where there is no curb, and the adjacent property line, intended for the use of pedestrians.

Signature or *subscription by mark* – The terms "signature" or "subscription" includes a mark when the signer or subscriber cannot write. In such situations, such person's name shall be written near the mark by a witness who writes his own name near such person's name.

State – The term "state" means the State of South Dakota.

Street – The term "street" means any alley, avenue, boulevard, highway, road, lane, viaduct, bridge and the approach thereto, and any other public thoroughfare in the city.

Tamper and tampering – The terms "tamper" and "tampering" mean to damage, alter, adjust or in any manner interfere with.

Tenant, occupant – The term "tenant" or "occupant," as applied to a building or land, includes:

(a) Any person holding either alone or with others a written or oral lease of such building or land.

(b) Any person who either alone or with others occupies a building or land.

Tenses – The present tense includes the past and future tenses. The future tense includes the present tense.

Variations in punctuation; typographical errors; etc. – No variation in punctuation, either formal or informal, consistent or not, shall affect the validity of this Code, nor shall obvious or apparent defects in spelling or printing errors be construed to invalidate any portion of this Code, so long as the purpose and intent of the section is clear.

Wholesaler or *wholesale dealer* – In all cases where the terms "wholesaler" or "wholesale dealer" are used in this Code, unless otherwise specifically defined, such terms shall be understood to relate to the sale of goods, merchandise, articles or things in quantities to persons who purchase for the purpose of resale, as distinguished from a retail dealer who sells in smaller quantities direct to the consumer.

Will – The term "will" is construed to be mandatory.

Writing – The term "writing" includes any form of recorded message capable of comprehension by ordinary visual means. Whenever any notice, report, statement or record is authorized or required, it shall be made in writing in the English language.

Year – The term "year" means a calendar year.

Section 1-2 – Territorial Limits

The City of Volga, South Dakota shall include all territory embraced in the original town site of Volga and all adjacent territory that may have been legally annexed except such territory that may have been legally withdrawn from the city limits.

Section 1-3 – Headings of sections; history notes references

(a) The headings of the sections of this Code which are printed in boldface type are intended as mere catchwords to indicate the contents of the section and are not titles of such sections, or of any part of the section, nor unless expressly so provided will they be so deemed when any such section, including the heading, is amended or re-adopted.

(b) The history or source notes appearing in parenthesis after sections in this Code have no legal effect and only indicate legislative history. Editor's notes, cross references, and state law references which appear in this Code after sections or subsections or that otherwise appear in footnote form are provided for the convenience of the user of this Code and have no legal effect.

(c) Unless specified otherwise, all references to chapters or sections are to chapters or sections of this Code.

Section 1-4 – Effect of repeal of ordinances

(a) Unless specifically provided otherwise, the repeal of an ordinance does not revive any previously repealed ordinance.

(b) The repeal or amendment of an ordinance does not affect any punishment or penalty incurred before the repeal took effect, nor does such repeal or amendment affect any suit, prosecution or proceeding pending at the time of the amendment or repeal.

Section 1-5 – Severability

The sections, subsections, paragraphs, sentences, clauses and phrases of this Code and all provisions adopted by reference in this Code are severable so that if any section, subsection, paragraph, sentence, clause, or phrase of this Code or of any provision adopted by reference in this Code is declared unconstitutional or invalid by a valid judgment of a court of competent jurisdiction, such judgment will not affect the validity of any other section, subsection, paragraph, sentence, clause and phrase of this Code or of any provision adopted by reference in this Code, for the city council declares that it is its intent that it would have enacted this Code and all provisions adopted by reference in this Code without such invalid or unconstitutional provisions.

Section 1-6 – General penalty; continuing violations

(a) In this section "violation of this Code" means any of the following:

(1) Doing an act that is prohibited or made or declared unlawful, an offense, a violation of ordinance or violation of a rule or regulation provided by ordinance.
(2) Failure to perform an act that is required to be performed by ordinance or by rule or regulation provided by ordinance.
(3) Failure to perform an act if the failure is prohibited or is made or declared unlawful.
(4) Counseling, aiding or abetting a violation of this Code as defined above.

(b) In this section "violation of this Code" does not include the failure of a city official, officer, city employee, designee or authorized representative to perform an official duty unless it is specifically provided that the failure to perform the duty is to be punished as provided in this section.

(c) Except as otherwise provided by law or ordinance, a person convicted of a violation of this Code shall be punished by a fine of not more than $100.00. A violation of this Code is not punishable by imprisonment in a county jail. Except as otherwise provided by law or ordinance:

(1) With respect to violations of this Code that are continuous with respect to time, each day that the violation continues is a separate offense.

(2) With respect to violations of this Code that are not continuous with respect to time, each act is a separate offense.

(d) If a person convicted of a violation of this Code who is sentenced to pay a fine or costs or restitution, defaults in the timely payment thereof, the court may, upon its own motion or upon motion of the city attorney, require the defendant to show cause why the defendant has failed to pay the fine, costs or restitution. The court may issue a warrant of arrest, bench warrant or order to show cause for the defendant's appearance and the procedure set forth in SDCL 23A-27-25.4—23A-27-25.6 shall, in the discretion of the court, be applicable.

(e) For a violation of this Code that does not require intent exercisable only by natural persons, a corporation or other legal entity may be subject to fines, costs and restitution in addition to any fine or penalties provided for its agents, officers or representatives who violate this Code while acting as agents, officers or representatives.

(f) In all cases where the same offense is made punishable or is created by different sections of this Code, the prosecuting attorney for the city may elect under which to proceed, but not more than one complaint shall be made against the same person for the same offense; provided, however, that the revocation of a license or permit shall not be considered a complaint so as to bar the prosecution of a complaint for violation of city ordinance.

(g) The imposition of a penalty does not prevent suspension or revocation of a license, permit or franchise or other administrative sanctions.

(h) Violations of this Code that are continuous with respect to time include public nuisance which may be abated by injunctive or other equitable relief. The imposition of a penalty does not prevent injunctive relief.

Section 1-7 – Amendments to Code; effect of new ordinances; amendatory language

(a) All ordinances adopted subsequent to this Code which amend, repeal or in any way affect this Code may be numbered in accordance with the numbering system of this Code and printed for inclusion in this Code. Portions of this Code repealed by subsequent ordinances may be excluded from this Code by the omission from the reprinted pages of this Code.

(b) Amendments to provisions of this Code may be made using the following language: "Section (chapter, article, section, or subsection, as appropriate) of the Volga Code is hereby amended to read as follows:..."

(c) If a new section, subdivision, division, article or chapter is to be added to the Code, the following language may be used: "Section (chapter, article, division or subdivision, as appropriate) of the Volga Code is hereby adopted to read as follows:..."

(d) All provisions to be repealed should be repealed by the particular section, subdivision, division, article or chapter number, as appropriate, or by setting out the repealed provisions in full in the repealing ordinance.

Section 1-8 – Certain ordinances and resolutions not affected by Code

Nothing in this Code or the ordinance adopting this Code affects the validity of any ordinance, resolution, or portion or ordinance or resolution set forth below in this section. The types of ordinances and resolutions described below continue in full force and effect to the same extent as if published at length in this Code:

(a) Annexing property into the city.

(b) Deannexing or excluding property from the city.

(c) Providing for salaries or other employee benefits not codified in this Code.

(d) Promising or guaranteeing the payment of money or authorizing the issuance of bonds or other instruments of indebtedness.

(e) Authorizing or approving any contract, deed, or agreement.

(f) Making or approving any appropriation or budget.

(g) Granting any right or franchise.

(h) Vacating any easement.

(i) Adopting or amending the comprehensive plan.

(j) Levying or imposing any special assessment.

(k) Dedicating, establishing, naming, locating, relocating, opening, paving, widening, repairing, improving, abandoning or vacating any street, alley or other public way.

(l) Establishing the grade or widths of any street, sidewalk, alley or other public way.

(m) Establishing curblines.

(n) Establishing subdivision or platting regulations or dedicating, accepting or vacating any plat or subdivision.

(o) Levying or imposing taxes not codified in this Code.

(p) Rezoning specific property.

(q) That is temporary, although general in effect.

(r) That is special, although permanent in effect.

(s) The purpose of which has been accomplished.

CHAPTER 2.
ADMINISTRATION
ARTICLE 1.
BONDS OF OFFICERS AND EMPLOYEES

Section 2.1-1 – Bonds of officer and employees
It shall be the duty of the City of Volga to pay the premium on all bonds required to be furnished by city officers and employees and such premium shall be a charge against the general fund.

ARTICLE 2.
ORDER OF BUSINESS

Section 2.2-1 – Rules of order
Parliamentary procedures as set forth in Robert's Rules of Order, Newly Revised, shall govern the city council and any board, committee, and commission of the city in their deliberation in cases not otherwise provided for by statute, rule, or regulation.

Section 2.2-2 – Regular meetings
At all regular meetings of the City Council after the same has been called to order, the business of the meeting shall be considered in the following order:

1. Calling roll of members
2. Approval of agenda
3. Approval of minutes
4. Visitors, timed items, and public hearings
5. Reports of standing or special committees
6. Unfinished business
7. New business

Provided however, that this order of business may be temporarily suspended at any meeting by the affirmative vote of a majority of the City Council.

Section 2.2-3 – Special Meetings
Special meetings of the City Council may consider only the matters for which the meetings were called and the order of meetings provided for regular meeting shall not be observed.

ARTICLE 3.
ELECTIVE AND APPOINTED OFFICERS

Section 2.3-1 – Elective Officers
The elective officers of the City shall be a Mayor and two Councilmembers from each ward.

Section 2.3-2 – Wards

The boundaries of the voting wards and precincts in the City of Volga shall be as follows, to-wit:

Ward One: All that part of the City of Volga lying North of Highway 14, all that part of the City of Volga lying North of 5th Street and West of Hansina Avenue, and all that part of the City of Volga West of Samara Ave and North of 6th Street.

Ward Two: All that part of the City of Volga lying East of Hansina Avenue and South of Highway 14 and North of 4th Street, and all the part of the City of Volga East of Hansina Ave and North of 5th Street and West of Jackson Ave.

Ward Three: All that part of the City of Volga lying South of 5th Street and East of Samara Avenue, all that part of the City of Volga West of Samara and South of West 6th Street, and all that part of the City of Volga East of Jackson Avenue and South of 4th Street.

Section 2.3-3 – Voting Precincts
All the wards of the City shall constitute one polling precinct for municipal purposes.

Section 2.3-4 – Mayor – Term of Office; Composition of City Council and Terms of Office of Council Members.

a. The City Council consists of the Mayor elected at large and two council members elected from and by the voters of each ward of the City. The Mayor holds office for a term of four (4) years, following the transition schedule set forth in Section 2.3-4(b) of this Ordinance. The Mayor may hold office for more than one term. The term of office for a City Council member is four (4) years, following the transition schedule set forth in Section 2.3-4(b) of this Ordinance. A Council member may hold office for more than one term. The Mayor and Council members hold office until their successors are elected and qualified; provided, that one Councilmember from each ward shall be elected at each biennial election.

b. Each elective officer when elected to fill a vacancy shall enter upon their duties as soon as they shall have qualified and serve until the next biennial election at which the vacancy shall be filled and every such officer when elected for a full term shall enter upon their duties on the first Monday in November next succeeding their election or as soon thereafter as they shall have qualified.

Transition and Election Schedule.

(a) During the transition to four (4) year terms, the Mayor shall be elected at the regular city election in 2027 to serve a three (3) year term until the regular City election in 2030.

(b) During the transition to four (4) year terms, three (3) members of the City Council representing Wards 1, 2 and 3 up for election in 2026 shall be elected at the regular city election in 2026, with these three (3) members of the City Council elected in 2026 to each serve two (2) year terms until the regular City election in 2028.

(c) During the transition to four (4) year terms, three (3) members of the City Council up for election in 2027, representing Wards 1, 2 and 3 shall be elected at the regular city

election in 2027 to each serve a three (3) year term until the regular City election in 2030.

(d) At the regular City election in 2030 and every four (4) years thereafter, the office of Mayor shall be filled for a four (4) year term.

(e) At the regular City election beginning in 2028 and every two (2) years thereafter, Council member vacancies shall be filled for four (4) year terms.

Section 2.3-5 – Appointive Officers
The appointive officers of the City shall be Administrator, Finance Officer, Attorney, Engineer, and such other officers as may be provided for by ordinances.

Section 2.3-6 – Mode of Appointment
All appointive officers of the City shall be appointed by the Mayor with the approval of the City Council.

Section 2.3-7 – Term of Appointive Officers
Each appointive officer shall enter upon the discharge of his duties as soon as each have duly qualified and shall hold office until the appointment and qualification of his successor.

Section 2.3-8 – Qualification of Officers
The Mayor, Councilmembers, City Attorney and Engineer shall qualify by filing the Constitutional Oath with the City Administrator, Finance Officer, and all other appointive officers shall qualify by executing the Constitutional oath and by furnishing an undertaking, to be approved by the governing body in such sum as it may proscribe, conditioned on the faithful performance of the duties of their offices and to account, pay over and deliver all money or property coming into his hands by virtue of his office according to law. The amount of the Treasurer's bond shall in no case be less than one half of the amount of estimated taxes and special assessments for the current year, and in case bonds are sold, he shall execute an additional bond to the amount thereof.

Section 2.3-9 – Certificates of Appointment
All appointive officers, except the Finance Officer, shall be commissioned by warrant of the corporate seal, signed by the Mayor and Finance Officer. The Mayor shall issue a certificate of appointment under the seal of Municipality to the Finance Officer.

Section 2.3-10 – Vacancies
Vacancies. The office of a Councilmember or Mayor shall become vacant upon the person's death, resignation, removal from office or forfeiture of office in any manner authorized by law.

Section 2.3-11 – Filling Council Vacancies
If a vacancy of a Councilmember exists, the remaining members shall appoint a replacement to serve until the next biennial municipal election, or the vacancy may be filled by special election for the remainder of the unexpired term as provided in SDCL 9-13-14.2. In the case of a vacancy of a Councilmember, the appointment shall be a person from the same ward of the municipality.

If electing a person to fill the remainder of the unexpired term at a biennial municipal election, the vacancy shall have occurred prior to the fifteenth day of May prior to the biennial municipal election.

Section 2.3-12 – Filling Mayoral Vacancy
If there is a vacancy from any cause in the office of the Mayor, the vacancy shall be filled by appointment by a majority vote of the Councilmembers, as soon as practicable after the vacancy occurs, to serve until the office is filled by election for the unexpired term at the next biennial municipal election or by special election provided in SDCL 9-13-14.2. Until the vacancy is filled or during the time of temporary absence or disability of the Mayor, the powers and duties of Mayor are executed by the President or Vice President of the Council as provided in Section 2.4-6 (Duty of President and Vice President).

Section 2.3-13 – Removal of Appointive officers
The mayor shall have the power to remove from office any officers appointed by him, whenever he shall be of the opinion that the interests of the City demands such removal but he shall report the reasons for their removal in writing to the City Council at the next regular meeting.

Section 2.3-14 – Certain Officers Not to Hold Other Offices
No Mayor, Councilmember, Administrator, or Finance Officer shall hold any other office under the municipality while incumbent of any such office.

Section 2.3-15 – Compensation of Elected Officers
The Mayor shall receive a base salary of $4,000.00 per year plus $60.00 for each council meeting attended, both regular and special, to be paid annually. Each councilperson shall receive a base salary of $2,500.00 per year plus $60.00 for each council meeting attended, both regular and special, to be paid annually.

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Section 2.3-16 – Public Records
Every Municipal officer shall keep a record of the official acts and proceedings of his office and such record shall be open to public inspection during business hours under reasonable restrictions.

Section 2.3-17 – Publication of proceedings
The Finance Officer shall cause to be published in the official newspaper within thirty (30) days after each meeting of the City Council, a full account of the proceedings at such meeting giving detailed account of all expenditure of money, the names of the persons to whom payment is made and showing the services rendered therefore as required by law.

ARTICLE 4.
DUTIES OF OFFICERS

Section 2.4-1 – Duties of Mayor
The duties of the Mayor shall be as follows:

(a) To preside at all meetings of the City Council, but he shall not vote, except in the event of a tie.
(b) To ensure that the ordinances of the City are faithfully executed.
(c) To annually, and from time to time, give the City Council information relative to the affairs of the City and to recommend for their consideration such measures as he may deem expedient.
(d) To 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.
(e) To perform such other duties as may be prescribed by the laws of this state or ordinance of the City.

Section 2.4-2 – Powers of City Council
The City Council shall be the Judge of election and qualification of its own members. It shall determine its own rules of procedure, punish its members for disorderly conduct and by a vote of two thirds of the Councilmembers elected, expel a member for cause.

Section 2.4-3 – Meetings of Council
The City Council shall hold its regular meetings on the first Monday of each month at 5:30 P.M. and on the third Monday of each month at 12:00 P.M. The Council may reschedule the day or time of a future meeting provided that the determination is made at a prior meeting and public notice is provided as provided in SDCL 1-25-1.1.

Section 2.4-4 – Quorum
A majority of the Councilmembers elected shall constitute a quorum to do business. The meetings of the City Council shall be open to the public.

Section 2.4-5 – President and Vice President of the Council
At the first regular meeting after the biennial election every two (2) years and after the qualification of the newly elected Councilmembers, the City Council shall elect from among its own members, a President and a Vice President whom shall hold their respective offices until the next biennial election.

Section 2.4-6 – Duty of President and Vice President
The President of the City 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 shall be acting Mayor and possess all the powers of the Mayor. In the absence or disability of the Mayor and President of the City Council, the Vice President shall perform the duties of Mayor and President of the City Council.

Section 2.4-7 – Manner of voting
The Yeas and Nays shall be taken upon the passage of all ordinances and resolutions and upon any proposal to create a liability against the city for the expenditure or appropriation of its money and in all other cases at the request of any be entered in the journal of its proceeding. The concurrence of a majority of all the members of the City Council shall be necessary to the passage of any ordinance, resolution or proposal to create a liability against the city for the expenditure or appropriation of its money.

Section 2.4-8 – Voting Requirement for Sale of Property
It shall take a two-thirds vote of all of the Council members to sell any property.

Section 2.4-9 – Reconsideration
No vote of the City Council shall be reconsidered or rescinded at a special meeting unless at such meeting there be present as a large a number of Councilmembers as were present when such vote was taken.

Section 2.4-10 – City Administrator Duties
The City Administrator shall have the following duties:

(a) To keep an office at such place as the governing body may direct.

(b) To direct, oversee, and supervise the City's employees and the daily operations and programs of all City departments and agencies.

(c) To serve as the Chief Administrative Officer, Zoning Administrative Official, Economic Development Director, Personnel Director, and other roles as directed by the City Council.

(d) To serve as a non-voting city liaison to the Volga Development Corporation.

(e) To act as an advisor to the Mayor and City Council in the development of long and short-range planning.

(f) To attend all City Council meetings with the right to take part in discussion but shall not vote.

(g) To prepare the annual budget and capital improvement program proposals in conjunction with the Finance Officer.

(h) To sign all warrants for the payment of money, and the same shall be countersigned by the Finance Officer, but no warrant shall be issued until the claim therefor has been approved by the City Council, except as may be otherwise provided by ordinance or resolution.

(i) To execute contracts and grants as directed by the City Council and oversee implementation of all improvement projects.

(j) To provide overall administration of all personnel matters as provided by the City Personnel Policy, ordinances, rules, and other regulations.

(k) To oversee selection and interview process of new City employees and to recommend candidates for hire.

Section 2.4-11 – Finance Officer Duties
The City Finance Officer shall have the following duties:

(a) To keep an office at such place as the governing body may direct.

(b) To keep the corporate seal, all papers and records of the municipality and a record of all the proceedings of the governing body whose meetings it shall be his duty to attend.

(c) To draw and countersign all warrants in pursuance of orders or resolutions of the governing body and keep a full and accurate account thereof in books provided for that purpose.

(d) To make estimates of the expenses of any work done by the municipality and countersign all contracts made on its behalf.

(e) To keep regular books of accounts in which he shall enter all indebtedness of the municipality and shall at all times show the financial condition of the city, the amount of bonds, warrants, certificates of other evidence of indebtedness which have been redeemed and the amount of each outstanding.

(f) To countersign all bonds, warrants or other evidences of indebtedness of the municipality and keep an accurate account thereof, stating to whom and for what purpose issued and the amount thereof.

(g) To keep an account with all receiving and disbursing officers of the city, showing the amount they have received from different sources of revenue and the amount they have disbursed under the direction of the governing body.

(h) To examine all reports, books, papers, vouchers, and accounts; audit and adjust all claims against the city before they are allowed by the governing body; keep a record in which he shall enter all contracts with an index thereto which books shall be open to the parties interested; and perform such other duties as may be required by ordinances, resolution, or direction of the governing body.

(i) To prepare, publish, and file and annual financial report.

(j) To make and keep a list of outstanding municipal bonds, to whom issued, for what purpose, when and where payable, and the rate of interest they respectively bear, and recommend such action to the governing body as will secure prompt payment of the principal and interest of such bonds.

(k) To report annually on or before the first day of September to the governing body an estimate of the expenses of the municipality and the revenue necessary to be raised for the ensuing year.

(l) To receive all money belonging to the municipality, including taxes, licenses, fines, and income from all sources and keep an accurate account thereof in detail, in such manner as the governing body may direct.

(m) To have a settlement at the end of every month and turn over warrants, interest coupons, bonds and other evidences of indebtedness shall be cancelled by him and have written or stamped thereon, the date of payment.

(n) To keep a separate account of each fund or appropriation and of debits and credits belonging thereto.

(o) To give every person paying money into the Treasury, a duplicate receipt therefor, specifying the amount, date of payment, and upon which account paid, and to file copies of such receipts at the time of his monthly report.

(p) To keep all moneys in his hands belonging to the municipality separate and distinct from his own moneys.

(r) To report to the governing body upon request, a full and detailed account of all receipts and expenditures since the last report and the balances in the treasury.

(s) To keep a record of all warrants paid during the year with their date, amount, number, the fund from which paid, the person to whom paid and the time of payment.

(t) To maintain a file of annual inventories.

(u) To certify the annual tax levy with county auditor.

Section 2.4-12 – Payment of money
No money shall be paid out of the Treasury except upon the warrant of the Mayor, countersigned by the Finance Officer and Administrator except bonds and interest coupons, which when due, may be paid upon presentation and in case the same are payable at some other place than within the city, the money for their redemption shall be sent to the place where payable in time to meet such payment when due.

Section 2.4-13 – Payment of Warrants
All warrants shall be paid in the order in which they are presented out of funds upon which they may be drawn and the Finance Officer shall note on the back of each warrant presented the date of such presentation and the date of payment. Every warrant shall be paid upon presentation if there is sufficient funds in the fund upon which it is drawn to pay the same; if not, it shall be registered as provided by law.

Section 2.4-14 – City Attorney Duties
The City Attorney shall have the following duties:
(a) To furnish to the governing body or any officer of the city, an opinion upon any matter relating to the affairs of the city or to the official duties of such officers.
(b) To conduct the prosecution of all actions or proceedings arising out of the violation of any ordinances.
(c) To represent the city in all actions or proceedings to which it may be a party.
(d) To perform such other professional duties or services incident to his office as may be required by ordinance or directed by the governing body.

Section 2.4-15 – City Engineer Duties
The City Engineer shall be a practical engineer and surveyor and shall have the following duties:
(a) To prepare all surveys, profiles, plans, and estimates required by the city and all such surveys, plans, profiles, and estimates shall be the property of the municipality and shall be carefully preserved either in the office of the Engineer or City Hall and shall be open to public inspection.
(b) The governing body, may by ordinance, prescribe any further duties of the City Engineer.

CHAPTER 3.
LICENSES, TAXES, AND PERMITS
ARTICLE 1.
SALES AND USE TAX

Section 3.1-1 – Purpose
The purpose of this Article is to provide needed revenue for the City by imposing a municipal retail sales and service and use tax pursuant to the powers granted to the municipality by the State pursuant to SDCL Chapter 10-52 entitled Uniform Municipal Non-Ad Valorem Tax Law, and acts amendatory thereto.

Section 3.1-2 – Effective Date
From and after the first day of January, 2010, there is hereby imposed as a municipal retail occupational sales and service tax upon the privilege of engaging in business a tax of two (2%) percent on the gross receipts of all persons engaged in business within the jurisdiction of the City who are subject to the South Dakota Retail Occupational Sales and Service Tax, SDCL Chapter 10-45, and acts amendatory thereto.

Section 3.1-3 – Use Tax
From and after the first day of January, 2010, there is hereby imposed an excise tax on the privilege of the use, storage, and consumption within the jurisdiction of the City of tangible personal property purchased, at the same rate as the municipal sales and service tax as provided in **Section 7.2-2** upon all transactions or use, storage and consumption which are subject to the South Dakota Use Tax Act, SDCL Chapter 1-46, and acts amendatory thereto.

Section 3.1-4 – Collection.
Such tax is levied pursuant to authorization granted by SDCL Chapter 10-52 and acts amendatory thereto, and shall be collected by the South Dakota Department of Revenue 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.

Section 3.1-5 – Interpretation
It is declared to be the intention of this Section and the taxes levied hereunder that the same shall be interpreted and construed in the same manner as all sections of SDCL Chapter 10-45, pertaining to the South Dakota Retail Sales and Service Tax, and acts amendatory thereto, SDCL Chapter 10-52, the Municipal Non-Ad Valorem Tax Law, and acts amendatory thereto, the South Dakota Use Tax, SDCL Chapter 10-46 and acts amendatory thereto, and that this shall be considered a similar tax except for the rate of that tax.

Section 3.1-6 – Penalty
Failing or refusing to make reports or payments prescribed by this Section and the rules and regulations relating to the ascertainment and collection of the tax herein levied constitute a violation of this Ordinance. In addition, all such collection remedies authorized by SDCL Chapter 10-45, and acts amendatory thereto, and SDCL Chapter 10-46, and acts amendatory thereto, are hereby authorized for the collection of any unpaid taxes.

ARTICLE 2.
SOLICITORS, PEDDLERS, AND TRANSIENT MERCHANTS

Section 3.2-1 – Purpose
The purpose of this Article is to protect against criminal activity, including fraud and burglary; minimize the unwelcome disturbance of citizens and the disruption of privacy; and to otherwise preserve the public health, safety, and welfare by regulating, controlling, and licensing door-to-door solicitors and peddlers.

Section 3.2-2 – Definitions
The following words, terms, and phrases, when used in this Article, will have the meanings provided in this Section, except where the context clearly indicates a different meaning:

(a) "Canvasser" means any person who attempts to make personal contact with a resident at his/her residence without prior specific invitation or appointment from the resident, for the primary purpose of (1) attempting to enlist support for or against a particular religion, philosophy, ideology, political party, issue, or candidate, even if incidental to such purpose the canvasser accepts the donation of money for or against such cause, (2) distributing a handbill or flyer advertising a non-commercial event or service, or (3) solicitations, sales, or distributions made by charitable, civic, educational, or religious organizations.

(b) "Charitable" means and includes the words patriotic, philanthropic, social service, health, welfare, benevolent, educational, civic, cultural, or fraternal, either actual or purported.

(c) "Contributions" means and includes the words money and property or any donations under the guise of a loan of money or property.

(d) "Peddler" means any person who goes upon the premises of any private residence in the City, not having been invited by the occupant thereof, carrying or transporting goods, wares, merchandise, or personal property of any nature and offering the same for sale. This definition also includes any person who solicits orders and as a separate transaction makes deliveries to purchasers as part of the scheme to evade the provisions of this Ordinance. Peddler does not include a person who distributes handbills or flyers for a commercial purpose, advertising an event, activity, good, or service that is offered to a resident for purchase at a location away from his/her residence or at a time different from the time of visit.

(e) "Peddling" includes all activities ordinarily performed by a peddler as indicated under paragraph (d) of this Section.

(f) "Person" means a natural person or any firm, corporation, association, club, society or other organization.

(g) "Solicitor" means any person who goes upon the premises of any private residence in the City, not having been invited by the occupant thereof, for the purpose of taking or attempting to take orders for the sale of goods, merchandise, wares, or other personal property of any nature for future delivery, or for services to be performed in the future. This definition also includes any person who, without invitation, goes upon private property to

request contribution of funds or anything of value, or sell goods or services for political, charitable, religious, or other non-commercial purposes.

(h) "Solicitation" includes all activities ordinarily performed by a solicitor as indicated under paragraph (g) of this Section.

Section 3.2-3 – Permit Requirements and Exemptions

It will be unlawful for any person eighteen (18) years of age or older to engage in peddling or solicitation activities within the City without first obtaining a permit issued by the City; provided, however, that the following are exempted from the provisions of this Section:

(a) Any solicitation made upon premises owned or occupied by an organization upon whose behalf the solicitation is made;

(b) Any communication by an organization soliciting contributions solely from persons who are members of the organization at the time of such solicitation;

(c) Any solicitation in the form of a collection at a regular meeting, assembly or service of a charitable person; or

(d) Any solicitation for the relief of any individual specified by name at the time of the solicitation where the solicitor represents in each case that the entire amount collected will be turned over to the named beneficiary.

(e) A "canvasser" as defined in Section 1-1.

Section 3.2-4 – Permit for Sponsoring Juvenile Peddlers

(a) No person under the age of eighteen (18) will be permitted to engage in peddling except as provided in this Section.

(b) A permit must be obtained by a sponsoring person, company, or organization for the conduct of any peddling or solicitation activities involving, in whole or in part, a sales force of one (1) or more persons under eighteen (18) years of age.

(c) The sponsor will be responsible for supervising and controlling the conduct of all persons, including juveniles who are peddling under the sponsor's permit.

Section 3.2-5 – Permit Application

Every person subject to the provisions of this Article will file with the City an application in writing on a form to be furnished by the City, which will provide the following information:

(a) Proof of age, address, and identification of the applicant, to be provided through the applicant's driver's license, articles of incorporation (for sponsors), or other legally recognized form of identification;

(b) A brief description of the business or activity to be conducted;

(c) The hours and location for which the right to peddle or solicit is desired;

(d) If employed, the name, address, and telephone number of the employer; or if acting as an agent, the name, address, and telephone number of the principal who is being represented,

with credentials in written form establishing the relationship and the authority of the employee or agent to act for the employer or principal, as the case may be;

(e) A statement as to whether or not the applicant has been convicted of a felony or misdemeanor, the name of the offense or violation, the penalty or punishment imposed, and the date when and place where such offense occurred; and

(f) Proof of possession of any license or permit which, under federal, state, or local laws or regulations, the applicant is required to have in order to conduct the proposed business, including a South Dakota Sales Tax License, or which, under any such law or regulation, would exempt the applicant from the licensing requirements of this Article.

Section 3.2-6 – Fees

At the time the application is filed with the City, the applicant will pay a fee to cover the cost to the City of processing the application and investigating the facts stated therein. The permit fee will be as established by Resolution of the City Council.

Section 3.2-7 – Application Review and Permit Issuance

(a) Upon receipt of an application, the City Administrator, or an authorized representative of the City Administrator, will review the application as deemed necessary to ensure the protection of the public health, safety, and general welfare.

(b) If the City Administrator finds the application to be satisfactory, he will endorse approval on the application and will, upon payment of the prescribed fee, deliver the required permit to the applicant.

(c) The permit will show the name and address of the permittee, the kind of goods or services to be sold or delivered, the date of issuance, and the length of time that the permit will be in effect.

(d) A record of all permits issued will be maintained by the City for a period of five (5) years.

Section 3.2-8 – Denial of Permit

(a) Upon the City Administrator's review of the application, he may refuse to issue a permit to the applicant under this Article for any of the following reasons:

(1) The location and time of solicitation or peddling would endanger the safety and welfare of the solicitors, peddlers, or their customers;

(2) An investigation reveals that the applicant falsified information on the application;

(3) The applicant has been convicted of a felony or misdemeanor violation involving a sex offense, trafficking in controlled substances, or any violent acts against persons or property, such conviction being entered within the five (5) years preceding the date of application;

(4) The applicant is a person against whom a judgment based upon, or conviction for, fraud, deceit, or misrepresentation has been entered within the five (5) years immediately preceding the date of application;

(5) There is no proof as to the authority of the applicant to serve as an agent to the principal; or

(6) The applicant has been denied a permit under this Article within the immediate past year, unless the applicant can and does show to the satisfaction of the City Administrator that the reasons for such earlier denial no longer exist.

(b) The City Administrator's disapproval and the reasons for disapproval must be noted on the application, and the applicant will be notified that their application is disapproved and that no permit will be issued. Notice will be mailed to the applicant at the address shown on the application form, or at the applicant's last known address.

Section 3.2-9 – Permit Expiration
All permits issued under the provisions of this Article will expire one (1) month from the date of issuance, unless an earlier expiration date is noted on the permit.

Section 3.2-10 – Permit Exhibition
Every person required to obtain a permit under the provisions of this Article will exhibit the permit issued by the City when requested to do so by any prospective customer, City employee, or law enforcement officer.

Section 3.2-11 – Transfer Prohibited
It is unlawful for any person other than the permittee to use any permit issued under the provisions of this Article.

Section 3.2-12 – Entry Upon Premises Unlawful
It is unlawful for any person, whether licensed or unlicensed, while conducting the business of a canvasser, peddler, or solicitor, to enter upon any residential premises in the City where the owner, occupant, or person legally in charge of the premises has:

(a) Posted, at the entry to the premises, or at the entry to the principal building on the premises, a sign bearing the words "No Peddlers," "No Solicitors," or words of similar nature; or

(b) Filed a "No Solicitation Registration Form" with the City on a form furnished by the City for that purpose. The City will maintain a "No Solicitation" list of those persons who wish to restrict solicitation on their property by canvassers, peddlers, and solicitors. The "No Solicitation" list will be a public document and a copy of the list will be provided to each recipient of a permit to engage in solicitation.

Section 3.2-13 – Hours of Solicitation
No person, while conducting the activities of a peddler or solicitor, whether licensed or unlicensed, will enter upon any private property, knock on doors or otherwise disturb persons in their residences between the hours of 9:00 P.M. and 9:00 A.M.

Section 3.2-14 – Permit Revocation
Any permit issued under this Article may be revoked or suspended, by the City Administrator, after notice and hearing, for any of the following reasons:

(a) Fraud, misrepresentation, or false statement contained in the application for a permit;

(b) Fraud, misrepresentation, or false statement made by the permittee in the course of conducting solicitation or peddling activities;

(c) Conducting peddling or solicitation activities contrary to the provisions contained in the permit;

(d) Conducting peddling or solicitation activities in such a manner as to create a public nuisance, constitute a breach of the peace or endanger the health, safety, or general welfare of the public.

Section 3.2-15 – Notice and Hearing

Notice of a hearing for revocation of a permit issued under this Article will be provided in writing and will set forth specifically the grounds for the proposed revocation and the time and place of the hearing. Notice will be mailed, postage prepaid, to the permittee at the address shown on the permit application or at the last known address of the permittee.

Section 3.2-16 – Appeals

(a) Any person aggrieved by the action or decision of the City Administrator to deny, suspend, or revoke a permit applied for under the provisions of this Article will have the right to appeal such action or decision to the City Council within fifteen (15) days after the notice of the action or decision has been mailed to the person's address as shown on the permit application form, or to his last known address.

(b) An appeal will be taken by filing with the City Administrator a written statement setting forth the grounds for the appeal.

(c) The City Administrator will transmit the written statement to the City Council within ten (10) days of its receipt and the City Council will set a time and place for a hearing on the appeal.

(d) A hearing will be set not later than twenty (20) days from the date of receipt of the appellant's written statement.

(e) Notice of the time and place of the hearing will be given to the appellant in the same manner as provided for the mailing of notice of action or decision.

(f) The decision of the City Council on the appeal will be final and binding on all parties concerned.

Section 3.2-17 – Claims of Exemption

Any person claiming to be legally exempt from the regulations set forth in this Article, or from the payment of a permit fee, will cite to the City Administrator the statute or other legal authority under which exemption is claimed and will present to the City Administrator proof of qualification for such exemption.

Section 3.2-18 – Violations and Penalty

(a) Violation of any of the provisions of this Article will be treated as a City Ordinance violation, and will, upon conviction, be punishable by a fine as set by the City.

(b) In addition to any criminal enforcement, the City or any individual may pursue any available civil remedies deemed appropriate and necessary.

ARTICLE 3.
EXCAVATIONS

Section 3.3-1 – Permit required
No person shall make or cause to be made any excavation in or upon any street, sidewalk, alley, or public ground in the City; nor shall any person remove soil, paving, gravel, or any material therefrom without first having obtained a permit therefor from the City Administrator. Exceptions shall be made for work that is contracted directly with the City or for emergency work. For emergency work, the contractor shall immediately notify the City Administrator and obtain a permit the next business day.

Section 3.3-2 – Specifications
All work performed under the provisions of this Article shall conform to the specifications, rules, and regulations of the City.

Section 3.3-3 – Trenches generally
Trenches for all sewer and water service lines, sewer and water mains, or other excavations for any purpose between the curblines of any street shall be backfilled and compacted with suitable engineered fill in accordance with standards and procedures established by the City. In any case, frozen or organic material shall not be used as trench backfill.

Section 3.3-4 – Cutting pavements
Where pavement is cut in making any street excavation, such pavement shall be replaced by the contractor and the contractor or person making such excavation shall pay for and be liable for the cost of such replacement. If the contractor fails to repair the pavement within the dates, times, or durations stated on the permit, the City shall arrange to repair the pavement and the contractor shall be responsible for reimbursing the City for the cost of the repair.

Section 3.3-5 – Protection of public
Any person performing excavations on or about any street, alley, sidewalk, or public ground shall, during the progress and continuance of the work, erect, keep, and maintain about and around the excavation during both day and night, suitable guards, fences, warning lights, and signals as described in the latest version of the Manual of Uniform and Traffic Control Devices published by the Federal Highway Administration so as to prevent injury to persons, animals, or vehicles as a result of such excavations. Any person making such excavation shall, when the excavation shall be completed, promptly and without delay, backfill the excavation in accordance with the standards and procedures established by the City.

Section 3.3-6 – Excavator's responsibility
The excavator shall coordinate with the City for street or alley construction, rebuilding, resurfacing, and repair to minimize multiple disturbances of the same area. The excavator shall leave City property and right-of-way in as good and safe condition as it was before the

commencement of work by the excavator, its agents, and contractors, and shall repair and restore any City property which is disturbed, damaged, or injured by construction, maintenance, or operations of the excavator. The City shall have the final approval right over whether adequate repair and restoration has been completed by the excavator. In the event that the excavator fails to repair or restore affected City property in a manner acceptable to the City, the City shall have the right, after allowing the excavator a reasonable period to complete the repair and restoration, to make such repairs and restoration and the excavator shall pay the costs incurred by the City for such actions.

Section 3.3-7 – Duration of Street or Alley Closures

The dates, times, and duration of any street or alley closures shall be stated on the permit and subject to approval by the City. Requests for changes to such dates, times, or durations of street or alley closures stated on the permit must be made in writing to the City Administrator prior to expiration of the permit.

Section 3.3-8 – Warranty

The excavator shall be held responsible for workmanship, materials, trench settlement, or any other deficiencies caused by their work during the corrective period of two (2) years, and the Contractor shall repair and/or replace all deficiencies during the corrective period at no cost to the City. Any surface restoration costs incurred because of the repairing and/or replacing of deficiencies shall be borne by the Contractor. The City shall have the final approval right concerning whether adequate repair and restoration has been completed by the excavator. In the event that the excavator fails to repair or restore affected City property in a manner acceptable to the City, the City shall have the right, after allowing the excavator a reasonable period to complete the repair and restoration, to make such repairs and restoration and the excavator shall pay the costs incurred by the City for such actions.

Section 3.3-9 – Violations and Enforcement

(a) Any violation of any provision of this Article shall be punishable by a fine as set by Resolution of the City Council.

(b) In case any excavation occurs in violation of this Article, the appropriate authorities of the City, may, in addition to other remedies, institute injunction or other appropriate action or proceeding to prevent such unlawful excavation or construction, and may correct or abate such violation.

ARTICLE 4.
FOOD TRUCKS

Section 3.4-1 – Definitions

Catering – Catering is permitted and addressed in **Section 3.4-7**.

Downtown Zone – The "CB" Central Business Overlay District, as provided in City Ordinance 2015-01.

Food Truck – A licensed and operable vehicle or concession trailer or mobile cooking unit (e.g. smoker) independent with respect to water, sewer, power utilities, that contains equipment for the preparation and sale or service of food or beverages with or without charge which are designed for immediate consumption.

Food Truck Permit – Written authorization by the City to operate a food truck in the City as provided in this Article.

Operate – To offer for sale food and beverage items from a food truck to the general public for immediate consumption on the public right-of-way or on private property; it does not mean either loading or unloading food or beverage items in bulk. In addition, the sale of ice cream from a vehicle is specifically exempted from the requirements of this ordinance, provided the vehicle operator complies with all motor vehicle laws.

Operator – The registered owner of a food truck or the owner's designated agent who holds a food truck permit.

Permittee – The person who has been issued a food truck permit by the City.

Section 3.4-2 – Permit Required
No person may operate a food truck in the City without a food truck permit as provided herein.

Section 3.4-3 – False Information
No person shall give any false or misleading information in connection with his or her application for a food truck permit.

Section 3.4-4 – Application to Obtain a Permit

(a) An application for a food truck permit shall be filed with the City Finance Officer on a form provided by the City.

(b) The permit shall require the permittee to assume all legal liability and pay on behalf of the City all sums which the City shall be obligated to pay by reason of any liability imposed upon the City for claims or damages of any kind resulting from use of public property and the public right-of-way, whether sustained by any person or persons, caused by accident or otherwise and the permittee shall defend at its own expense and on behalf of the City any claim against the City arising out of the use of public property and the public right-of-way.

(c) The permit shall require the permittee to obtain insurance in an amount determined by the City.

(d) The City Finance Officer or designee shall grant or deny the application for a permit in writing within thirty (30) calendar days after the filing of an application for a food truck permit. The City Finance Officer or designee shall grant the application and issue a permit if the requirements set forth in this ordinance have been met.

(e) The City Administrator or designee may revoke a food truck permit for violation of this ordinance.

(f) The City may limit the number of food truck permits granted by Resolution of the City Council.

(g) Permits shall be issued for a period up to one (1) calendar year.

(h) The permittee shall not offer tobacco or alcoholic beverages for sale.

(i) The sale, transfer, or assignment of a permit is expressly prohibited.

Section 3.4-5 – Food Truck Permit Issuance and Fees

(a) Prior to any food truck permit being issued under the provisions of this Article, the applicant shall have all applicable State permits and licenses and shall pay the required fee.

(b) The operator of each food truck is required to obtain a food truck permit for each operating food truck.

(c) A permit shall remain in effect until December 31st of the year of issuance.

Section 3.4-6 – Permit

The City Finance Officer shall note on the permit the time period for which it is effective. Upon the filing of the application, payment of the fee as provided in this article, and compliance with all requirements for a food truck permit, the City Finance Officer shall issue a permit which shall authorize the permittee to do business for the time period for which it is effective. The permit shall be visibly posted on the food truck.

Section 3.4-7 – Location of Food Truck Operations*

(a) Permitted Locations:

(1) The sale of food and beverages from a food truck is permitted on the public rights-of-way inside and adjacent to the exterior boundaries of Downtown Zone in accordance with the requirements of this ordinance.

(2) Food truck operators must be actively engaged in food vending operations at all times while parked on the public right-of-way;

(3) The sale of food and beverages from a food truck is also permitted on business and industrial zoned private property inside and adjacent to the Downtown Zone and is also permitted on private property within the City in business and industrial zoned areas, and in municipal lots, including lots for ball fields and parks with written permission from the City Administrator.

(b) Prohibited Locations:

No person shall operate, and no permittee shall allow a food truck to be operated on a public right-of-way or private property in the following locations:

(1) A street that is within a residential zone or abuts a residential zone boundary of the City of Volga, except for private catering as set forth in Subsection (c) of this Section; or

(2) On any private property in a business or industrial zone without the permission of the owner or agent of the property; or

(3) On any private property in a residential zone, except for private catering as set forth in Subsection (c) of this Section; or

(4) Upon a public street, including public parking spaces, where the City Administrator has determined that potential traffic or safety hazards exist; or

(c) Limited Use of Food Trucks in Residential Zones:

(1) Food trucks may operate on residential property or on a street within a residential zone only for the purpose of catering private events. In such cases, food trucks may only sell food and beverages to people attending the private event and who are entirely on the property owned by the person or persons holding the event. It shall be the responsibility of the property owner to inform the City Administrator before allowing a food truck to operate on their residential property.

(2) The owner and employees of a food truck may not use their food truck for catering or any other such uses on their own property, except when catering their own private event.

Section 3.4-8 – Fees
The annual fee for a food truck permit shall be set by Resolution of the City Council.

Section 3.4-9 – Food Truck Parking Requirements
Notwithstanding any other provision in the code, a food truck operator may:

1. Park in a parallel manner within two (2) parallel or three (3) diagonal parking spaces.
2. Operate a food truck while parked in a municipal parking lot.

No food truck exceeding 22 feet may park diagonally in a diagonal parking space. No food truck operator shall operate with the serving window facing street traffic.

Section 3.4-10 – Rules of Operation

(a) The food truck permittee shall display their permit at all times in a conspicuous place where it can be read by the general public on the food truck.

(b) Permittees shall be responsible for ensuring that the operation of a food truck does not impact the capacity of public trash receptacles by providing private receptacles on site to reduce the use of the public receptacles. Food truck operators shall pick up all garbage left by their customers.

(c) Food truck permittees shall be responsible for providing one private trash bin and one private recycling bin for public use with capacity of no less than 30 gallons each, and shall remove all refuse within 25 feet of the food truck. Refuse shall be removed at the food truck operator's expense and shall not be placed in an unauthorized private or City receptacle.

(d) Food truck permittees shall not sell directly in front of any main entrance to an adjacent business.

(e) Food truck permittees shall not offer tobacco or alcoholic beverages for sale.

(f) No food truck permittee shall sell food or beverages between the hours of 2 a.m. and 6 a.m. Hours of operation are not limited on private property.

(g) In the event of parades, food truck operators shall not be permitted to park in any areas along the parade route or obstruct parade viewers.

(h) The food truck operator shall provide reasonable accessibility, where possible, to serve persons with disabilities.

(i) No tables or chairs shall be used in conjunction with the operation of a food truck except when food truck is parked upon private property or upon a municipal parking lot.

(j) All signs shall be located upon the food truck. No electronic signage shall be permitted to be used by a food truck operator.

(k) All parking ordinances, including ordinances limiting the duration of parking, shall apply to food trucks except as specifically provided in this Article.

(l) Food trucks shall not be parked closer than twenty (20') feet of a crosswalk at an intersection.

Section 3.4-11 – Revocation/Supervision
Any permit issued under the provisions of this ordinance may be revoked for violation of any provision of this Code, State law, or City ordinance by the City Administrator or designee. Upon the revocation, the permit shall immediately be surrendered, and failure to do shall be a violation of this Article. In addition, the City Administrator is authorized to suspend a permit at any time in the event of prohibited conduct by a food truck operator. The food truck operator shall be provided an opportunity to remove the suspension following a meeting with the City Administrator during regular business hours following the suspension.

Section 3.4-12 – Health and Sanitation Requirements
Food truck operators shall comply with the minimum public health and safety requirements as made and enforced by the South Dakota Department of Health, pursuant to SDCL Chapter 34-18.

Section 3.4-13 – Fire Safety
No food truck operator shall operate without proof of an annual third-party inspection of propane fill or gas-related capabilities.

Section 3.4-14 – Prohibited Conduct
No food truck operator shall:

1. Operate in or abutting a City park without written permission from the City Administrator; and
2. Place any object that blocks pedestrian traffic.

Section 3.4-15 – Noise
Food truck operators must adhere to all noise ordinances of the City.

Section 3.4-16 – Liability and Insurance

(a) Before any food truck vendor permit is granted, the Applicant shall sign a statement holding harmless the City and shall indemnify the City, its officers and employees, for any claims for damages to property or injury to persons which may occur in connection with any activity carried on pursuant to any activities associated with food truck vending.

(b) All Applicants shall furnish and maintain a policy of insurance protecting the Applicant and the City from all claims for damage to property or bodily injury, including death, which may arise from activities associated with mobile food vending. The insurance policy shall list or endorse the City as additional insured and carry minimum liability limits of at least $1,000,000 per occurrence. The endorsement shall provide that the policy shall not be terminated or cancelled prior to the termination of the food truck permit without 30 days written notice to the City.

(c) Any permit for food truck vending shall be deemed void in the absence of a current insurance policy meeting the above criteria.

Section 3.4-17 – Penalties
A violation of this article shall subject the violator to revocation of the permit and a fine as set by Resolution of the City Council. Each day a violation occurs may constitute a separate offense.

ARTICLE 5. MEDICAL CANNABIS

Section 3.5-1 – Purpose and Intent
The purpose of this ordinance is to implement medical cannabis licensing requirements in a manner consistent with SDCL Chapter 34-20G and Article 44:90 of the South Dakota Administrative Rules, to protect the health, safety and welfare of the public and qualifying patients by prescribing the manner in which medical cannabis dispensaries can be conducted within the City. Further, the purpose and intent of this ordinance is to:

(a) Protect public health and safety through reasonable regulation of medical cannabis dispensaries as they relate to neighborhoods, patient safety, security for medical cannabis dispensaries and their personnel, and other health and safety concerns.
(b) Impose fees to cover the direct and indirect costs to the City of licensing and regulating medical cannabis dispensaries.

Nothing in this ordinance is intended to promote or condone the sale, distribution, possession or use of marijuana in violation of any applicable law.

Section 3.5-2 – Definitions
The following words and phrases, when used in this ordinance, shall have the meanings provided in this ordinance. In addition to the definitions contained in this ordinance, other terms used in this ordinance shall have the meanings provided in South Dakota Codified Law Title 34, Chapter 20G, Section 1, SDCL § 22-42-1 (Controlled Substances and Marijuana, Definitions), and Article 44:90 of the South Dakota Administrative Rules, and such definitions are hereby incorporated into this ordinance by reference.

Advertise, advertising or advertisement means the act of drawing the public's attention, whether through print, signs, telephonic, electronic, wireless or digital means, to a medical cannabis dispensary in order to promote the sale of medical cannabis by the dispensary.

Applicant shall mean any person or entity who has submitted an application for a license or renewal of a license issued pursuant to this ordinance. If the applicant is

an entity and not a natural person, applicant shall include all persons who are the members, managers, officers, directors and shareholders of such entity.

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

Cannabis product manufacturing facility shall mean an entity registered with the department pursuant to this chapter that acquires, possesses, manufactures, delivers, transfers, transports, supplies, or sells cannabis products to a medical cannabis dispensary.

Cannabis testing facility or testing facility shall mean an independent entity registered with the department pursuant to this chapter to analyze the safety and potency of cannabis.

Cardholder shall mean any person who has been issued and possesses a valid registry identification card pursuant SDCL Chapter 34-20G.

Cultivation facility shall mean an entity registered with the department pursuant to this chapter that acquires, possesses, cultivates, delivers, transfers, transports, supplies or sells cannabis and related supplies to a medical cannabis establishment.

Disqualifying felony offense shall mean a crime that was classified as a felony in the jurisdiction where the person was convicted.

Initial application shall mean the first application filed for a dispensary.

License shall mean to grant a license pursuant to this ordinance.

Licensed premises shall mean the premises specified in an application for a license pursuant to this ordinance that is owned by or in possession of the licensee and within which the licensee is authorized to distribute or sell Medical Cannabis in accordance with the provisions of South Dakota Codified Law Chapter 34-20G.

Licensee shall mean any person or business entity that has been issued and holds a valid, current license pursuant to this ordinance. If the licensee is an entity and not a natural person, licensee shall include all persons who are the members, managers, officers, directors, shareholders and partners of such entity.

Local licensing authority shall mean the City of Volga.

Medical cannabis or cannabis shall mean cannabis as defined in Article 44:90 of the Administrative Rules of South Dakota and as used in SDCL Chapter 34-20G.

Medical cannabis code shall mean SDCL Chapter 34-20G, as the same may be hereafter amended, and any other rules or regulations promulgated thereunder, including Article 44:90 of the Administrative Rules of South Dakota and as used in SDCL Chapter 34-20G.

Medical cannabis dispensary or dispensary shall mean the entity registered with the South Dakota Department of Health pursuant to SDCL Chapter 34-20G and licensed by the City pursuant to this ordinance that acquires, possesses, stores, delivers, transfers, transports, sells, supplies, or dispenses cannabis, cannabis products, paraphernalia, or related supplies and educational materials to cardholders. Medical cannabis dispensary does not include a cultivation facility, a cannabis testing facility, a cannabis product manufacturing facility, or a recreational cannabis dispensary.

Medical cannabis establishment shall mean a cannabis cultivation facility, a cannabis testing facility, a cannabis product manufacturing facility, or a cannabis dispensary as those terms are defined in SDCL§ 34-20G-1.

Registry identification card shall mean a document issued by South Dakota Department of Health that identifies a person as a registered qualifying patient or registered designated caregiver, or documentation that is deemed a registry identification card pursuant to §§ 34-20G-29 to 34-20G-42, inclusive.

Section 3.5-3 – Other laws/administrative rules

If the State of South Dakota adopts any stricter regulation governing a medical cannabis dispensary than that set forth in this ordinance, the stricter regulation shall control the establishment or operation of any medical cannabis dispensary in the City. The Administrative Rules of South Dakota set forth in Article 44:90 and pertaining to medical cannabis are incorporated by reference and are made a part hereof. A licensee shall be required to demonstrate, upon demand by the City, or by law enforcement officers, that the source and quantity of any cannabis located upon the licensed premises are in full compliance with the applicable laws of the State and City. If the State prohibits the sale or other distribution of medical cannabis in any respect, any license issued under this Section shall be deemed immediately revoked by operation of law. The issuance of any license pursuant to this ordinance shall not be deemed to create an exception, defense or immunity to any person in regard to any potential criminal liability the person may have for the cultivation, possession, sale, distribution, or use of marijuana.

Section 3.5-4 – Authority

The City Council shall have the authority pursuant to the SDCL Chapter 34-20G and this ordinance to grant or deny licenses. Authorized representatives of the City of Volga shall have the authority to inspect the premises of a medical cannabis dispensary to confirm compliance with all licensing requirements.

Section 3.5-5 – Limitation of the number of medical cannabis dispensaries

Under the authority granted by SDCL 34-20G-56, there shall be no more than one (1) active medical cannabis dispensary that may be registered by the State of South Dakota to operate within the jurisdictional limits of the City of Volga at any time. The City of Volga hereby requests the State to give registration preference only to those applicants that have received a medical cannabis dispensary license issued by the City of Volga pursuant to this ordinance.

Section 3.5-6 – Prohibition of medical cannabis product manufacturing facilities, medical cannabis testing facilities and medical cultivation facilities
Under the authority granted by SDCL 34-20G-56, medical cannabis product manufacturing facilities, medical cannabis testing facilities and medical cannabis cultivation facilities are prohibited within the jurisdictional limits of the City of Volga.

Section 3.5-7 – Medical cannabis license required
It shall be unlawful for any person to operate a medical cannabis dispensary within the jurisdictional limits of the City without first having obtained a medical cannabis dispensary license to operate pursuant to the provisions of this ordinance, having a validly issued medical cannabis dispensary registration certificate in good standing from the State, and having paid all applicable fees. Such license and registration certificate shall be kept current at all times, and failure by a licensee to maintain a current medical cannabis dispensary license shall constitute a violation of this ordinance.

Section 3.5-8 – Term of license; renewal
Each medical cannabis dispensary license issued by the City shall be effective upon issuance, however a Certificate of Registration issued by the State of South Dakota shall be required before a licensee may conduct business as a medical cannabis dispensary in the City. Each medical cannabis license shall terminate on the last day of December of the year issued. Renewal applications shall be filed at least 30 days prior to the expiration date of the existing license.

Section 3.5-9 – License transfers
An application for the transfer of a medical cannabis license to a different physical location or to another person or business entity shall include all information required by the South Dakota Administrative Rules under Administrative Rule 44:90:03:01.

Section 3.5-10 – License application
An application for a medical cannabis dispensary license or to renew a license previously issued under this ordinance shall be submitted to the City on forms provided by the City Finance Officer for such purposes:

(a) The name, address, and date of birth of each owner, shareholder, LLC member, partner and manager, principal officer, and board members of the proposed medical cannabis dispensary;
(b) Documentation reflecting the applicant's right to possess the proposed licensed premises for the proposed use;
(c) A site plan reflecting the boundaries of the proposed licensed premises;
(d) A description of safety and security measures reflecting compliance with the City and State's operating requirements as required by the Administrative Rule 44:90:03:02; and

(e) Any other additional information requested by the City Council deemed necessary for the City to evaluate the application.

The City will not issue a medical cannabis dispensary license until all information required of the applicant has been submitted, and the applicant:

(a) Has submitted a complete application;
(b) Is prepared to operate the dispensary with the owners and managers as set forth in the application, all in compliance with this ordinance and any other applicable law, rule or regulation; and
(c) Has paid all fees.

Section 3.5-11 – Application fee

At the time an applicant files an application for a medical cannabis dispensary license, the applicant shall pay a non-refundable application fee to the City in an amount established by resolution of the City to defray the costs incurred by the City for processing the application.

Section 3.5-12 – Annual license fee

Within thirty (30) days of receiving a medical cannabis dispensary registration certificate from the State of South Dakota pursuant to SDCL Chap. 34-20G, the licensee shall pay to the City an annual license fee in an amount established by resolution of the City. The annual license fee is in addition to the initial application fee required pursuant to Section 9. The annual license fee shall be paid on the basis of a calendar year regardless of the date of license issuance, and no proration or discount shall be given.

Section 3.5-13 – Additional permits and licenses

A license issued pursuant to this ordinance is in addition to and does not eliminate the need for the licensee to obtain any zoning-related permits or building permits required by the Volga Code of Ordinances.

Section 3.5-14 – Application review process

(a) Upon receipt of a complete application, the City Administrator or their representative shall review the application to determine whether the application is in compliance with the City's ordinances. No license will be approved until the City Administrator or their representative has conducted an inspection of the proposed premises to determine compliance of the proposed medical cannabis dispensary with all applicable requirements of this ordinance, and with the plans and application submittals. The City Administrator or their representative shall reject any application that does not meet the requirements of this ordinance or that contains any false, misleading or incomplete information.
(b) Within thirty (30) days after the completion of the review of the application, the City Council shall approve or deny the license application provided the City Administrator or their representative has determined that all requirements for a medical cannabis dispensary license have been satisfied. The City Finance Officer or their representative shall provide the reason(s) for denial of the license by first class mail to the applicant at the address provided in the application.

(c) If approved, the City Finance Officer or their representative shall issue to the applicant a cannabis license, which shall include the date of issuance, the term of the license, the name of the licensee and the physical address of the licensed premises.

Section 3.5-15 – Inspections

During the review of the medical cannabis dispensary license application, and at all reasonable times after a medical cannabis dispensary license is issued, the City Administrator or their representative may make any reasonable inquiries and inspections at reasonable times of the medical cannabis dispensary to determine if the premises meets or continues to meet the requirements of City ordinances and State statutes. It shall be a violation of this ordinance and grounds for revocation of any license issued hereunder for a licensee to fail to provide supplemental information or refuse inspections by the City Administrator or their representative.

Section 3.5-16 – Effect of City's issuance of a medical cannabis dispensary license

If approved, the City's issuance of a license shall be subject to automatic termination if:

(a) The licensee does not receive or fails to qualify for the State registration certificate required under SDCL Chapter 34-20G; or

(b) The licensee fails to pay the annual license fee to the City within thirty (30) days of the issuance of the State registration certificate in accordance with this ordinance.

No licensee may engage in the sale of cannabis products unless the licensee holds a current State registration certificate and a City of Volga medical cannabis dispensary license.

Section 3.5-17 – Annual license fee non-refundable

If a license is revoked pursuant to the provisions of this ordinance, the annual license fee shall not be refunded.

Section 3.5-18 – Requirements of medical cannabis licensees

A medical cannabis dispensary licensee is subject to the following requirements:

(a) A licensee shall be prohibited from employing any employee under twenty-one (21) years of age;

(b) In accordance with SDCL § 34-20G-67, a medical cannabis dispensary shall not share office space with or refer a patient to a practitioner;

(c) In accordance with SDCL § 34-20G-68, a medical cannabis dispensary shall not permit any person to consume cannabis upon the property of the licensed premises;

(d) A licensed premises may only be located within a zoning district which permits a medical cannabis dispensary as a permitted use;

(e) The licensed premises shall be located no less than one thousand feet (1,000') of a public or private school existing before the date of the medical cannabis dispensary application and no less than three hundred feet (300') from the nearest property line of any religious institution, detention facility, or any other facility identified in this ordinance or in State law that requires a distance separation from a licensed medical cannabis dispensary. No cannabis dispensary shall operate within three hundred feet (300') of another cannabis dispensary. Distances shall be measured from the closest point of the property lines including public rights of way;

(f) The licensed premises shall not be located within any building containing a dwelling unit, a pediatrician's office, hotel, motel or lodging facility.

Section 3.5-19 – Facility standards for medical cannabis dispensaries

The medical cannabis dispensary shall be maintained in accordance with the following facility standards:

(a) It shall be unlawful to operate a medical cannabis dispensary outside of an enclosed building which is capable of being locked. All medical cannabis dispensary licenses shall be issued for a specific fixed location within an enclosed building.

(b) The facility shall have locked display cases only accessible to staff during business hours. The facility shall have a locked vault or storage cage in which all cannabis and cannabis products shall be stored during hours the dispensary is closed.

(c) The facility shall conform to the prevailing building and fire codes adopted by the City of Volga.

(d) All exterior entrances and exits and all parking areas shall be lighted at all times after dark.

(e) Security cameras which comply with the South Dakota Administrative Rules for Medical Cannabis Dispensaries are required. The camera system shall securely store camera footage for no less than thirty (30) days.

(f) The facility shall have a functional commercial alarm system triggered by the press of a button, by the breaking of glass, and by forcing open a locked door.

Section 3.5-20 – Medical cannabis dispensary rules of operation

Each dispensary shall be operated only in accordance with the following rules:

(a) The medical cannabis dispensary shall be operated and maintained in accordance with Administrative Rule 44:90:03:02, which provides the operating procedures for all medical cannabis establishment application submittals filed with the South Dakota Department of Health.

(b) Each dispensary shall be operated and maintained in accordance with the dispensary requirements and facility standards set forth in this ordinance and all other applicable City ordinances, State laws and State administrative rules concerning medical cannabis.

(c) No person shall be allowed entry into the dispensary without showing a valid picture identification.

(d) A medical cannabis dispensary shall be ventilated so that the odor of cannabis or cannabis products cannot be detected by a person with a normal sense of smell outside the medical cannabis dispensary or on any adjoining property.

(e) All sales of medical cannabis shall be made in person, directly to the purchaser, within the medical cannabis dispensary. Sales shall occur only in person to the purchaser at the time of purchase within the medical cannabis dispensary. No drive up windows or other similar delivery process shall be allowed.

(f) No medical cannabis dispensary shall distribute or allow the distribution of any medical cannabis without charge within a medical cannabis dispensary or at any other place for purposes of promotion, advertising or any other purpose.

Section 3.5-21 – License revocation and penalties

(a) Any medical cannabis dispensary license may be revoked or suspended in accordance with this ordinance.

(b) Any person operating a dispensary without a license is subject to a civil fine of up to two hundred dollars ($200.00). Each day a dispensary is operated without a license shall constitute a separate offense.
(c) Operating a dispensary without a license shall be deemed a public nuisance and subject to abatement as a public nuisance. Such nuisance may be abated in any manner permitted by ordinance or other applicable law, including, but not limited to an action for injunctive relief.
(d) A medical cannabis dispensary license is subject to suspension if a licensee or any of its employees or agents has been convicted of selling a cannabis product to any person under the age of twenty-one (21).

Section 3.5-22 – No City liability; indemnification; no defense

(a) By accepting a license issued pursuant to this ordinance, the licensee waives any claim concerning, and releases the City, its officers, elected officials, employees, attorneys and agents from any liability for injuries or damages of any kind that result from any arrest or prosecution of business owners, operators, employees, clients or customers of the licensee for a violation of State or federal laws, rules or regulations.
(b) By accepting a license issued pursuant to this ordinance, all licensees, jointly and severally if more than one, agree to indemnify, defend and hold harmless the City, its officers, elected officials, employees, attorneys, agents, insurers and self-insurance pool against all liability, claims and demands on account of any injury, loss or damage, including without limitation claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage, or any other loss of any kind whatsoever arising out of or in any manner connected with the operation of the medical cannabis dispensary that is the subject of the license. All owners of a medical cannabis dispensary shall sign the license application forms and indemnification and waiver and release forms.
(c) The issuance of a license pursuant to this section shall not be deemed to create an exception, defense or immunity for any person in regard to any potential criminal liability the person may have under State or federal law for the cultivation, possession, sale, distribution or use of marijuana.

Section 3.5-23 – Signage and advertising

All exterior signage associated with a medical cannabis dispensary must comply with the zoning ordinances of the City and the Administrative Rules of South Dakota.

Section 3.5-24 – Compliance with other applicable laws and rules

Except as may be otherwise provided in this ordinance, any law or regulation adopted by the State governing the cultivation, production, possession, or distribution of medical cannabis use shall also apply to medical cannabis dispensaries licensed within the City. Accordingly, the South Dakota Administrative Rules set forth in Article 44:90 are incorporated in this ordinance by reference.

Section 3.5-25 – Suspension or revocation of license; imposition of fines

The grounds for suspension or revocation of a medical cannabis dispensary license and the procedures for such suspension or revocation shall be as provided in State law. In addition thereto, a violation of any of the provisions of this ordinance or any State law or regulation

related to licensing or operation of a medical cannabis dispensary shall be grounds for suspension or revocation of a City medical cannabis dispensary license, subject to notice and hearing.

Section 3.5-26 – License renewals; expiration of license

Renewal of License. The licensee shall apply for renewal of the medical cannabis dispensary license at least 30 days prior to the expiration of the license (December 31st of each year). If the Applicant files for renewal less than 30 days prior to the expiration date, then the City may process the renewal application if the Applicant submits a late filing fee in an amount established by resolution of the City at the time of submission of the renewal application.

(1) The renewal license fee, and late fee, if applicable, shall accompany the renewal application. Such fees are nonrefundable.
(2) In the event there have been any changes in the location of the premises submitted, the renewal application shall identify the proposed changes in the location.
(3) In the event any person who has an interest as described in the initial medical cannabis dispensary application made to the City pursuant to this ordinance, or any dispensary owner or agent, as defined herein, has been charged with or accused of violations of any law since such disclosure, the renewal application shall include the name of the violator, the date of the violation, the court and case number where the violation was filed and the disposition of such violation.
(4) In the event the medical cannabis dispensary license has been suspended or revoked, or a licensee has received any notice of violation of any law, the renewal application shall include a copy of the notice, suspension or revocation.
(5) The renewal application shall include verification that the medical cannabis dispensary has a valid State certificate of registration.
(6) In the event there have been allegations of violations of this ordinance by any of the licensees or the dispensary submitting a renewal application, the City Administrator or their representative may hold a hearing prior to approving the renewal application. The hearing shall be for purposes of determining whether the application, proposed licensee and past operation of the dispensary has been in compliance with this ordinance. If the application or the licensee does not meet the requirements of this ordinance, or the dispensary has been operated in the past in violation of this ordinance, the renewal application may be denied by the City Council or their representative, or issued with conditions.

Section 3.5-27 – Change of location

A medical cannabis dispensary licensee may apply to the City for a change in location of the licensed premises. The inquiry by the City into the request for a change of location of the licensed premises may include any item that may be reviewed for a new medical cannabis dispensary license, provided that the qualifications of the licensee to hold a license for a medical cannabis dispensary shall not be subject to review so long as the licensee meets all requirements of this ordinance and any provisions of State law at the time the license was

originally issued and remains in compliance with this ordinance subsequent to the issuance of said license.

Section 3.5-28 – Penalties

In addition to the possible denial, suspension, revocation or non-renewal of a license or any other penalty provided for under the provisions of this ordinance or by State law, any person, including but not limited to, any licensee, owner, manager or employee of a medical cannabis dispensary or any customer of a medical cannabis dispensary who violates any provisions of this ordinance may be cited for such violation and shall be subject to the penalties for violation of City ordinance.

CHAPTER 4.
ALCOHOLIC BEVERAGES
ARTICLE 1.
IN GENERAL

Section 4.1-1 – Definitions

The following words, terms, and phrases, when used in this Chapter, shall have the meanings provided in this Section, except where the context clearly indicates a different meaning:

Alcoholic beverage – any distilled spirits, wine, and malt beverages as defined in SDCL Chapter 35.

Section 4.1-2 – Public nuisance

Any structure, conveyance, or place where alcoholic beverages are manufactured, sold, kept, bartered, given away, found, consumed, or used in violation of any State law or the ordinances of this City which pertain to alcoholic beverages and all alcoholic beverages and property kept and used in maintaining the same, is hereby declared to be a common nuisance. Maintenance of a common nuisance is a violation of this Chapter.

Section 4.1-3 – Drinking or possession in a public place

No person may drink any alcoholic beverage in any public place or possess any alcoholic beverage in any package, bottle, glass, or other container which is not sealed as required by law. For purposes of this Section, the term "public place" shall mean any street, alley, sidewalk, parking lot, or park commonly and customarily open to or used by the general public. This section does not apply to premises duly licensed under SDCL Title 35 (SDCL 35-1-1 et seq.).

Section 4.1-4 – Markup percentage on sale of alcoholic beverages

(a) *Malt beverages* –The City shall charge and collect a markup of five percent above the municipality's costs of malt beverages, plus freight, for all malt beverages sold within the City. The markup percentage shall apply to all malt beverages, whether purchased for on-sale or off-sale purposes.

(b) *Markup percentage on malt beverages manufactured and sold on the premises of a licensed malt beverage manufacturer selling for consumption upon a licensed premises* – Any licensed manufacturer of malt beverages shall pay to the City on a monthly basis, a markup percentage of five percent of the cost of malt beverages manufactured on the premises based upon the same quantities reported to the Department of Revenue and Bureau of Alcohol, Tobacco and Firearms and for purposes of the occupational tax on manufactured malt beverages.

(c) *Wine and farm wine* – The City shall charge and collect a markup of ten percent above the municipality's costs of beverages, plus freight, for all wine and farm wine sold within the City. The markup percentage shall apply to all wine and farm wine, whether purchased for on-sale or off-sale purposes. It is the responsibility of the distributor/farm winery to provide an invoice copy to the City for all such sales within ten days of the date of purchase.

(d) *Liquor* – The City shall charge and collect a markup of 10 percent above the municipality's cost of liquor beverages, plus freight, for all liquor beverages sold within the City. The markup

percentage shall apply to all liquor beverages, whether purchased for on-sale or off-sale purposes.

Section 4.1-5 – Video lottery machine license fees

There is imposed on any person who is licensed pursuant to SDCL 35-4-2(4), (12), or (16) and who is issued a video lottery establishment license pursuant to SDCL 42-7A-41 an annual license fee for the privilege of locating video lottery machines on the licensed premises. The fee for each video lottery machine is as established by resolution of the City Council, and shall be payable at the same time as the alcoholic beverage license fees.

Section 4.1-6 – Minimum liability insurance limits

All current and future operating agreements between the City and parties designated "manager" shall be subject to the following revised insurance limits: general liability insurance protecting both the City and the manager against claims for injury or damages to persons or property, such policy to have general liability limits of at least $1,000,000.00 single limit, and $1,000,000.00 aggregate, and a limitation of $50,000.00 for damage to property. The general liability insurance limits are subject to change and the manager agrees to change limits of insurance if required by the City.

ARTICLE 2.
LICENSES

Section 4.2-1 – Required

No person may sell, offer for sale, keep for sale, exchange, distill, manufacture, produce, bottle, blend, or otherwise concoct, within the City any alcoholic beverage without having a license therefor as required by SDCL Title 35 (SDCL 35-1-1 et seq.).

Section 4.2-2 – Hours of use of license

Alcoholic Beverages may be sold, served, and consumed at licensed premises during hours as follows for each license:

(a) Liquor – No on-sale or off-sale licensee, licensed under SDCL §§35-4-2(4) (On-sale) and 35-4-2(5) (Off-sale licenses issued to municipalities under local option) may sell, serve, or allow to be consumed on the premises covered by the license, liquor between the hours of two A.M. and seven A.M., or at any time on Christmas Day.

(b) Malt Beverages and Wine – No licensee licensed under 35-4-2(12) (Wine retailers, being both packaged dealers and on-sale dealers), 35-4-2(16) (Malt beverage retailers, being both package dealers and on-sale dealers), 35-4-2(17) (Malt beverage package dealers), 35-4-2(17A) (Malt beverage and wine produced pursuant to chapter 35-12 package dealers) and 35-4-2(19) (Off-sale package wine dealers) may sell, serve, or allow to be consumed on the premises covered by the license, any malt beverages, wine, or farm wine, between the hours of two A.M, and seven A.M.

Section 4.2-3 – Application review procedure

The City Council shall review all applications submitted to the City for available on-sale alcoholic beverage agreements and for all alcoholic beverage licenses in accordance with SDCL Chapter 35-2 (SDCL 35-2-1 et seq.) and in accordance with the following factors:

(a) *Type of business which applicant proposes to operate* – On-sale alcoholic beverage operating agreements and on-sale alcoholic beverage licenses may not be issued to convenience grocery stores, gas stations, or other stores where groceries or gasoline are sold unless it can be established that minors do not regularly frequent the establishment.

(b) *Manner in which the business is operated* – On-sale alcoholic beverage operating agreements and on-sale alcoholic beverage licenses may not be issued to establishments which are operated in a manner which results in minors regularly frequenting the establishment.

(c) *Extent to which minors are employed in such a place of business* – On-sale alcoholic beverage operating agreements and on-sale alcoholic beverage licenses may not be issued to convenience grocery stores, gas stations, or other stores where groceries or gasoline are sold and which regularly employ minors.

(d) *Adequacy of the police facilities to properly police the proposed location* – The City Council shall inquire of the City Administrator whether law enforcement can adequately police the proposed location.

(e) O*ther factors* – The hours that business is conducted shall be considered by the City Council in its review of applications for on-sale alcoholic beverage operating agreements and on-sale alcoholic beverage licenses.

Section 4.2-4 – Full-service on-sale restaurant licenses

(a) The following words, terms, and phrases, when used in this Section, shall have the following meanings, except where the context clearly indicates a different meaning:

(1) *Bar* – Any permanently installed counter within the restaurant area from which alcoholic beverages are regularly served to customers by a person who is tending bar or drawing or mixing alcoholic beverages.

(2) *Full-service restaurant* – Any restaurant at which a waiter or waitress delivers food and drink offered from a printed food menu to patrons at tables, booths, or the bar. Any restaurant that only serves fry orders or food such as sandwiches, hamburgers, or salads is not a full-service restaurant;

(3) *Restaurant* – Any area in a building which is maintained, advertised, and held out to the public as a place where individually priced meals are prepared and served primarily for consumption in such area and where not more than 40 percent of the gross revenue of the restaurant is derived from the sale of alcoholic beverages. The restaurant shall have a dining room or rooms, a kitchen, and the number and kinds of employees necessary for the preparing, cooking, and serving of meals.

(b) *License application requirements*

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

(c) *Annual reports:* The full-service restaurant on-sale licensee shall submit an annual report and supporting documentation to the City on forms provided by the City of the annual sales of the full-service restaurant, which includes an oath verifying the validity of the information provided in the report. The report and the supporting documentation submitted pursuant to this section are confidential. The report shall contain the annual gross sales of the licensee for the following two categories:

(1) Food and nonalcoholic beverage sales; and

(2) Alcoholic beverages sales.

(d) *License renewals:* When renewing a full-service restaurant on-sale license, the City shall condition the license renewal upon receiving documentation that not more than 40 percent of gross sales from the preceding 12 months operation of the full-service restaurant is derived from the sale of alcoholic beverages.

(e) *Only retail, on-sale service permitted:* A full-service restaurant on-sale licensee may only serve alcoholic beverages for on-premises consumption in the bar and dining room area of the restaurant.

(f) *Smoking prohibited:* No licensee that has a full-service restaurant on-sale license may allow smoking on the licensed premises.

(g) *Full-service restaurant license fees:*

(1) As required by state law, the license fee charged for a full-service restaurant on-sale license shall be at or above the current fair market value for such license as determined herein. However, any fair market value so established shall be a minimum of $1.00 for each person residing within the City as measured by the last preceding decennial federal census.

(2) The license fee shall be initially established by Resolution within 90 days of the initial adoption of this Section. Subsequent changes in the license fee shall not be made for a period of ten years from the effective date of adoption of this Section unless a population growth reported by the federal decennial census requires an increase in the fee.

(3) Fair market value for full-service restaurant license shall be established pursuant to SDCL 35-4-111 through 35-4-120.

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

(i) *Issuance of new full-service restaurant licenses restricted:* The City may only issue a new license pursuant to this Section if no on-sale license is on the registry or a person desiring to purchase an on-sale license listed on the registry provides documentation showing that the person is unable to purchase the on-sale license at the price established in subsection (g) of this Section and on terms satisfactory to both the potential buyer and seller. The price of any on-sale license registered as "for sale" with the City shall be sold at the current fair market price set by the City pursuant to a Resolution adopted in accordance with subsection (g)(2) of this Section.

CHAPTER 5.
ANIMALS
ARTICLE 1.
IN GENERAL

Section 5.1-1 – Definitions
For the purpose of interpreting this chapter, the following words, terms, and phrases shall have the meaning respectively given herein.

Animal control officer – The person or persons appointed by the City to act as animal control officer of the City.

At large or running at large - An animal shall be deemed to be running at large when off or away from the owner's premises and not under the complete control of the animal's owner, possessor, keeper, agent, servant, or a member of the owner's immediate family by a leash or remote pet collar. An animal is not to be deemed running at large if it is within the vehicle of the animal's owner, possessor, keeper, agent, servant, or a member of the owner's immediate family.

Complete control - A state where an animal is restrained by leash or remote pet collar from taking an action which is not desired by the animal's owner, possessor, keeper, agent, servant, or a member of the owner's immediate family and such restraint does actually prevent the animal from taking an undesired action. For remote pet collars to be deemed to be restraining the animal, the animal shall behave as if on a leash short enough to prevent trespass onto the private property of another, and in no event longer than forty feet (40'). Examples of undesired actions include, but are not limited to, straying too far from the animal's handler, not following handler commands, and making contact with another person without consent. An animal is not under complete control if the animal is the aggressor in an incident where the animal is declared to be a restricted animal or vicious animal.

Guard dog – Any dog that is utilized to protect property.

Leash - A cord, thong, or chain by which an animal is controlled by the person accompanying it.

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 is the owner of the animal within the meaning of this chapter.

Remote pet collar - A collar worn by an animal that when signaled by remote control delivers an electrical shock to the animal.

Section 5.1-2 – Acceptance of unwanted animals
The City of Brookings Animal Shelter accepts unwanted animals from residents of Brookings County for adoption or humane disposition provided the appropriate fees are paid and authorization is given by the owner.

Section 5.1-3 – Disturbance of peace
The owner of an animal shall not allow the animal to disturb the peace and quiet of the City or of any person.

Section 5.1-4 – Animals on school grounds or recreation areas

No owner shall permit any animal upon any school ground when school is in session, or upon any public recreation area when an organized activity is being conducted, unless the animal is in control of an owner by a leash or similar device.

Section 5.1-5 – Number of pets limited
It is unlawful for any person or caretaker to have or keep more than six domestic pets including, but not limited to, dogs, cats, and rabbits over the age of four months, except birds and fish, upon any lot or premises in the City, unless such person or caretaker resides within the lot or premises and has a valid pet shelter or kennel license issued by the City. Veterinarian offices are exempt from the provisions of this Section.

Section 5.1-6 – Cruelty to animals
No person shall cruelly beat, torture, or injure any animal nor overload any working animal, nor shall any person willfully or negligently mistreat or abuse or treat or neglect in a cruel or inhumane manner any such animal.

Section 5.1-7 – Teasing, baiting, etc.
It shall be unlawful for any person to tease, bait or harass any animal.

Section 5.1-8 – Humane care of animals
All owners shall provide their animal(s) with sufficient feed and water, proper shelter, humane care and treatment and veterinary care when needed to prevent suffering. No person shall mistreat any animal nor shall any animal be abandoned. Unwanted animals may be taken to the animal control shelter.

Section 5.1-9 – Poisoning of animals unlawful
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 with the intent to injure or destroy such animal, or to willfully or maliciously place any poison or poisoned food where the same is accessible to any animal. Rodenticides must be administered by a licensed exterminator, with the exception of anyone administering a warfin rodenticide.

Section 5.1-10 – Fights between animals
No person shall in the City engage in or allow any fighting between animals, birds, or fowl of any kind upon their premises or premises in their possession or under their control; nor shall any person keep any house, pit, or other place to be so used in permitting fights between animals, birds, or fowl; nor shall any person for any bet, stake, reward, or entertainment instigate or encourage any animal, bird, or fowl to attack, bite, or wound another.

Section 5.1-11 – Trapping of animals
No person shall set, allow to be set, or use any trap for the purpose of catching any animal, which trap could injure or kill any animal, without permission of an animal control officer, except rodent traps shall be permitted within the interior of a building.

Section 5.1-12 – Injured or ill animals

Whenever an animal control officer encounters a stray animal suffering pain, they shall take the animal to a veterinarian where the cost of any care or treatment shall be borne by the owner. If ownership of the animal cannot be determined, the animal control officer may deliver the animal to the animal control shelter.

Section 5.1-13 – Confinement of animals

(a) The animal control officer or any police officer or other persons of proper authority are hereby authorized and empowered to impound and confine any animal which they have reason to believe has bitten, scratched, or otherwise injured any person.

(b) Any animal that has the potential to carry rabies and that has injured any person shall be confined at the expense of the animal's owner for a period of fourteen (14) days in a manner directed by the animal control officer; however, if the animal control officer has reason to believe that the animal is rabid, an additional confinement period may be ordered to determine whether the animal is rabid.

(c) If it is determined during the confinement period that the animal may have rabies and a tentative diagnosis is given by a licensed veterinarian, the animal control officer shall destroy the animal by humane means and obtain laboratory confirmation of rabies.

(d) Every owner having knowledge that their animal has bitten or is suspected of biting a human shall immediately report the incident to the animal control officer for disposition of the animal in accordance with the provisions of this chapter.

(e) The owner of any dog or cat confined under the provisions of this section may obtain release of their dog or cat from confinement upon demonstrating proof of a current rabies vaccination and upon approval of the animal control officer.

Section 5.1-14 – Enforcement

The animal control officer, or any properly designated city employee or any police officer, is authorized to enter upon private property for the purpose of enforcing this Chapter. No person shall conceal any animal or otherwise interfere with the proper enforcement of this Chapter. The animal control officer or any properly designated City employee or police officer may impound an animal for any violation of this Chapter.

Section 5.1-15 – Penalty

If the owner in possession of an animal refuses to provide proof of rabies vaccination if requested, or any person otherwise violates the provisions of this Chapter, said conduct shall constitute a violation punishable upon conviction by a fine as set by Resolution of the City Council for each offense. Each day a violation occurs shall constitute a separate offense.

Section 5.1-16 – Responsibility for damage done by animals

The owner of any animal shall be held strictly responsible for any damage their animal does to other persons or property.

Section 5.1-17 - Stray, abandoned, or unkept animals.

No person or caretaker shall harbor, keep, feed, or nurture stray or unlicensed animals. Animals known to be strays shall be immediately reported to the city animal control department by the person who observes the stray animal.

ARTICLE 2.
KEEPING REGULATIONS

Section 5.2-1 – Keeping of livestock prohibited
No person may keep any horse, cow, swine, goat, sheep, or other livestock, or erect or maintain any building or enclosure for use in keeping any such animals within the City unless located within the "A" Agricultural Zoning District.

Section 5.2-2 – Keeping of fowl and game birds prohibited
No person may keep any chickens, guinea fowl, ducks, geese, turkeys, or other domestic fowl or game birds, including but not limited to pheasants, ducks, quail, and partridge, within the City except within the pens of a butcher shop, and kept for the purpose of immediate slaughter, except falcons and hawks may be kept if in the possession of a State and federally licensed handler.

Section 5.2-3 – Sanitary condition required
No person may keep or maintain any building or enclosure where livestock or domestic fowl are kept unless the building or enclosure is kept at all times in a clean and sanitary condition.

Section 5.2-4 – Keeping of bees
No person may keep or have any bees or hives of bees in the City.

Section 5.2-5 – Livestock running at large
No person may allow any horses, cattle, swine, sheep, goats, or other domestic animals to run or be at large within the City.

ARTICLE 3.
DOGS AND CATS

DIVISION 1. IN GENERAL

Section 5.3-1 – Running at large
It shall be unlawful for any person to permit any dog to run at large within the City .

Section 5.3-2 – Disturbance or nuisance
No person owning any dog or cat shall permit such dog or cat to disturb the peace and quiet of the neighborhood by continuous barking or making other loud or unusual noises, or becoming a public nuisance by destroying or defacing property or causing injury to persons or domestic animals.

Section 5.3-3 – Confinement of female dogs and cats in heat
Every female dog or cat in heat shall be confined in a building or secure enclosure, or in a veterinary hospital or boarding kennel, in such manner that the female dog or cat cannot attract another animal.

Section 5.3-4 – Emergency confinement
The animal control officer in any emergency situation may order that all dogs and cats in the City shall be confined in such a manner as to make it impossible for said dogs and cats to bite any person, dog, cat, or other animal.

Section 5.3-5 – Defecation disposal
No owner, keeper, caretaker, or attendant of a dog or cat shall allow that animal to defecate on public or private property other than their own. If such dog or cat does defecate upon such public or private property, the owner, keeper, caretaker, or attendant must immediately clean the fecal material from such property.

DIVISION 2. LICENSING

Section 5.3-6 – License required
It shall be unlawful for any person within the City to keep, maintain, or have in their custody or under their control, any dog or cat which is over the age of three (3) months, without first having obtained a license for the dog or cat from the City .

Section 5.3-7 – Application
Any person desiring to keep, maintain, or have in their custody or control any dog or cat within the City shall on or before December 31st of each year make application to the City for a license to keep such dog or cat. Such application shall be in writing, stating the name, sex, color, and other distinguishing characteristics (e.g., whether the dog or cat is neutered) of said dog or cat and the name of the owner thereof, which application shall be made on a printed form furnished by the City and shall be filed with the City .

Section 5.3-8 – Rabies vaccination required
No dog or cat license tag shall be issued to any owner or person in possession of any dog or cat who does not present to the City at the time of making application for such license, a certificate of vaccination against rabies by a veterinarian duly licensed to practice veterinary medicine within any state. The certificate must show the date of such vaccination and must state the period of time for which the dog or cat is effectively immunized, which period of immunization shall be for at least one (1) year from the date of issuance of the license tag.

Section 5.3-9 – License fee
Before any license may be issued under the provisions of this Chapter, the applicant shall pay to the City a fee for each dog or cat to be licensed. The annual fee for said license shall be as established by Resolution of the City Council.

Section 5.3-10 – Authorized agent's fee

In the event the license fee shall be collected by a veterinarian so authorized by the City , the veterinarian may charge an additional fee of one ($1.00) dollar for their services in issuing said license.

Section 5.3-11 – Issuance of tag
It shall be the duty of the City , at the time of issuance of the license herein provided, to furnish and deliver to said applicant a tag for each dog or cat for which such license is issued, upon which tag shall be stamped or engraved the registered number of the dog or cat and the year for which such license is issued.

Section 5.3-12 – Dog or cat to wear tag
It shall be the duty of the owner or keeper of any dog or cat to place a collar around the neck of each dog or cat, on which collar shall be securely fastened the tag furnished by the City under the provisions of this Chapter.

Section 5.3-13 – Duplicate tag
In the event of the loss of any tag issued under the provisions of this Chapter, the City is hereby authorized to issue a duplicate tag when application has been made stating the original tag has been lost and payment of the actual cost of the duplicate tag has been made.

DIVISION 3. IMPOUNDMENT

Section 5.3-14 – Impoundment
The animal control officer may impound any dog which is at large if the owner of the dog cannot be located or is not available to take immediate possession of the dog. For purpose of this Section, a dog is considered at large if it is not on a leash and is either off its owner's premises or is upon or returns to its owner’s premises and its owner is not present at said premises at that time.

Section 5.3-15 – Notice to owner
The owner of the dog or cat impounded under the provisions of this Article, if their identity and location can be obtained by reasonable means, shall within twenty-four (24) hours be notified that their dog or cat has been impounded.

Section 5.3-16 – Impoundment fees
Fees for the impoundment of any dog or cat shall be determined from by Resolution of the City Council.

Section 5.3-17 – Redemption of a dog or cat by owner
The owner of any impounded dog or cat, upon satisfactory proof of ownership, may redeem their dog or cat upon payment of fees and charges as provided in this section.

The owner of any impounded dog or cat which has not been vaccinated or licensed under this chapter may redeem their dog or cat by providing satisfactory proof of ownership and by making a deposit of twenty-five ($25.00) dollars with the animal control officer. The owner shall be

allowed five (5) days to vaccinate and license such dog or cat. Upon presentation within five (5) days of a license issued under this chapter, the deposit shall be refunded.

If such owner fails to produce a certificate of vaccination and city license within five (5) days, the twenty-five ($25.00) dollar deposit shall be forfeited and delivered to the City to be placed in the general fund and the dog or cat shall be reimpounded.

Section 5.3-18 – Redemption of dog or cat by person other than owner
If the owner of any dog or cat impounded under the provisions of this Article shall fail to redeem their dog or cat within five (5) days after such impoundment, any other person may, upon complying with the provisions of this Article, redeem such dog or cat from the animal shelter and become the lawful owner of such dog or cat thereafter.

Section 5.3-19 – Disposition of unredeemed dogs and cats
All dogs and cats impounded under the provisions of this Article and remaining unclaimed after five (5) days of impoundment, unless impounded for a longer specified time by order of an animal control officer, may be placed for adoption or, without notice, euthanized by humane means.

Section 5.3-20 – Alternate procedure
In the event a dog or cat cannot be captured and the owner is known to the animal control officer, then the animal control officer may issue a notice to the owner that their dog or cat is in violation of this Article, which said notice shall state the violation date, time, location, breed, and color of the dog or cat, the license number, if known; and the name and address of the owner of said dog or cat, and which said notice shall direct the owner of said dog or cat to pay the fees as provided in this Article either by mail or in person to the Finance Officer within ten (10) days of said notice. Failure to pay the fees as provide in the notice shall constitute a violation of this Chapter.

DIVISION 4. GUARD DOGS.

Section 5.3-21 – Designation required
The owner of a dog whose purpose is to guard and protect property must designate that their dog is a "guard dog" at the time of obtaining a City dog license.

Section 5.3-22 – Posting of signs
It shall be the responsibility of the owner of a guard dog to post appropriate warning signs indicating that there is a guard dog upon the premises.

Section 5.3-23 – Confinement
The guard dog shall be confined to the premises protected by said dog.

ARTICLE 4.
WILD OR DANGEROUS ANIMALS

DIVISION 1. REGISTRATION

Section 5.4-1 – Registration required
In the interest of public safety, all wild animals and hybrid animals, whose peers exist predominately in a wild or nonresidential confined state and whose unconfined presence might constitute a danger to humans, shall be registered with the City .

Section 5.4-2 – Providing registration information to relevant personnel
The City shall provide copies of all wild animal registrations to the Brookings County Sheriff's Office and other emergency rescue personnel which may have reason to enter the premises where wild animals are present, for purposes of rescue operations resulting from a natural disaster or personal emergency.

Section 5.4-3 – Running at large
It shall be unlawful for any person to permit or allow any wild or hybrid animal to run at large within the City.

DIVISION 2. PROHIBITED ANIMALS

Section 5.4-4 – Wild or dangerous animals prohibited*
It shall be unlawful for any person to keep, maintain, or have in their possession or under their control within the City any poisonous reptile or any other dangerous animal or carnivorous wild animal or reptile, or vicious or dangerous domesticated animal, or any other animal or reptile of wild, vicious, or dangerous propensities.

Section 5.4-5 – Prohibited animals enumerated*

(a) Definition – For the purpose of this Section, the following definition shall apply unless the context clearly indicates or requires a different meaning.

Dangerous Animal – Any wild mammal, reptile, or fowl which is not naturally tame or gentle, but is of a wild nature or disposition, and which because of its size, vicious nature, or other characteristics would constitute a danger to human life or property if it escaped from secure quarters. "Dangerous Animal" also includes any domestic, reptile, or fowl which because of its size or vicious propensity or other characteristic would constitute a danger to human life or property if it escaped from secure quarters.

(b) Prohibited Animals – It shall be unlawful for any person to keep, maintain, or have in their possession or under their control within the City any of the following animals:

(1) Any animal which has been declared to be protected or endangered by the U.S. Department of Interior
(2) All poisonous animals, including rear-fang snakes
(3) Badgers (mellinae)
(4) Bears (ursidae)
(5) Beavers (castoridae)
(6) Canids, that is: wolves, foxes, coyotes, jackals, dingo, raccoon dogs
(7) Civet (viverrines)
(8) Civet or raccoon dog (nycterevtes procyonoides)

(9) Constrictor snakes
(10) Crocodilians, that is: alligators, crocodiles, caimans, cavials
(11) Eagles, hawks, owls (falconiformes)
(12) Edentata, that is: anteaters, tamanduas, sloths, armadillos
(13) Emus (casuariiformes)
(14) Felids, that is: lions, tigers, leopards, cheetahs, jaguars, pumas, lynx, ocelots, bobcats
(15) Game cocks and other fighting birds
(16) Hyenidae (hyenas)
(17) Marsupials, that is: opossums, tasmanian wolf, kangaroos, koalas, wombats
(18) Muskrats (ondatra)
(19) Ostriches (struthio)
(20) Porcupine (hystricomorpha)
(21) Primates (non-human), that is: apes, monkeys, baboons, chimpanzees, gibbons, gorillas, orangutans, siamangs
(22) Procuonids, that is: raccoons, coatis, kinkajous, ring-tailed cats, pandas
(23) Rheas (rheiformes)
(24) Skunks (mephitinae)
(25) Squirrels (sciuridae)
(26) Sharks (chondrichthyes)
(27) Ungulates, that is: elephants, zebra, tapirs, rhinoceroses, camel, llama, caribou, antelope, bison, reindeer, deer, giraffe, hippopotamus, wild boar, gazelle, gnu
(28) Water buffalo (bubalus)
(29) Wart hogs (phacochorus aethiopicus)
(30) Weasels
(31) Wolverines (gulo gulo)
(32) Woodchucks (marmota monas)
(33) Any other dangerous animal

Section 5.4-6 – Exception
The provisions of **Section 5.4-4** and **Section 5.4-5** shall not apply to prohibit the temporary possession or keeping of an animal in the City for temporary display within the City, if the animal is kept and displayed in a manner to prevent their escape and prevent the possibility of injury to spectators.

Section 5.4-7 – Obligation to report escaped animal
The owner or keeper of any member of a species of the animal kingdom that escapes from their custody or control and that is a dangerous animal or is not indigenous of this state or presents a risk of physical harm to persons or property shall immediately if possible and not later than one hour after they discover or reasonably should have discovered the escape, report the animal to a law enforcement officer and the Brookings County Sheriff.

Section 5.4-8 – Penalty
Any person violating any provision of this Article shall be subject to a fine as established by Resolution of the City Council, and each separate offense shall be deemed committed once each day during the period of time a violation occurs or continues.

Section 5.4-9 – Public nuisance
The possession or keeping of any animal prohibited by this Article is hereby declared to be a public nuisance.

DIVISION 3. VICIOUS AND DANGEROUS DOGS

Section 5.4-10 – Declaring a dog vicious or dangerous
An animal may be declared to be a biting, dangerous, or vicious animal by at least two persons which may include law enforcement and animal control officers, utility personnel or veterinarians or, alternatively, the attending physician of a victim of an animal bite or scratch may request such declaration pursuant to the following guidelines:

(a) An animal which, in a vicious or aggressive manner, approaches a person or animal in an apparent attitude of attack, or bites, inflicts injury, assaults, or otherwise attacks a person or animal upon the streets, sidewalks, or any public grounds, parks or other public places in the city; or

(b) An animal, while on private property, approaches a person or animal in a vicious or aggressive manner, in an apparent attitude of attack, or bites, inflicts injury, or otherwise attacks a postal worker, meter reader, service person, journeyman, delivery person, or other such person, or another animal, provided such person or animal 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 or occupant of such private property.

(c) No animal may be declared biting, dangerous, or vicious if the injury or damage is sustained by any person or animal who is committing a willful trespass or is not authorized to be upon the premises occupied by the owner or caretaker of the animal, or who is teasing, tormenting, abusing, or assaulting the animal or was committing or attempting to commit a crime.

(d) The following conditions shall also be considered:

  (1) The nature or severity of the attack or bite.

  (2) Whether the dog has shown a propensity to display dangerously aggressive behavior and is able or likely to inflict injury to a person or another animal.

  (3) Previous incidents of a similar nature.

Section 5.4-11 – Notice to owner
When the animal in question is declared to be biting, dangerous, or vicious, an animal control officer shall notify the owner of such declaration in writing that such animal must be registered as a biting, dangerous, or vicious animal. The notice shall be served upon the animal's owner or caretaker either in person or by mail.

Section 5.4-12 – Requirements*
The owner or caretaker of an animal that has been declared to be biting, dangerous, or vicious shall register the dog as a biting, dangerous, or vicious animal and shall comply with the following:

(a) The owner or caretaker of the animal shall notify the City of any changes in the following:

(1) Ownership of the dog;

(2) Name, address, and telephone number of the new owner;

(3) Address change of the owner or any change concerning where the dog is kept;

(4) Any changes in the health status of the animal; and

(5) The death of the animal.

(b) If the dog is indoors, the dog shall be in the control of a person who is over 18 years old.

(c) If the dog is outdoors and attended, the dog shall be muzzled, on a leash no longer than six feet and under the control of a person who is over 18 years of age.

(d) If the dog is outdoors and unattended, the dog must be locked in an escape proof kennel approved by the City. Be continuing to own a dog declared dangerous, an owner gives consent to the City to inspect the dog declared dangerous and the premises where the dog is kept.

(e) The owner shall post a sign on the gate or entry way to the confinement area stating "Beware of dangerous dog".

(f) The owner shall present proof of current rabies vaccination and current City license of the dog to the animal control department and shall be required in the future to maintain current and up-to-date rabies vaccination and license.

(g) The owner shall present proof to the City that the dog has been altered to prevent reproduction.

Section 5.4-13 - Impoundment
The biting, dangerous, or vicious dog shall be impounded by the animal control department for a period of no longer than 30 days at the owner's expense until such time as all provisions of **Section 5.4-12** are fully performed.

Section 5.4-14 – Failure of owner to meet requirements
If the conditions of **Section 5.4-12** are not fully performed within the 30 days allowed, the dog shall be euthanized in a humane manner and proof of euthanasia shall be filed with the City.

Section 5.4-15 – Left unattended
Any biting, dangerous, or vicious dog found off the premises of its owner, other than as provided for in this Article, may be seized by an animal control officer, or any police officer or sheriff's deputy and impounded. If the dog cannot be captured it may be destroyed. If the dog has been running at large, or bites a person or another animal, the animal control officer, any police officer, or sheriff's deputy may order the owner to deliver the dog to the animal shelter within 24 hours and the owner shall be required to appear in court to show cause why the dog shall not be destroyed. If the owner of the dog fails to deliver the dog as ordered, an animal control officer, any police officer, or sheriff's deputy may use such means necessary to impound the dog.

Section 5.4-16 – Appeal permitted

(a) Any party who is aggrieved by any action or decision of an Animal Control Officer to declare a dog as biting, dangerous, or vicious may appeal the decision to the City Council. The party who wishes to appeal is referred to as the "appellant."

(b) Appeals shall be commenced by filing a written notice of appeal either in person or postmarked within 15 days of the decision. The written notice of appeal shall be printed legibly or typed and contain the following information:

(1) The reasons the appellant believes the decision is objectionable, incorrect, or illegal;

(2) The type of claim or dispute involved and the time during which it accrued or occurred;

(3) The name, address, and telephone number of the appellant;

(4) The number of the citation being appealed, if applicable;

(5) If the appellant is to be represented by a legal representative, the name, address, and telephone number of the representative; and

(6) The signature of the appellant, legal representative, and/or corporate agent.

(c) There shall be no fee to file an appeal. Compliance with the above time limit and notice of appeal information requirements shall be jurisdictional prerequisites to any appeal. Failure to comply with any of these requirements shall be deemed to waive the right to a hearing.

(d) If the appellant complies with the jurisdictional requirements for an appeal, then the City will take no further action to enforce the decision until the City Council renders a final decision. However, the provisions for prior notice and hearing may be dispensed with when, in the opinion of the Animal Control Officer, immediate action is necessary to summarily abate a dangerous condition on public or private property or there is an imminent threat to life or safety on public or private property. The Animal Control Officer shall take only such action as is reasonably necessary to summarily abate the danger, and then the City will take no further action to enforce the decision until the City Council renders a final decision.

(e) The Animal Control Officer, or his or her designee, shall immediately deliver a copy of the appeal to the City Attorney who will act as the City's legal counsel.

ARTICLE 5.
PET SHELTERS

Section 5.5-1 – Definitions
For the purpose of interpreting this Article, the following words, terms, and phrases shall have the meaning set forth hereinafter:

Pet shelter – A pen, cage, enclosure, or accessory structure used for the purpose of harboring four (4) to fifteen (15) pets, such as rabbits, chinchillas, or similar animals at least four (4) months of age, other than dogs, cats, poultry, or domestic livestock.

Section 5.5-2 – Permitted location
A pet shelter shall be allowed as an accessory use upon residential premises in the City, subject to the requirements of this Article.

Section 5.5-3 – Licensing Required
It shall be unlawful for any person within the City to keep, maintain, or operate a pet shelter without first having obtained a license therefor from the City .

Section 5.5-4 – Inspection
An inspection of the sanitary condition of a proposed shelter by the City Administrator or an authorized agent shall be required prior to the issuance of the initial pet shelter license.

Section 5.5-5 – Application; contents; form
Any person desiring to keep, maintain, or operate a pet shelter shall, on or before December 31st of each year, make application to the City Administrator for a license for such pet shelter. Such application shall be in writing stating the name and address of the applicant, the location of the pet shelter, a description of the type and number of animals being harbored, and the purpose of raising the animals. The application shall be made on a printed form furnished by the City and shall be filed with the City Administrator.

Section 5.5-6 – Fee
Before any license shall be issued under the provisions of this article, the applicant shall pay to the City a fee for each pet shelter to be licensed. The annual fee for the license shall be as established by Resolution of the City.

Section 5.5-7 – Commercial pet shelter prohibited
It shall be unlawful to maintain or operate a pet shelter as a commercial enterprise for profit. A pet shelter operated by a nonprofit organization which complies with this Article is an authorized pet shelter.

Section 5.5-8 – Number of pets limited
It shall be unlawful to maintain or operate more than fifteen (15) pets over four (4) months of age in a pet shelter.

Section 5.5-9 – Adequate facilities required
It shall be unlawful to maintain or operate a pet shelter without adequate pens, feeders, and waterers.

Section 5.5-10 – Right of entry
The animal control officer, a police officer, or an authorized representative of the City shall have the right to inspect any pet shelter at any reasonable hour for the purposes of enforcing the provisions of this Article.

Section 5.5-11 – Revocation of license

A license may be revoked for any of the following reasons:

(a) Substantiated complaints to the animal control officer or City by adjacent neighbors about odor or noise.

(b) Unsanitary conditions as determined by the animal control officer.

(c) Submission of false information upon application for a license.

(d) Any violation of the provisions of this Article.

Section 5.5-12 – Right of appeal

In the event a pet shelter license is not issued upon initial application therefor or is revoked, the applicant may appeal the decision to the City Council. Any decision of the City Council shall be final.

CHAPTER 6.
SOLID WASTE
ARTICLE 1.
IN GENERAL

Section 6.1-1 – Definitions
The following words and phrases as used in this Chapter shall have the following meanings unless the context requires otherwise:

Family domestic unit – Any single independent family unit, irrespective of the number of persons constituting such family. Each independent family unit living in multiple dwelling residences, apartment houses, or any type of residence, including mobile homes, shall each be deemed to be a family domestic unit for the purpose of this Chapter.

Garbage – All organic refuse from the preparation of food; combustible refuse matter including papers, sweepings, rags, grass, wood shavings, and any containers used in the sale or storage and protection of food or household products, etc., originating from ordinary household or business operations; and all non-combustible inorganic matter such as ashes, glass, cinders, and metal originating from ordinary household or business operation, but shall not include items such as furniture, appliances, mattresses, tires or wood, masonry, and metal products which cannot be contained in a container for garbage collection.

Section 6.1-2 – Duties of Business Owners, Occupants
(a) Generally – The owner or occupant of any store or other place of business situated within the City shall exercise reasonable diligence at all times to keep the premises clean of wastepaper, wrapping paper, paper napkins, cartons, package containers, and garbage thrown or left on said premises by any person, and to take reasonable measures to prevent same from drifting or blowing to adjoining premises.
(b) Receptacles – Receptacles of sufficient size and number shall be placed on the premises accessible to the public where the aforesaid articles of waste may be disposed of.

Section 6.1-3 – Duty of Customers.
It shall be unlawful for any person going upon the premises of another to in any manner dispose of wastepaper, wrapping paper, paper napkins, cartons, package containers, and other garbage except in receptacles provided for such purposes.

Section 6.1-4 – City rubble site
A rubble site for the City is hereby established. Residents in the City may deposit trees, tree branches, untreated wood, and concrete. Painted, stained, glued, or chemically treated wood is considered treated and may not be deposited at the rubble site. Concrete must not contain any other material or waste.

Section 6.1-5 – Disposal on Public Property Prohibited
It shall be unlawful for any person to deposit grass, grass clippings, garbage, cans, paper, trash paper, containers, bottles, litter, waste matter, rubbish, or filth of any kind within or upon any public property, including the City rubble site. For purposes of this Chapter, public property includes any street, alley, park, real property, or the City rubble site.

Sec. 6.1-6. Use of Public Garbage & Recyclable Receptacles for Volga Residents.

(a) A public garbage receptacle and receptacles for certain recycled items for the City have been established. The current location is at the base of original water tower, east of 108 N Kasan Ave, but the location may be changed by Resolution of the City.

(b) In order to assist the public's compliance with this ordinance, the City of Volga has placed and maintained the receptacles described in this ordinance for the deposit of litter and recyclable items by Volga residents only.

(c) Residents of Volga may deposit litter, garbage, and common household items in the marked public garbage receptable provided it is placed within the receptacle described in this ordinance.

(d) Residents of Volga may deposit recyclable items as marked on the recyclable receptacles, provided they are placed within the receptacle described in this ordinance.

(e) Disposal of construction materials, wood, concrete, chemicals, appliances, tires, hazardous materials, batteries, tree branches, yard waste, or materials other than household garbage and common household items in the public garbage receptacle described in this ordinance is prohibited.

(f) Disposal of any materials in the recyclable receptacles that do not fit the description of the labeled receptacles described in this ordinance is prohibited.

(g) Use of the public garbage and recyclable receptacles described in this ordinance can only be used by residents who reside in Volga city limits. Residents outside of city limits, commercial and industrial businesses in and out of city limits are prohibited from utilizing the public garbage and recyclable receptacles.

ARTICLE 2.
LITTER

Section 6.2-1 – Definitions

The following words, terms and phrases, when used in this article, shall have the meanings provided in this section, except where the context clearly indicates a different meaning:

Litter – any discarded, used, or unconsumed substance or waste, including, but not limited to, any garbage, trash, refuse, debris, rubbish, grass clippings or other lawn or garden waste, newspaper, magazines, glass, metal, plastic or paper containers or other packaging construction material, abandoned motor vehicles, as defined in SDCL 32-36-2, motor vehicle parts, furniture, oil, dead animal carcasses, any offensive used or consumed matter or container or wrapping of any kind, any object likely to injure any person or create a traffic or health hazard, or anything else of an unsightly or unsanitary nature which has been discarded, abandoned, or otherwise disposed of improperly.

Motor vehicle – as defined in SDCL 32-36-2.

Section 6.2-2 – Violations; notice to appear at hearing

Except as otherwise provided, whenever any person violates this article, the law enforcement officer or other enforcement officer issuing a citation for violation of this article shall take the name and address of such person and issue a citation or complaint or otherwise notify the alleged violator in writing to pay the fine or to appear at a time and place to be specified in such citation or complaint. Such officer shall thereupon, and upon the promise to appear at such time and place forthwith, release the alleged violator from custody.

Section 6.2-3 – Receptacles in public places*

(a) In order to assist the public's compliance with this article, the owner or person in control of any property which is held out to the public as a place for assemblage, the transaction of business, recreation, or for public access shall cause to be placed and maintained receptacles for the deposit of litter, of sufficient volume and in sufficient numbers to contain the litter which can be expected to be generated by the numbers of people customarily coming on or using the property.

(b) A receptacle shall be maintained in a manner to prevent overflow of litter from the receptacle.

Section 6.2-4 – Property where receptacles required

For purposes of **Section 6.2-3** of this Article, the term "property held out to the public for the transaction of business" includes, but is not limited to, commercially operated parks, campgrounds, drive-in restaurants, automobile service stations, business parking lots, car washes, shopping centers, industrial parking lots, roadside rest stops and shopping malls. The term "property held out to the public for assemblage, recreation, or for public access" includes, but is not limited to, any property that is publicly owned or operated for any of the purposes stated in the definition in this section for the term "property held out to the public for the transaction of business", but excludes state highway rights-of-way and rest areas located thereon.

Section 6.2-5 – Littering from motor vehicle; transporting litter to highway or rest area receptacles

No person may dump, deposit, drop, throw, discard or otherwise dispose of litter from any motor vehicle upon any public street or highway, upon any public or private property, or upon or into any river, lake, pond, stream, or body of water in this state except as permitted by law, nor shall any person transport by any means garbage or refuse from any dwelling, residence, place of business, farm, or other site to and deposit such material in, around, or on top of trash barrels or other receptacles placed along public streets or highways or at roadside rest areas.

Section 6.2-6 – Accumulations on property

(a) No person may allow litter to accumulate upon real property of which the person charged is the owner or tenant in control, in such a manner as to constitute a public nuisance or in such a manner that the litter may be blown or otherwise carried by the natural elements onto the real property of another person.

(b) In addition to any fine, the court may order that the person convicted of violation of this section be required to remove and properly dispose of the litter.

Section 6.2-7 – Littering prohibited—Exceptions

No person may dump, deposit, drop, throw, discard, leave, cause, or permit the dumping, depositing, dropping, throwing, discarding, or leaving of litter upon any public or private property in the City, or upon or into any river, lake, pond, or other stream or body of water in this City, unless:

(a) The litter is placed into a receptacle or other container intended by the owner or tenant in lawful possession of that property for the deposit of litter;
(b) The person is the owner or tenant in lawful possession of the property or has first obtained the consent of the owner or tenant in lawful possession, or unless the act is done under the personal direction of the owner or tenant and does not create a public health or safety hazard, a public nuisance, or a fire hazard;
(c) The person is acting under the direction of proper public officials during special cleanup days; or
(d) The person is lawfully acting in or reacting to an emergency situation where health and safety is threatened, and removes and properly disposes of such litter when the emergency situation no longer exists.

ARTICLE 3.
GARBAGE COLLECTION

Section 6.3-1 – Supervision and Collection

All garbage accumulated in the City shall be collected, conveyed, and disposed of under the supervision of the City Council. The City Council may cause to be collected and disposed of all garbage where found within the City.

Section 6.3-2 – Deposit

It shall be unlawful for any person to deposit or cause to be deposited any garbage, rubbish, or waste material in or upon any park, street, alley, gutter, or in or upon any other private or public property within this City or upon any property on the route between the City and the sanitary landfill, unless such garbage or refuse is deposited in compliance with the provisions of this Article. It shall be unlawful to store, deposit, or keep any material where rats may have access thereto or feed thereon.

Section 6.3-3 – Containers Required*

Every individual or family domestic unit shall utilize one or more containers to receive all garbage which may accumulate between times of collection. Containers for garbage collection shall be provided by the City or by a garbage collection company contracted by the City.

Section 6.3-4 – Garbage collection for commercial establishments

Every commercial establishment is required to utilize containers for garbage collection as described in **Section 6.3-3**. The City will not provide containers to commercial establishments. Commercial establishments having garbage to dispose of shall contract for garbage collection directly with a garbage collector.

Section 6.3-5 – Disposal of leaves and grass clippings restricted
It shall be unlawful to place any leaves or grass clippings within any garbage container for collection by the garbage collector. Any such material shall be individually disposed of by the owner in a lawful manner or disposed of in accordance with this Article.

Section 6.3-6 – Procedure for collection of leaves and grass clippings
Any individual desiring to place for collection any leaves and grass clippings in the City shall purchase bags for said purpose from the City or other location where said bags are sold. Leaves and grass clippings may also be placed in containers intended only for collection of leaves and grass clippings. Only leaves and grass clippings may be placed in said bags and containers. No leaves or grass clippings shall be placed for collection until 6:00 P.M. on the evening before the day or days designated for the collection of said leaves and grass clipping.

Section 6.3-7 – Location of Containers
The containers required by this Article shall be kept in a suitable place on private property so as to be free from rodents and animals. No earlier than 6:00 P.M. on the day prior to the day that the garbage shall be collected from the premises, the containers shall be placed on the edge of the alley adjoining the premises in all cases where there is a through alley. Where there is no through alley available, garbage cans shall be placed on the parkway or boulevard adjoining the premises on the day of the garbage collection. All garbage cans placed on the alley or parkway or boulevard on the day of collection shall be removed the day the garbage is collected. Garbage cans and waste material containers shall be so placed that collectors of garbage do not have to carry such cans or containers for a distance of more than twenty (20) feet. No garbage truck shall be required to use any private driveway in the collection of garbage under the provisions of this Article.

Section 6.3-8 – Location of Commercial Containers
All commercial establishments, such as hotels, boarding houses, restaurants, lunchrooms, bars, drug stores, mobile home courts, grocery stores, and all other commercial and business establishments and educational facilities or institutions within the City having garbage to dispose of, shall place containers at the rear of the building or property as to be easily accessible to the collector.

Section 6.3-9 – Maintenance of Containers
Every container required by this Article shall be maintained in as sanitary condition as possible in view of the use to which it is put and shall be thoroughly cleaned as necessary by washing or other appropriate cleaning method.

Section 6.3-10 – Replacement of Containers Upon Notice
It shall be the duty of every person owning, controlling, managing, operating, or occupying any premises where garbage accumulates to replace within ten (10) days after receipt of condemnation notice issued by the City Council, any containers which have deteriorated or that have jagged edges capable of causing injuries to those whose duty it is to handle the containers or that have been damaged to such an extent.

Section 6.3-11 – Protection of Contents

Garbage containers and bags shall be kept closed tightly except during the collection or deposit of garbage. The contents of all receptacles shall be protected so that the wind cannot scatter same over the streets, alleys, and premises of the City.

Section 6.3-12 – Monthly Charges for Family Domestic Units
The cost of collection and disposal of refuse for family domestic units shall become a charge against the occupant of each dwelling and shall be payable monthly, together with other public service charges as defined by this City. Cost for garbage collection will be set by Resolution of the City Council.

Section 6.3-13 – Charges for Commercial Establishments
Commercial establishments, public schools, and any other institution or facility not otherwise classified herein as a family domestic unit may contract for garbage collection directly with a garbage collector.

Section 6.3-14 – Collection of Charges
A monthly charge for garbage collection by the City shall be incorporated and made a part of the monthly billing for utility services furnished by the City.

Section 6.3-15 – Disposal of animal carcasses restricted
It shall be unlawful to place any dead animals, animal carcasses, animal pelts or hides, scraps, or waste material from the cleaning or skinning of any dead animal carcass or part thereof within any container for collection by the garbage collector. Any such material shall be individually disposed of by the owner or occupant or by an individual contracting for the removal thereof in a lawful manner.

Section 6.3-16 – Garbage to be removed regularly
All garbage must be removed at the expense of the owner of the premises or by the occupant thereof at least once every two weeks, and at no time shall such owner or occupant allow garbage to accumulate so as to be a private or public nuisance.

Section 6.3-17 – Removal at own expense
It shall be unlawful for any person to transport or remove any garbage from any lots, streets, or public premises except as provided by this Chapter. Nothing herein shall be construed to prevent a person from hauling or contracting for the hauling of items excluded from regular collection at their own expense to any sanitary landfill. No garbage shall be hauled upon streets or alleys of the City unless contained in a watertight container or receptacle.

CHAPTER 7.
BUILDING REGULATIONS
ARTICLE 1.
NUMBERING OF BUILDINGS

Section 7.1-1 – Lots numbered
All erections or other property abutting on any street or avenue shall be numbered.

Section 7.1-2 – Base-line
First street shall constitute the base-line for all numbering on the streets running north and south, and Kasan (Main) Avenue shall constitute the base-line for all streets running east and west.

Section 7.1-3 – Numbering
Erections fronting on streets from the east and fronting on streets from the north shall bear even numbers in their last figure. Erections fronting streets from the west and from the south shall bear odd numbers in their last figure. Erections fronting streets running north and south shall be numbered from the case-line, such numbers shall be zero at the base-line and not to exceed 99 at the end of the first block either north or south of base-line, 101 at the beginning and not to exceed 199 at the end the second block, either north or south of the base-line.
Such system shall be followed in numbering all of the streets running north and south in the city. Erections fronting streets running east and west shall be numbered from the base-line, such numbers shall be zero at the base-line and not to exceed 99 at the end of the first block either east or west of the base-line, 101 at the beginning of the second block and not to exceed 199 at the end of the second block either east or west of the base-line.

Such system shall be followed in numbering all streets running east and west in the City. Where streets intersect but do not cross, the numbers shall run in each case to a street intersecting on both sides of the street being numbered. Any blocks located upon streets which do not intersect the base-lines shall bear the hundred number of the corresponding block nearest the same location which does not intersect the base-line. In each block each 25 feet of frontage shall be deemed the unit for determining the last figure of the number to be used. From the corner of the block nearest the base-line each 25 feet of frontage shall be given a number, except for the size of the lot. Fractions may be used to designate a business or apartment located in a basement or on the second floor of a building fronting on the street or of a business or other structure located near the alley or a lot not abutting on a street.

Section 7.1-4 – Designation of Streets
All lots or parts of lots, houses and erections located on those portions of any streets extending north and south and being north of the First Street base-line shall be known and designated as "North" and all south of the First Street base-line shall be known and designated as "South", and all located on all those portions of any street extending east and west, and being east of Kasan (Main) Avenue base-line, shall be known and designated as "East", and all west of the Kasan Avenue base-line shall be known and designated as "West". The prefixes shall be placed before the proper name of the street, as "West First Street", or "South Kasan Avenue".

Section 7.1-5 – Fixing number

In case of doubt or where question arises as to the proper number to be assigned to any lot or building the Building Official shall decide the question and fix the number of such lot or building.

Section 7.1-6 – Numbers required
On buildings now or hereafter erected and fronting on any street or avenue shall be conspicuously placed the number as provided by this ordinance.

Section 7.1-7 – Style of the Number
The number plate, placed on any building shall be of metal or wood, or the number may be painted on the front of the building, door, post, transom, or other place. Number shall be at least three (3") inches high and shall be placed so as to be easily visible from the street.

Section 7.1-8 – Duty to Affix Number
If the owner or lessee of any building shall fail, refuse, or neglect to place a number, or replace it when necessary, the Finance Officer may cause a notice to be personally served upon such owner or lessee or mailed by registered mail to his last known address, ordering him to place or replace the number. Such owner or lessee shall comply with such notice within ten (10) days from date of service.

Section 7.1-9 – Failure of owner to comply
If the owner of property within the City fails, neglects or refuses to place numbers on a building as required by this article, the City may cause the numbers to be installed, and the owner will be billed for the cost of the numbers and for the cost of installation.

ARTICLE 2.
BUILDING CODE

Section 7.2-1 – Adoption
There is adopted by the City of Volga those certain codes known as the 2018 Edition of the International Building Code, the 2018 International Residential Code, the 2018 Edition of the International Mechanical Code and the 2018 Edition of the International Fire Code, collectively referred to as the "International Building Code", "building code" or "code". A copy of the above-described 2018 International Codes or any of their particular contents are available upon request of the City of Volga Building Inspector.

Section 7.2-2 – Conflicts*
In the event of a conflict between the provisions of the International Building Code hereby adopted and other provisions of City Ordinance, state law, or rules or regulations of the City, the provisions of City Ordinance, state law, or the rules or regulations of the City shall prevail.

Section 7.2-3 – Definitions
The following words, terms and phrases, when used in the building code adopted in this Article, shall be defined, except where the context clearly indicates a different meaning, as follows:

Municipality means the City of Volga.

Section 7.2-4 – Establishment of office of building official
The office of building official is created, and the Mayor shall designate the executive official in charge, who shall be known as the building official and whose duties shall be as outlined in the International Building Code adopted in this Article.

Section 7.2-5 – Fees; permits
(a) No permit required by the building code shall be issued until the fee prescribed by Resolution shall have been paid. No amendment to a permit shall be approved until the additional fee, if any, resulting from an increase in the estimated cost of the building or structure, shall have been paid.
(b) For the demolition or removal of a building that is furnished with water and/or sewer, a permit may be granted; provided, however, that in such case, a deposit guaranteeing the abandonment of the water services and guaranteeing the abandonment of the sewer services shall be deposited at the time of application for such permit, the deposit to be in an amount to be determined by policy of the city council. Such deposit, but not the fees, will be refunded upon completion of the work or the city will arrange for such work at actual cost, plus ten percent to be paid from such deposit. The demolition or removal shall be completed within 30 days after the issuance of the permit. If water and sewer services are to be reused or new services required for a new structure in the immediate future at the same location, deposits may be waived by the building official.

Section 7.2-6 – Amendments
The following amendments to the building code are adopted and incorporated into the building code:

Sec. R105.2. Work exempt from permit, is amended by deleting the following subsection:

5. Sidewalks and driveways

Sec. 105.5 and R105.5 Expiration, is amended by replacing Sec. 105.5 and R105.5 Expiration as set forth in the International Building Code with the following:

Sec. 105.5 and R105.5 Expiration. Every permit issued by the building official under the provisions of this code shall expire by limitation and become null and void if the building or work authorized by such permit is not commenced within 180 days from the date of such permit, or if the building or work authorized by such permit is suspended or abandoned at any time after the work is commenced for a period of 180 days. Before such work can be recommenced, a new permit shall be first obtained to do so, and the fee therefore shall be one-half of the amount required for a new permit for such work provided no changes have been made or will be made in the original plans and specifications for such and provided further that such suspension or abandonment has not exceeded one year. In order to renew action on a permit after expiration, the permitee shall pay a new full permit fee.

Any permittee holding an unexpired permit may apply for an extension of the time within which work may commence under that permit when the permittee is unable to commence

work within the time required by this section for good and satisfactory reasons. The building official may extend the time required by this section for good and satisfactory reasons. The building official may extend the time for action by the permittee for a period not exceeding 180 days on written request by the permittee showing that circumstances beyond the control of the permittee have prevented action from being taken. No permit shall be extended more than once.

Every permit issued by the building official under the provisions of this code shall expire and become null and void if the building or work is not completed within two years for all occupancies from the date issued.

Sec. 108.2 and R108.2, Schedule of permit fees, under 108.5 and R108, Fees, is amended to read as follows:

108.2 and R108.2 Investigation Fee. An investigation fee, in addition to the permit fee shall be collected whether or not a permit is then or subsequently issued. The investigation fee shall be equal to the amount of the permit fee required by this code. The minimum investigation fee shall be the same as the minimum fee set forth in section R108. The payment of such fee shall not exempt any person from compliance with all other provisions of this code nor from any penalty prescribed by law.

Sec. 112 and R112, Board of appeals, is amended to include the following:

112.1 and R112.1. General. In order to hear and decide appeals or orders, decisions or determinations made by the building official relative to the application and interpretation of this code, and to determine the suitability of alternate materials and methods of construction, there shall be and is created a board of appeals consisting of members who are qualified by experience and training to pass on matters pertaining to building construction and who are not employees of the jurisdiction. The building official shall be an ex-officio member of and shall act as secretary to such board, but shall have no vote on any matter before the board. The board of appeals shall consist of five members. Each member shall be appointed for a term of five years. The successors shall be appointed upon the expiration of the respective terms to serve five years. A vacancy shall be filled by the mayor with the concurrence of the city council for the unexpired term of any member who resigns, dies or is removed. The board of appeals shall elect a chairperson and vice-chairperson from its members. They shall adopt rules of procedure for conducting the business of the board of appeals, and shall render all decisions and findings in writing to the appellant with a duplicate copy to the building official.

112.2 and R112.2. Limitations of authority. The board of appeals shall have no authority relative to the interpretation of the administrative provisions of this code, nor shall the board be empowered to waive requirements of this code that pertain to or affect life safety.

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

1. Ground Snow Load.....40 psf contour

Roof slopes with a rise of three inches (76.2 mm) or less to 12 inches (305 mm) shall be designed for a full or unbalanced snow load of not less than 30 pounds per square foot (1.44kN/square meter) of horizontal projection. Where a roof system is designed to slope less than one-quarter inch (6.35 mm) per 12 inches (305 mm), a surcharge load of not less five pounds per square foot (0.24kN/square meter) in addition to the required live load due to snow shall be designed for.

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

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

2. Wind Speed	90 mph
3. Seismic Design Category	A
4. Weathering	Severe
5. Frost Line Depth	42 inches (1,067 mm)
6. Termite Damage	Slight to Moderate
7. Winter Design Temperature	11 Degrees Fahrenheit
8. Ice Barrier Underlayment Requirement	Yes
9. Air Freezing Index	2,500
10. Mean Annual Temperature	46 degrees Fahrenheit

Sec. 1608.1, General, under Section 1608, Snow Loads, is amended to read as follows:

Sec. 1608.1. *General.* The building official has determined the minimum roof load to be 40 pounds per square foot ground snow load.

Sec. R310.1. Emergency escape and rescue required, under Section R310, Emergency Escape and Rescue Openings is amended to include the following additional subsection:

Sec. R310.1. *Emergency escape and rescue required.* Basements and every sleeping room shall have at least one operable emergency escape and rescue opining. Such opening shall open directly into a public street, public alley, yard or court. Where basements contain one or more sleeping rooms, emergency egress and rescue openings shall be required in each sleeping room, but shall not be required in adjoining areas of the basement. Where emergency escape and rescue openings are provided, they shall have a sill height of not more than 48 inches (1118 mm) above the floor….

Sec. R310.1 R310.1.1 *Minimum opening area.* All emergency escape and rescue openings shall have a minimum net clear opening of 4.6 square feet (0.530m2).

R310.2.1 *Ladder and steps.* Window wells with a vertical depth greater than 48 inches (1118mm) shall be equipped with a permanently affixed ladder or steps usable with the window in the fully open position….

Delete Section 310.5

Sec. R313.1 Smoke alarms under Section R313 Smoke Alarms is amended to include the following additional subsections:

Section R313.1 Smoke alarms.
4. A smoke detector installed in a stairwell shall be so located as to ensure that smoke rising in the stairwell cannot be prevented from reaching the detector by an intervening door or obstruction.
5. A smoke detector installed to detect a fire in the basement shall be located in close proximity to the stairway leading to the floor above.
6. The smoke detector installed on a story without a separate sleeping area shall be located in close proximity to the stairway leading to the floor above.
7. Smoke detectors shall be mounted on the ceiling at least four inches (102 mm) from a wall or on a wall with the top of the detector not less than four inches (102 mm) nor more than 12 inches (305 mm) below the ceiling.

Sec. 903.2.7 Group R, under Section 903, Automatic Sprinkler Systems, is amended to read as follows:

Sec. 903.2.7 Group R. An automatic sprinkler system installed in accordance with Section 903.3 shall be provided throughout all buildings with a Group R-1 fire area and a Group R-4 fire area with more than eight occupants. An automatic fire extinguisher system shall be provided throughout all buildings with a Group R-2 fire area of more than two stories in height, including basements, or having 16 or more dwelling units.

ARTICLE 3.
MAINTENANCE OF PROPERTY AND NUISANCE

Section 7.3-1 – Purpose
The purpose of this article is to protect, promote, and enhance the welfare, safety, health, and property of the general public.

Section 7.3-2 – Definitions
(a) Building: Any structure designed or intended for the support, enclosure, shelter, or protection of persons or property.

(b) Premises: A lot or parcel of land, improved or unimproved, parking areas thereon, walk-ways, and sidewalks.

(c) Sidewalk: A strip of property lying in front of and between the curb line and property line of the adjoining or abutting lot, piece, or parcel of land within the city.

(d) Building Official: As used in this Article shall be construed to mean any City official authorized by the legislative body of this jurisdiction with the enforcement of this Code.

Section 7.3-3 – Maintenance of premises and buildings generally
It shall be unlawful for any person owning, leasing, occupying, or having charge or possession of any buildings or premises in the City to keep or maintain such building or premises in a manner which is injurious to health, is indecent or offensive to the senses, or which interferes with the comfortable enjoyment of life or property.

Section 7.3-4 – Enumeration of conditions constituting nuisance
A building or premises maintained or kept in a manner which is injurious to health, renders ground, water, air, or food a hazard or injurious to health, is indecent or offensive to the senses, or which interferes with the comfortable enjoyment of life or property is hereby declared to constitute a public nuisance where there exists upon any building or premises any of the following conditions:

(a) Buildings which are abandoned, boarded up, partially destroyed, or partially constructed and uncompleted subsequent to the expiration of building permit.

(b) Buildings with deteriorating or peeling paint that allows the exterior building coverings to deteriorate or to permit the effects of sun and water penetration so as to encourage decay, dry rot, warping, and cracking.

(c) Any leaking, unclean, or filthy sink, water closet, urinal, or other plumbing fixture in any building used or occupied by human beings.

(d) Broken windows, doors, attic vents, and underfloor vents.

(e) Overgrown vegetation which is unsightly and/or likely to harbor rats or vermin.

(f) Dead, decayed, or diseased trees; weeds; and other vegetation.

(g) Poison ivy growing upon any private property.

(h) Any household waste water, sewage, garbage, tin cans, offal or excrement; any decaying fruit, vegetables, fish, meat, or bones; or any foul, putrid, or obnoxious liquid substance.

(i) Trash, garbage or refuse cans, bins, boxes, bags, or other such containers permanently stored in front yards visible from public streets.

(j) Lumber, junk, trash, tires, automobiles or parts thereof, debris, or salvage materials maintained upon any premises which is visible from a public street, alley, or adjoining property.

(k) Abandoned, discarded or unused furniture, stoves, refrigerators, freezers, sinks, toilets, cabinets, or other household fixtures or equipment stored so as to be visible at ground level from a public alley, street, or adjoining premises.

(l) Premises having a topography, geology, or configuration which as a result of grading operations or improvements to the land causes erosion, subsidence, unstable soil conditions, or surface or subsurface drainage problems as to pose a threat to or be injurious to adjacent premises.

(m) Abandoned, unlicensed, wrecked, dismantled, or inoperative automobiles, trucks, trailers, boats, or machinery and deteriorated, wrecked, or derelict property in unusable condition, having no value other than nominal scrap or junk value, if any, and which has been left unprotected from the elements.

(n) Building exteriors, walls, fences, driveways, or walkways which are cracked, broken, defective, deteriorated, in disrepair, or defaced.

(o) Wells or other supplies of water used for drinking or household purposes which are polluted or which are so constructed or situated that it may become polluted.

(p) Any excavation in which stagnant water is permitted to collect.

(q) Undressed hides kept longer than twenty-four (24) hours, except at the place where they are to be manufactured, or in a storeroom or basement whose construction is approved by the City Council.

(r) Accumulation of manure, unless it be in a properly constructed flyproof pit, bin, or box.

(s) Any dead animal remaining undisposed of longer than twenty-four (24) hours after its death.

(t) Privies or cesspools except such sanitary privies and cesspools with plans approved by the state health department.

(u) Parking or permitting a livestock truck or trailer to remain on any street, area, or public ground in a residential district when such truck or trailer gives off an offensive odor or is contaminated with manure or other filth.

(v) Graffiti – Any unauthorized inscription, word, figure, painting, or other defacement that is written, marked, etched, scratched, sprayed, drawn, painted, or engraved on or otherwise affixed to any surface of public or private property by any graffiti implement, to the extent that the graffiti was not authorized in advance by the owner or occupant of the property, or, despite advance authorization, is otherwise deemed a public nuisance by the City Council.

(w) Any like and similar condition or conditions.

Section 7.3-5 – Rendering of animal matter

The rendering of animal matter in the City is declared to be a nuisance, and it is unlawful for any person to carry on the business of rendering of any animal matter or manufacturing the same into fertilizing material by the use of heat or otherwise at any place within the City except by permission of the City Council. Any permit so granted may be revoked whenever it appears that the party has violated any provision of any Ordinance of the City relating to such business. The City Administrator shall be permitted access at any time to all buildings used for the purpose of rendering any animal matter and to examine all apparatus and the manner the business is conducted.

Section 7.3-6 – Water pollution

No person may discharge or cause to be discharged into any lake, river, stream, or into the receiving waters of any lake, river, or stream any raw or treated sewage, garbage, municipal waste, industrial wastes, or agricultural wastes which produce floating solids, scum, oil slicks, material discoloration, visible gassing, sludge deposits, slimes, fungus growths, or other offensive effects. No person may discharge or allow to be discharged into any lake, river, stream,

or the receiving waters of any lake, river, or stream any materials which produce concentrations of chemicals toxic to humans, animals, plants, or the most sensitive stage or form of aquatic life. Any discharges into lakes, rivers, or streams shall comply with the surface water quality standards, as defined and adopted by the state department of environment and natural resources.

Section 7.3-7 – Sanitation of premises and buildings required

It shall be unlawful to permit by act or omission the following specific acts, conditions, and things which are hereby also declared to be public nuisances:

(a) Failing, refusing, or neglecting to keep the sidewalk in front of a house, place of business, or premises in a clean and safe condition.

(b) Maintaining upon a premise any unsightly, partly complete, or partly destroyed buildings, structures, or improvements in the City which may endanger or injure neighboring properties or the public health, safety, or general welfare.

(c) Maintaining upon such premises or upon the sidewalk abutting or adjoining such lot, parcel, tract, or piece of land, loose earth, mounds of soil, fill material, asphalt, concrete rubble, or waste material of any kind (all such materials shall hereinafter be referred to as "waste materials"), except for waste materials used for construction or landscaping upon premises in which case it shall be the duty of the owner, lessee, occupant, or persons in possession of premises wherein the waste materials exist to maintain weed control during construction and to level or remove waste materials after construction is completed, or in any event, within eight (8) months from time of placement of waste materials upon premises.

    For sites where filling, grading, or excavation activities have or will span more than one year it shall be the duty of the owner, lessee, occupant or person in possession of said premises to level or remove the waste materials from said premises at least once each year during the months of either June, July, or August for the purpose of maintaining weed and rodent control.

Section 7.3-8 – Wells and cisterns

It is unlawful for any person owning property or who is in control of any real property in the City to allow upon such real property any well, cistern, vault, or other opening unless such well, cistern, vault, or opening is covered by a safe and substantial covering made of steel or iron and which is securely fastened in such a manner that the same cannot be removed by a child or children.

Section 7.3-9 – Right of entry

Whenever necessary to make an inspection to enforce any of the provisions of this Article, or whenever the Building Official or his authorized representative has reasonable cause to believe that there exists in any building or upon any premises, any condition which is prohibited under this article, the Building Official or his authorized representative may enter such building or premises at all reasonable times to inspect the same or to perform any duty imposed upon the building official by this article; provided that if such building or premises be occupied, he shall first present proper credentials and demand entry; and if such building or premises be unoccupied, he shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and demand entry. If such entry is refused, the

building official or his authorized representative shall have recourse to every remedy provided by law to secure entry.

No owner or occupant or any other person having charge or care of any building or premises shall fail or neglect, after proper demand made as herein provided, to properly permit entry therein by the Building Official or his authorized representative for purpose of inspection and examination pursuant to this article. Any person violating this subdivision shall be guilty of this municipal ordinance which constitutes a separate petty offense for each day any person is in violation.

Section 7.3-10 – Notice to abate, issuance*
Whenever the Building Official is notified that any condition or conditions prohibited in this Article exist on any premises located within the City, the Building Official shall give, or cause to be given, notice to abate the unlawful condition or conditions existing on the premises. Such notice shall be in writing to the person creating, permitting, or maintaining such nuisance to abate the same within a reasonable time as provided in such notice as follows:

(a) If the Building Official has determined that the building or structure must be repaired, the order shall require that all required permits be secured therefor and the work physically commenced within such time (not to exceed sixty (60) days from the date of the order) and completed within such time as the Building Official shall determine is reasonable under all of the circumstances.

(b) If the Building Official has determined that the building or structure must be vacated, the order shall require that the building or structure shall be vacated within a certain time from the date of the order as determined by the Building Official to be reasonable.

(c) If the Building Official has determined that the building or structure must be demolished, the order shall require that the building be vacated within such time as the Building Official shall determine reasonable (not to exceed sixty (60) days from the date of the order); that all required permits be secured therefor within sixty (60) days from the date of the order, and that the demolition be completed within such time as the Building Official shall determine is reasonable.

Section 7.3.-11 – When notice waived
Whenever the owner, occupant, or agent of any premises in or upon which any nuisance may be found is unknown or cannot be found, the Building Official shall proceed to abate the nuisance without notice. In either case, the expense of such abatement shall be collected from the person who may have created, caused, or suffered such nuisance to exist.

Section 7.3-12 – Right of appeal from Building Official's determination
The owner or any person affected shall have the right of appeal to the City Council for investigation and review of the Building Official's determination. Such appeal shall be in writing, shall state the objections of the person filing the same, shall be filed with the municipal Finance Officer within ten (10) days after the date of posting, publishing, serving, or mailing of notice to abate, and shall be presented to the City Council by the municipal Finance Officer at its next regular meeting. The City Council shall determine by Resolution whether the Building Official

shall proceed in accordance with the abatement notice, or as modified by the Council, or not at all, and its decision thereon shall be final and conclusive.

Section 7.3-13 – Abatement by City
In the event a person shall fail to abate any nuisance created, permitted, or maintained by him following written notice to him to do so, the Building Official shall cause such nuisance to be abated.

The Building Official shall prepare a statement of the expense incurred in the razing, demolishing, removing, reconstruction or other affirmative act necessary to abate the unlawful condition(s) and shall file such statement with the Finance Officer. Such statement shall refer to the particular premises including any improvements, structures, or buildings thereon, upon which the actions taken to abate the unlawful conditions occurred. With regard to the premises or each piece of property therein referred to, the statement shall show the number of the lot and block and the name of the addition or subdivision in which the lot lies or upon which the structures, improvements, or buildings were located at the time that the actions to abate the unlawful conditions were taken or shall describe such premises in any other way that they may be easily identified.

Section 7.3-14 – Alternate abatement procedure
In addition to any method of abatement of nuisances within the City provided by the provisions of this Article, any nuisance found within the City may be abated in the manner provided by state law.

Section 7.3-15 – Notice of equalization of assessment
Within ten (10) days after the filing of the statement referred to in **Section 7.3-10**, the Finance Officer shall cause to be served upon the owner, agent of the owner, lessee, occupant, or person in possession of the parcel of land described in the statement and in the notice personally or by mail addressed to his last known address or to general delivery, Volga, South Dakota, if such address is unknown.

Section 7.3-16 – Equalization of assessment; hearing
The owner or any person affected shall have the right to appeal to the City Council concerning the proposed assessment. Such appeal shall be in writing, shall state the objections of the person filing the same, and shall be filed with the Finance Officer within ten (10) days after the notice. Said objections shall be presented to the City Council by the Finance Officer at their next regular meeting. The City Council shall determine by Resolution the assessment and shall proceed to place a lien against said property until the assessment is paid.

Section 7.3-17 – Recovery of expense - special assessment
The City may recover the expenses incurred by the Building Official in abating a public nuisance by taxing the cost thereof by special assessment against the real property on which the nuisance occurred.

Section 7.3-18 – Recovery of expense - civil suit

The City may recover the expenses incurred by the Building Official in abating any nuisance under the provisions of this Article from the person creating, permitting, or maintaining the same in a civil suit instituted for such purpose.

ARTICLE 4.
VEGETATION NUISANCE

Section 7.4-1 – Nuisance declared*
All actively growing plants declared to be state-wide noxious weeds by the South Dakota Weed and Pest Control Commission, all actively growing weeds declared by the county to be locally noxious, and all other non-woody plants and grass growing in the City to a greater height than eight inches, are noxious, dangerous and unhealthful, or unsightly, and are hereby declared to be a nuisance. This does not apply to vegetation which is being grown as a crop, livestock pasture, wildflower display garden, or has been designated by the City as a natural area or native planting.

Dead or diseased trees identified by the city shall also be declared dangerous and a nuisance.

Section 7.4-2 – Duty to correct
The occupant, person in charge, or owner of any lot or parcel of land in the city shall keep such lot, to include any abutting City right-of-way, commonly known as the "boulevard," free of such vegetation nuisance by cutting, spraying, or removal, as may be appropriate.

Section 7.4-3 – Notice to correct
(a) The City has the authority to require compliance with the procedures set forth in this ordinance. The City may cause public notice to be given requiring all lots or parcels of land in the City to be kept free from all vegetation declared by **Section 7.4-1** to be a nuisance.
(b) The notice may provide that all vegetation determined to be a nuisance and left uncorrected shall be cut, sprayed, or removed by the City, and the cost thereof billed to the property owner. If the bill is left unpaid, the cost will be assessed against that property, to include the cost of levying such special assessment, or shall be collected by civil action.
(c) No penalty for violation of this ordinance or billing will be imposed under this ordinance unless the City causes notice to be given to all owners, tenants, or persons in possession of said property within the City that the height of grass and/or weeds has exceeded the height of eight inches (8") and that any grass and/or weeds that exceed said height shall be removed within forty eight (48) hours of reaching that height.
(d) The occupant, tenants, person in charge, or owner of any lot or parcel of land shall cut, spray, or remove any vegetation which constitutes a nuisance as declared by **Section 7.4-1**.
(e) The City may, at its option if vegetation is not cut, sprayed, or removed as required by this Ordinance, cause the property to be mowed and will bill or assess the costs and expenses of such mowing to the property owner with a minimum of one hour per occurrence. The hourly cost of mowing the property will be set by Resolution of the City Council.

Section 7.4-4 – Correction by City

(a) If the occupant, tenants, person in charge, or owner of any lot or parcel of land fails to correct any such vegetation nuisance as required, the City may cause such vegetation to be cut, sprayed, or removed, and for such purpose the person to do the work shall be allowed to enter upon any lot or parcel of land.
(b) No person may intentionally interfere or attempt to interfere with the cutting, spraying, or removal of such vegetation.

Section 7.4-5 – Costs of correction
The City may keep an account against each lot or parcel of the cost to the City for the correction of vegetation nuisance and may bill the occupants, tenants, persons in charge, or owner the cost of the correction.

Section 7.4-6 – Special assessment
The costs for the correction and control of vegetation which has not been previously paid by the occupant, persons in charge, or owner may also be collected by special assessment, with the amount to be assessed certified to the Finance Officer on or before October 1 of each year, and the following procedures will be utilized:
(a) The Finance Officer will prepare an estimate of the assessment against each lot or parcel, for the correction and control of vegetation nuisance for the preceding growing season, including therein the expense of levying such special assessment against each lot or parcel. Such estimates will then be submitted to the City Council.
(b) Upon the filing of the assessment roll with the Finance Officer, the City Council will fix a time and place of hearing upon the assessment, not less than 20 days from the date of filing thereof. The Finance Officer will then publish a notice of the time and place of hearing in the official newspaper, one week prior to the date set for the hearing. The notice will in general terms describe the improvement for which the special assessment is levied, the date of filing of the assessment roll, the time and place of the hearing thereon, and that the roll will be open for public inspection at the office of the Finance Officer, and will refer to the special assessment roll for further particulars.
(c) In addition to the publication of the notice of hearing, the Finance Officer will mail a copy of the notice, by first class mail, addressed to the owner of any property to be assessed for the improvements, at the address as shown by the records of the Finance Officer. The mailings will be at least one week prior to the date set for the hearing.
(d) The owner of any lot or parcel of land against which a special assessment is to be so levied, or its tenants, occupant or person in charge may appear before the City Council at such meeting to protest such assessment and to give reasons why such assessment should not be levied.
(e) Upon the day so named, the City Council, if it finds the estimate correct and the actions of the Finance Officer resulting in the estimate to be in accordance with the provisions of this Article, will approve the assessment by Resolution and file such assessment roll with the Finance Officer; or, if not correct, the Council will correct or modify the estimate, and approve the assessment as corrected or modified, and file such assessment roll with the Finance Officer; or, if not in accordance with the provisions of this Article, may disapprove such assessment.
(f) From the date of the approval and filing of such assessment roll with the Finance Officer, the assessment will be and become a special lien against the various pieces of property

described in the assessment roll and will be collected in a like manner as special assessments for public improvements.

Section 7.4-7 – Recovery by civil action
The cost of cutting or destruction of noxious weeds and grass under the provisions of this Article against such property may also be recovered through the use of other collection procedures, including a civil action brought for such purpose.

ARTICLE 5.
CONDEMNATION OF PROPERTY

Section 7.5-1 – Notice of condemnation of premises unfit for human habitation.

(a) Whenever the Building Official finds that any house, building, or premises within the City constitutes a hazard to the health, safety, or welfare of the occupants, or to the public, because it lacks maintenance, or is dilapidated, unsanitary, vermin-infested, rodent-infested, or because it lacks the sanitary facilities and equipment required by City Ordinance or state law, the Building Official may condemn such building or premises as unfit for human habitation. It shall be unlawful to again occupy such building until it or has been made to conform with applicable law or is otherwise fit for human habitation.

(b) Any house, building, or premises condemned as unfit for human habitation shall be posted with a sign designating it as condemned by the Building Official.

(c) Whenever the Building Official has condemned a house, building, or premises as unfit for human habitation, notice shall be given to the owner of such condemned premises and the building or premises shall be posted with a sign as unfit for human habitation. Such notice shall:

  (1) Be in writing

  (2) Include a description of the real estate sufficient for identification

  (3) Include a statement of the reasons why it is being issued

  (4) Include a description of the repairs and improvements required to bring the condemned house, building, or premises into compliance with the provisions of health, housing maintenance, or other applicable Ordinances and laws of the City or state of South Dakota.

(d) Service of notice of condemnation shall be made by delivery to the owner personally or by depositing the notice in the United States mail, addressed to the owner at his last known address, or by posting and keeping posted for 24 hours, a copy of such notice attached to a sign and posted in a conspicuous place on the condemned premises.

Section 7.5-2 – Vacation of condemned houses, buildings, or premises
Any house, building, or premises which has been condemned and signed as unfit for human habitation by the Building Official shall be vacated within a reasonable time as required. No person may occupy any house, building, or premises which has been condemned by the Building Official after the date set forth in the sign posted and indicating the property has been

condemned. No person may deface or remove the sign from any dwelling or dwelling unit which has been condemned and signed as "unfit for human habitation." The sign shall only be removed by the Building Official or his representative.

Section 7.5-3 – Right of appeal from Building Official's determination

The owner or any other person affected by a determination that a house, building, or premises has been condemned as unfit for human habitation shall have a right of appeal to the City Council for investigation and review of the determination of condemnation. Such appeal shall be in writing, shall state the objections of the person filing the appeal, shall be filed with the Finance Officer within the ten days after the date of either posting, publishing, serving, or mailing of the notice of condemnation, and shall be presented to the City Council at its next regular meeting. The City Council shall determine by Resolution whether the Building Official proceeded correctly, or whether any modification is necessary, and its decision shall be final and conclusive.

CHAPTER 8.
PARKS AND FORESTRY
ARTICLE 1.
PARKS

Section 8.1-1 – Protection of Park Property
Any person who shall deface, mar, inure, break into, or in any way interfere with any building or other property situated in any park belonging to the City shall be deemed guilty of a misdemeanor.

Section 8.1-2 – Protection of Trees and Shrubs
Any person who shall climb any tree, cut, break or pluck, rout up, or in any way disturb any trees, flowers, shrubs, or plants or bulbs planted or growing in any public park or ground of the City shall be guilty of a misdemeanor.

Section 8.1-3 – Vehicles in Parks Prohibited
It shall be unlawful for any person to drive or operate any vehicle or motor vehicle over or upon any grass plots or planting space of any public park, except such places as may be provided for parking or driving of vehicles, without receiving permission to do so from the City Administrator. A motorized lawn mower or power equipment may be used by City personnel for park maintenance.

Section 8.1-4 Volga Parks & Recreation Advisory Board Established
There is hereby established in and for the city, a board to be known as the Volga Parks and Recreation Advisory Board. The Volga Parks and Recreation Advisory Board may also be referred to as the Volga Park and Recreation Board or the "Board". The Board shall act in an advisory capacity to the Mayor, City Council, City Administrator and the Community Engagement Coordinator on all matters relating to parks, recreation, aquatics and public use facilities of the City.

Section 8.1-5 Composition, Appointment and Initial Terms
The Volga Parks and Recreation Advisory Board shall consist of not less than five (5) nor more than seven (7) members, each of whom shall be residents of the City of Volga. Board Members shall be appointed by the Mayor, with the approval of the City Council. In addition, at least one (1) City Council member assigned to Parks, Recreation and Buildings shall serve as an ex officio, non-voting member.

Section 8.1-6 Terms of Office, Vacancies
(a) The members of the Volga Parks and Recreation Advisory Board shall serve without compensation.

(b) All terms, after the initial appointment, shall be staggered three (3) year terms. Each person who is a member of the Volga Parks and Recreation Advisory Board may be re-appointed for an additional three (3) year term.

(c) If a member resigns or is disqualified prior to the end of their term, the mayor, with the approval of the city council, shall appoint a new member to complete the resigning member's term.

(d) If a member shall miss more than 50 percent of the meetings annually without authorization of the Volga Parks and Recreation Advisory Board, they shall automatically be disqualified from serving on the Board, and a replacement shall be appointed.

(f) Vacancies occurring prior to the expiration of a term shall be filled by the Mayor, with Council approval, for the remainder of the unexpired term.

Section 8.1-7 Quorum, Action

A majority of the Volga Parks and Recreation Advisory Board shall constitute a quorum and all action and recommendations of the Volga Parks and Recreation Advisory Board shall be approved by a majority of all the members of the Volga Parks and Recreation Advisory Board.

Section 8.1-8 Community Engagement Coordinator as Liaison.

The Community Engagement Coordinator for the City of Volga shall serve as staff liaison to the Volga Parks and Recreation Advisory Board. In addition, the Community Engagement Coordinator shall also plan, coordinate and administer the activities of the city parks, city auditorium, community center, swimming pool, recreation programs and aquatics operations.

Section 8.1-9 Meetings

The Volga Parks and Recreation Advisory Board shall hold meetings at a time and place to be designated by the Volga Parks and Recreation Advisory Board. Special meetings may be called at any time by the chairperson or by a majority of the Volga Parks and Recreation Advisory Board by giving 24 hours' advance notice to the public and other members of the Board. Notice of a special meeting shall be given a minimum of 24 hours prior to meeting time and shall state the reason for requesting the special meeting. Only business stated as the reason for calling a special meeting shall be addressed at a Special Meeting.

Section 8.1-10 Officers

The Volga Parks and Recreation Advisory Board shall annually elect from its number a chairperson and vice-chairperson, each of whom shall hold their office respectively for one year and until their successors have been elected by the Board.

Section 8.1-11 Duties of the Chairperson

The chairperson shall preside over all meetings and, as appropriate, make committee or special assignment appointments. The chairperson shall be informed of Volga parks and recreation programs and activities and shall monitor the implementation of resolutions and policies with appropriate procedures. The chairperson shall have other usual powers and duties customarily vested in the office of chairperson, and shall perform such duties as may be assigned by the Volga Parks and Recreation Advisory Board.

Section 8.1-12 General Authority

The Volga Parks and Recreation Advisory Board shall act only in an advisory capacity to the City Council and Community Engagement Coordinator, however it shall, in particular, advise the City concerning the following:

(a) Recommend regulations governing the use, hours of operation, fees, charges, and maintenance of city parks, recreation facilities, and aquatic centers.

(b) Review and make recommendations on the establishment, improvement, maintenance, and operation of parks, playgrounds, trails, recreational programming, and aquatic facilities.

(c) Assist in developing a comprehensive parks and recreation master plan, including future park needs and facility locations based on projected growth of the City.

(d) Evaluate and make recommendations on recreation and aquatics programs.

(e) Provide guidance and feedback to the Community Engagement Coordinator regarding program development, facility needs, and public engagement.

(f) Provide an annual report or summary of Board activities when requested by the City Administrator or City Council.

(g) Perform other advisory duties as may be referred to the Board by ordinance, resolution, the City Council, City Administrator or the Community Engagement Coordinator.

Section 8.1-13 Rules of Procedure, Limitation of Authority.

Subject to the approval of the City Council, the Board may adopt bylaws, rules and regulations for the orderly transaction of its business and internal governance. The Board shall not incur any expenses, enter into contracts, or implement policies unless expressly authorized by the City Council. The Board shall not exercise direct operational control over City staff.

ARTICLE 2.
TREES

DIVISION 1. TREE COMMITTEE

Section 8.2-1 – Definitions

For the purpose of interpreting this Article, the following words, terms, and phrases shall have the meaning respectively given herein.

Street trees – trees, shrubs, bushes, and all other woody vegetation on land between property lines on either side of all streets, avenues, or rights-of-ways within the City.

Park trees – trees, shrubs, bushes, and all other woody vegetation in public parks having individual names, and all areas owned by the City, or to which the public has free access as a park.

Public nuisance trees –any part of the public or private community forest with an infectious disease or insect problem, which is dead or dying, that poses a threat to safety, may be injurious to electric lines, or obstructs traffic signs or the free passage of pedestrians or vehicles.

Section 8.2-2 – Tree Committee established
The Tree Committee and City Public Works Department for the City will work in conjunction to provide recommendations and advice on matters concerning City owned street and park trees.

Section 8.2-3 – Term of Office for Tree Committee
The Tree Committee is appointed by the Mayor on an annual basis with the approval of the City Council consisting of the Mayor, two council members, a community member, and three employees.

Section 8.2-4 – Duties and Responsibilities

It shall be the responsibility of the Tree Committee to study, investigate, council, develop and/or update annually, and administer a written plan for the care, preservation, pruning, planting, replanting, removal, or disposition of trees and shrubs in parks, along streets and in other public areas. The Tree Committee shall consider recommendations presented by the City Public Works Department. Such plan will be presented annually to the City Council and upon their acceptance and approval shall constitute the official comprehensive City Tree Plan for the City. The Tree Committee, when requested by the City Council, shall consider, investigate, make finding, report, and recommend upon any special matter of question coming within the scope of its work. Additional duties include the establishment of a community spending amount of $2 minimum per capita for the purchase of new trees and tree care, to provide City Public Works employees with the opportunity to attend training sessions geared toward proper tree planting and maintenance, and to oversee all public tree planting and tree maintenance projects to ensure their sustainability. The committee will also hold an annual Arbor Day function and ceremonial tree planting.

Section 8.2-5 – Operation
The Tree Committee shall develop its own rules and regulation and keep a journal of its proceedings. A majority of the members shall be a quorum for the transaction of business.

DIVISION 2. TREE PLANTING, CARE, AND REMOVAL

Section 8.2-6 – Street Tree Species to be planted
The following list constitutes the official street tree species for the City. No species other than those included in this list may be planted as street trees without written permission of the Tree Committee, **in conjunction** with area tree nurseries recommendations. When applying for the

Urban and Community Forestry Tree Grant the regulations and requirements of the grant will apply.

Hardwood Tree Species	**Drought Tolerance (Size Class)**	**Alkaline (high pH) Tolerance (3)**	**Planting Region (1)**	**Size, Form, and Other Information (2)**
Accolade Elm	Moderate (Large)	Moderate	Statewide	70', Upright, Spreading, Disease Resistant
Triumph Elm	Moderate (Medium)	Moderate	Statewide	60'. Upright, Disease Resistant
Hackberry	Good (Large)	Good	Statewide	50-75', Broad
Shademaster Honeylocust	Good (Medium)	Moderate	Statewide	40-50', Broad, Podless, Thornless
American Linden	Moderate (Medium)	Moderate	East, Central, Black Hills	40-60', Pyramidal, Fragrant Flowers
Littleleaf Linden	Moderate (Medium)	Moderate	East, Central, Black Hills	35-45',Pyramidal, Broad, Fragrant flowers
Harvest Gold Mongolian Linden	Moderate (Medium)	Moderate	East, Central, Black Hills	30-40', Upright, Oval
Emerald Lustre Norway Maple	Moderate (Large)	Moderate	East, Black Hills	50-60', Rounded, Broad, Bark May Split
Fall Fiesta Sugar Maple	Poor (Large)	Poor	East	50-75', Upright, Fall Color
Green Mountain Sugar Maple	Moderate (Large)	Poor	East	50-75', Upright, Fall Color
Red Maple	Poor (Medium)	Poor	East	50', Upright, Rounded, Requires Acidic Soil, Fall Color
Bur Oak	Good (Large)	Good	Statewide	60-80', Rounded, Broad
Swamp White Oak	Good (Large)	Poor	East	50-60', Rounded, Open, Requires Acidic Soil
Deborah Maple	Good (Medium)	Moderate	East, Black Hills	30', Upright, Spreading, Rounded, Hybrid, Red Fall Color
Siena Glen Maple	Good (Medium)	Moderate	East, Black Hills	30', Upright, Spreading, Rounded, Hybrid, Yellow/Orange Fall Color

Section 8.2-7 – Spacing
No trees may be planted closer together than the following: medium trees 30 feet, and large trees 40 feet unless approved by the Tree Committee.

Section 8.2-8 – Distance from Curb and Sidewalk
The distance trees may be planted from curbs or curb lines and sidewalks must be approved by the Tree Committee.

Section 8.2-9 – Distance from Street Corners and Fire Hydrants
No street tree shall be planted closer than 35 feet of any street corner, measured from the point of nearest intersecting curbs or curb lines. No street trees shall be planted closer than 10 feet of any fire hydrant.

Section 8.2-10 – Utilities
No street trees may be planted under or within 10 lateral Feet of any overhead utility wire, or over or within 5 lateral feet of any underground electric, water line, sewer line, transmission or other utility.

Section 8.2-11 – Public Tree Care
The City shall have the right to plant, prune, maintain, and remove trees, plants, and shrubs within the lines of all streets, alleys, avenues, lanes, squares, and public grounds, as may be necessary to ensure public safety or to preserve or enhance the symmetry and beauty of such public grounds. The Tree Committee may remove or cause or order to be removed any tree or part thereof which is in an unsafe condition or which by reason of its nature is injurious to sewers, electric power lines, gas lines, water lines, or other public improvements, or is affected with any injurious fungus, insect, or other pest and therefore declared a public nuisance. The City may remove or cause or order to be removed any tree or part thereof which is declared a public nuisance. This section does not prohibit the planting of street trees by adjacent property owners providing that the section and location of said trees is in accordance with provisions of this Article.

Section 8.2-12 – Tree Topping
It shall be unlawful as a normal practice for any person, firm, or City department to top any street tree, park tree, or other tree on public property. Topping is defined as the severe cutting back of limbs to stubs larger than three inches in diameter within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree; severely damaged by storms or other causes, or certain trees under utility pruning practices are impractical may be exempted from this section at the determination of the City Tree Committee.

Section 8.2-13 – Pruning, Corner Clearance
Any tree overhanging streets or right-of ways within the City shall be pruned so that such branches shall not obstruct the view of any street intersection and so that there shall be a clear space of 14 feet above the surface of the street or 8 feet above any sidewalk. All public nuisance or dangerous trees, or broken or decayed limbs which constitute a menace to the safety of the public shall be removed. The City shall have the right to prune any tree or shrub on private

property when it interferes with the proper spread of light along the street from a street light or interferes with visibility of any traffic control device or sign.

Section 8.2-14 – Dead or Diseased Tree Removal on Private Property
The City shall have the right to cause the removal of any dead or diseased trees on private property within the City, when such trees constitute a hazard to life and property, or harbor insects or disease which constitutes a potential threat and therefore declared to be a public nuisance to other trees within the City. The City may remove or cause or order to be removed, any tree or part thereof which is declared a public nuisance. Also refer to Chapter 15, Division 3 providing for the control of Dutch Elm Disease and Emerald Ash Borer. The Tree Committee will notify in writing the owners of such trees. Removal shall be done by said owners at their own expense within 30 days after the date of service of notice. In the event of failure of owners to comply with such provisions, the City shall have the authority to remove such trees and charge the cost of removal on the owner's property tax notice.

Section 8.2-15 – Removal of Stumps
All stumps of street and park trees shall be removed below the surface of the ground so that the top of stump shall not project above the surface of the ground. Stump removal and cleanup will follow the City Stump Removal S.O.P.

Section 8.2-16 – Interference with City Tree Committee
It shall be unlawful for any person to prevent, delay, or interfere with the City Tree Committee, or any of its agents, while engaging in and about the planting, cultivating, mulching, pruning, spraying, or removing of any street trees, park trees, or trees on private grounds, as authorized in this Article.

Section 8.2-17 – Arborists Permit
It shall be unlawful for any person or firm to engage in the business or occupation of planting, pruning, treating, or removing street or park trees with the City without first applying for and procuring a permit. There may be a fee for such permit.

Section 8.2-18 – Arborist Insurance
Any persons or firm engaged in the business or occupation of planting, pruning, treating, or removing street or park trees contracted with the City must have Proof of Insurance and Workman's Compensation Insurance.

Section 8.2-19 – Review by City Council
The City Council shall have the right to review the conduct, acts, and decisions of the City Tree Committee. Any person may appeal from any ruling or order of the Tree Committee to the City Council who may hear the matter and make final decision.

Section 8.2-20 – Violations
Any person who violates any provision of this Article or who fails to comply with any notice issued pursuant to provisions of this Article, upon being found guilty of violation, shall be subject to a fine for each separate offense as established by Resolution of the City Council. If, as a result of the violation of any provision of this Article, the injury, mutilation, or death of a tree,

shrub, or other plant located on City owned property is caused, the cost of repair or replacement of such tree, shrub, or other plant shall be borne by the party in violation.

DIVISION 3. DUTCH ELM DISEASE AND EMERALD ASH BORER

Section 8.2-21 – Declaration of policy

The City Council has determined that the health of the elm and ash trees within the City is threatened by Dutch Elm Disease and the Emerald Ash Borer. It has further determined that the loss of elm and ash trees which are growing upon public and private property would depreciate the value of property within the City and impair the general welfare of the public. It is the policy of the City to control and prevent the spread of these diseases, and this Division is adopted for that purpose.

Section 8.2-22 – Public nuisances declared

The City Council declares the following to be public nuisances:

(a) Any living or standing elm tree or ash tree or part thereof infected with the Dutch Elm Disease, Ceratocystis ulmi, or which harbors the European Elm Bark Beetle, Scolytus multistriatus (Eichb.) and/or the American Elm Bark Beetle, Hylurgopinus rufipes (Marsh.) or the Emerald Ash Borer.

(b) Any dead elm or ash tree or part thereof including logs, branches, stumps, firewood or other elm or ash material from which the bark has not been removed and burned or sprayed with an effective European Elm Bark Beetle or Emerald Ash Borer insecticide.

Section 8.2-23 – Nuisances not permitted to remain

No person may permit any public nuisance as defined in this Division to remain on the premises owned or controlled by them within the City.

Section 8.2-24 – Inspection

The City Administrator or designee is authorized to inspect all premises and places within the City at least twice each year to determine whether any public nuisance as defined in this Division exists, and shall also inspect any elm and ash tree reported or suspected to be infected with the Dutch Elm Disease or Emerald Ash Borer or any elm or ash bark bearing material reported or suspected to be infected with either species of the Elm Bark Beetles or the Emerald Ash Borer.

Section 8.2-25 – Abatement of nuisances upon public property

If the City Administrator or designee determines, upon inspection, that a public nuisance involving Dutch Elm Disease or Emerald Ash Borer exists within the City upon any public street, alley, park or other public place, including the strip of property between curb and lot line, they shall immediately cause it to be removed and burned or shall otherwise abate the nuisance.

Section 8.2-26 – Abatement of nuisances on private property

If the City Administrator or designee, upon inspection, shall determine with reasonable certainty that a public nuisance involving Dutch Elm Disease or Emerald Ash Borer exists in or upon private premises within the City, the City Administrator shall promptly

provide notice, either personally or by first class or certified mail, upon the owner or agent of such owner of such property, if either can be located, or upon the occupant thereof, a notice to abate such nuisance within 15 days of service of the notice.

Section 8.2-27 – Determination of disease

If the City Administrator or designee is unable to determine with reasonable certainty whether or not a tree which is located upon private premises is infected with Dutch Elm Disease or Emerald Ash Borer, the City Administrator or designee is authorized to remove or cut specimens from the tree, and shall forward such specimens for diagnosis and report to the Plant Pathology Department of South Dakota State University and may proceed as provided in this Division upon receipt of a report indicating the existence of disease.

Section 8.2-28 – Abatement by the City

If the owner, agent, or occupant of the property upon which any nuisance exists which involves Dutch Elm Disease or Emerald Ash Borer fails to abate such nuisance within the time specified in the notice to abate, the City Administrator shall cause the nuisance to be removed or otherwise abated.

Section 8.2-29 – Effect of abatement

Any abatement made under the provisions of this Division shall be made in such manner as to destroy or prevent as fully as possible the spread of Dutch Elm Disease and Emerald Ash Borer or the insect pests or vectors known to carry the disease fungus.

Section 8.2-30 – Assessment of cost of abatement

The cost of abating any public nuisance shall be borne as follows:

(a) The entire cost of any abatement of a public nuisance consisting of diseased trees or any part thereof on any public street, alley, park or other public place, including the strip of property between curb and lot line, shall be borne by the City. If a tree is located on the property line between the public property and private property, the entire cost of abatement shall be borne by the City.

(b) The cost of any abatement of a public nuisance on any private property shall be borne by the owner of the property and shall be collected or assessed against such property as provided in this Division or in accordance with other assessment procedures in this Code for collection of costs of the abatement of a public nuisance. If any part of a tree constituting a nuisance under this Division is located on a property line between two private owners, the owners of the property on either side of such line shall share equally in the cost of abatement.

Section 8.2-31 – Reporting of costs

The City Administrator shall keep accurate records of the cost of work performed under this Division for which assessments are to be made, stating the description of the land, lots, parts of lots, or parcels of land and the amounts chargeable to each. The City Administrator shall include in a report to the City Council the aggregate amount chargeable to each lot or parcel, and such amount shall be collected from the property owner or occupant or levied and assessed against such parcels or lots. In lieu of spreading

the cost of the abatement of the nuisance against such property, such amount may also be recovered by a civil action against the owner or occupant of such property.

CHAPTER 9.
FIRE REGULATIONS
ARTICLE 1.
IN GENERAL

Section 9.1-1 – Open burning

It is unlawful to burn in any open or exterior space any garbage, refuse, leaves, wood, pallets, shingles, cardboard, paper, or similar material within the City.

Section 9.1-2 – Fire pit

A fire pit includes either a below ground pit or a permanent or portable device intended to contain and control outdoor wood fires. All below ground fire pits shall be at least four inches in depth and shall be surrounded on the outside, above ground, by a noncombustible material such as steel, brick, or masonry. Portable fire pits, constructed of steel, brick or masonry, must be used in accordance with the manufacturer's specifications and these regulations.

Section 9.1-3 – Container capacity

The fuel load capacity of the fire pit container cannot exceed three feet in diameter and two feet in height.

Section 9.1-4 – Fire pit location

All below ground fire pits must be located a minimum of 25 feet away from any structures or combustibles, such as houses, garages, sheds, decks, wood piles, and wooden fences. Manufactured freestanding fire pits must be located a minimum of ten feet away from any structures or combustibles, such as houses, garages, sheds, decks, woodpiles, and wooden fences.

Section 9.1-5 – Fuel type

Only natural firewood or commercial logs may be burned in a fire pit. Burning of lumber, pallets, scrap wood, tree trimmings, leaves, yard waste, paper, cardboard, garbage and similar items is not permitted. Liquid accelerants may not be used in any fire pit.

Section 9.1-6 – Attendance

A fire pit fire must be constantly attended and supervised by an adult until the fire has been completely extinguished.

Section 9.1-7 – Fire-extinguishing equipment

A portable fire extinguisher or other approved extinguishing equipment, such as a garden hose, sand, or dirt must be readily available to extinguish a fire pit fire.

Section 9.1-8 – Discontinuance

Recreational burning that is offensive or objectionable because of smoke or odor emissions, or when atmospheric conditions or local circumstances such as high wind and drought conditions make such fires hazardous is prohibited. Law enforcement and fire department officers are authorized to require that a recreational fire be immediately

extinguished and discontinued if it is determined that the fire is not in compliance with this Article, or the smoke is offensive to nearby neighbors or the burning is determined to constitute a hazardous condition.

Section 9.1-9 – Exception for municipal park campground campfires

Recreational campfires at approved municipal park campgrounds are permitted and are therefore exempt from the requirements of this Article, provided such campfires are kindled in and confined to fire rings provided for such purposes and provided only natural firewood or commercial logs are burned. A campfire must be constantly attended and supervised by an adult until the fire has been completely extinguished. Liquid accelerants must not be used to start or maintain any fire, and suitable extinguishing material or water shall be available to extinguish the campfire.

ARTICLE 2.
FIRE DEPARTMENT

Section 9.2-1 – Volunteer Fire Department established

There is hereby established a Volunteer Fire Department for the City consisting of a chief, deputy chief, two assistant chiefs, and not more than 32 members.

Section 9.2-2 – Powers of Department

The Fire Department shall have the power to formulate and adopt bylaws for its organization and regulations as necessary and which shall be consistent with the provisions of this Article.

Section 9.2-3 – Removal of Officers

The City Council may, at any time that they deem it for the best interests of the City, by a majority vote remove any elected officer of the department but any such removal vote shall be taken only after a hearing before the City Council.

Section 9.2-4 – Compensation of Members

The members of the Department shall receive compensation from the City for services rendered through a deferred compensation plan as established by Resolution of the City Council.

Section 9.2-5 – Fire Apparatus

No fire apparatus of the City shall be taken out of the City limits except upon the order of the Chief and none of the equipment shall be applied to private use.

Section 9.2-6 – Willful injury to Fire Apparatus, fire hydrants etc.

Any person who shall willfully, maliciously, or negligently break, deface, or destroy on in any manner injure or interfere with any fire apparatus or public fire hydrant of the City or any structure used by the department, or who shall in any manner obstruct or encumber any public hydrant of the City, shall be deemed guilty of a misdemeanor and shall upon conviction thereof be punished by a fine as established by Resolution of the City Council.

Section 9.2-7 – Removal of Property of Department

Any person who shall take, use, or carry away for private use or otherwise any apparatus, equipment, or appliances under the control of the Fire Department without the consent of the Fire Chief shall be guilty of a misdemeanor and upon conviction shall be punished as provided in the preceding section.

ARTICLE 3.
FIREWORKS

Section 9.3-1 – Sale of fireworks
No person, firm, or corporation may offer consumer fireworks for sale to individuals at retail within the City except during the period beginning June 27th and extending through July 5th and during the period beginning December 28th and extending through January 1st. "Consumer fireworks" are fireworks designed primarily to produce visible effects by combustion, that must comply with the construction, chemical composition, and labeling regulations promulgated by the U.S. Consumer Product Safety.

Section 9.3-2 – Period during which discharge of fireworks is permitted
It shall be unlawful for a person, firm, or corporation to discharge consumer fireworks within the City except during the periods of 10:00 A.M. until 11:00 P.M. of the following chart:

July 1 to July 7	December 28 – January 1

It is unlawful for any person, firm, or corporation to discharge fireworks upon any public place within the City including public streets.

Section 9.3-3 – Public display of fireworks
Any person, association, organization, firm, partnership, or corporation, before making a public display of fireworks within the City shall secure a written permit from the City, Fire Chief, and Brookings County and shall have purchased fireworks for the display from a licensed wholesaler. Any public display shall comply with the National Fire Protection Association Standard 1123, 1995 edition.

Section 9.3-4 – Emergency Ban
The use or discharge of all fireworks may be banned by the City Council because of dry climatic conditions or other such emergencies.

CHAPTER 10.
STREETS AND SIDEWALKS
ARTICLE 1.
IN GENERAL

Section 10.1-1 – Names of streets
The names of the streets in the City shall be such as are shown on official plats on file at the Office of the Register of Deeds of the County or as may from time to time be changed by Resolution or Ordinance of the City Council.

Section 10.1-2 – Deposits in rights-of-way; exceptions

It is unlawful, except as provided below, for any person to shovel or deposit snow, leaves, material or other substances of any kind and description from private property onto any public street, alley, sidewalk or other public right-of-way. Such conduct or action is declared to be a nuisance.

This Article, however, does not prohibit the placement of snow from a sidewalk in the downtown Business District in the curb area of the street where no boulevard or other property exists to place snow from the sidewalk. In addition, this Article does not prohibit individuals from placing snow on an existing windrow of snow that has been established as a result of snow removal operations of the City. Any person in violation of this section shall be deemed guilty of a misdemeanor and shall be punished by a fine as established by Resolution of the City Council.

Section 10.1-3 – Permission required prior to cutting curb
Written permission must be obtained from the City Administrator prior to the installation of a driveway and such work shall conform to the specifications and requirements of the City.

Section 10.1-4 – Vehicle obstructions
No person may place, leave, or park on any public street, road, alley, sidewalk, or other public ground in the City any trailer, automobile, cart, truck, or other vehicle except when the vehicle shall be in actual use; nor shall any person place, leave, or park or keep on any public street, road, alley, sidewalk, or other public ground in this City any other article, substance, or material which may obstruct the free use of such street, road, alley, sidewalk, or public ground, except as otherwise provided in this Chapter.

Section 10.1-5 – Building upon public right-of-way prohibited; exceptions
(a) No person may erect or maintain any building in a location or position that the building shall stand, in whole or in part, upon any public street, road, alley, or sidewalk in the City.
(b) No building may be constructed so that any part of the building shall project into or over any street, road, alley, or sidewalk, except jut windows, cornices, and other projections from a building above the first story may extend over an adjoining street, road, alley, or sidewalk a distance not exceeding 18 inches.
(c) No person, without written authorization from the City Council as provided in this section, may construct any improvement, including any step, deck, landing, or other entrance to any building extending over or upon the sidewalk, nor shall any person erect

in or upon any public street, alley, or road any flight of stairs or steps leading to any floor of any building.

(d) Any building or improvement erected or maintained in violation of this section shall be deemed a public nuisance and may be abated.

Section 10.1-6 – Warranty of streets

Any streets constructed by a private developer shall have warranty period of three years. The developer shall be held responsible for the street workmanship, materials, deterioration, or any other deficiencies for a period of three years from the completion of the work and acceptance of the street by the City. The developer shall repair and/or replace all street deficiencies during the corrective period at no cost to the City. Any surface restoration costs incurred because of the repairing and/or replacing of deficiencies shall be borne by the developer. The City shall have the final approval right over whether adequate repair and restoration has been completed by the developer. In the event the developer fails to repair or restore the affected street in a manner acceptable to the City, the City shall have the right, after allowing the developer a reasonable period to complete the repair and restoration, to make such repairs and restoration and the developer shall pay the costs incurred by the City for such actions.

ARTICLE 2.
CURBS AND SIDEWALKS

Section 10.2-1 – Grade

No sidewalks shall be laid, nor curbs built that do not conform to grades to be established by the City. This provision shall not apply to curbs and sidewalks already in place except when such curbs and sidewalks are substantially rebuilt.

Section 10.2-2 – Construction

No material except concrete shall be used in the building of sidewalks and curbs, and that all sidewalks and curbs shall be built at the expense of the property owners and of a width of not less than four feet, nor less than four inches thick where the same abuts residential property used exclusively for residential purposes. Such sidewalks and curbs are to be built in a line with existing sidewalks and curbs where possible and feasible, unless otherwise provided by action of the City Council.

ARTICLE 3.
SNOW AND ICE REMOVAL

Section 10.3-1 – Snow and ice to be removed*

The owner of any property must remove all snow and ice from any sidewalk upon the owner's property within 24 hours after any snowfall, snow or ice accumulation so that sidewalks are clean and safe for pedestrians for safe and convenient foot travel. Snow and ice must also be removed from that portion of the sidewalk which ends at an intersection or crosswalk, including the curb ramp. The owner of property abutting sidewalks on two intersecting streets must remove all snow and ice from the sidewalks of both streets, regardless of the source of the snow

accumulation. Snow and ice deposited on the sidewalk from the street snow removal process must also be removed within 24 hours of being deposited. Failure to remove snow and ice from a sidewalk in accordance with this Article constitutes an Ordinance violation.

In the event ice has so formed upon a sidewalk that it cannot be removed, then the owner must use sand, salt or other suitable substance in such manner as to prevent the ice from being dangerous until such time as it can be removed. Snow and ice which is removed from a sidewalk may be placed on the boulevard or yard. It is unlawful for any person to dispose of or move snow from a sidewalk or other private property onto a public street, alley, or sidewalk.

Section 10.3-2 – Notice to property owner of failure to remove snow

If City personnel find that any portion of a sidewalk has not been cleared as required by **Section 10.3-1**, the City may provide notice to the owner of such property. The notice will advise that the owner has failed to remove snow and/or ice as required by Ordinance, and that the property owner is subject to a fine, and further, that the property owner will be responsible to pay for the City's snow removal costs.

Section 10.3-3 – City's collection procedure for snow removal

If the owner does not remove snow and ice from sidewalks as required by **Section 10.3-1** and the City is required to clear a sidewalk of snow and ice, the City will keep an accurate account of the expenses for sidewalk snow and ice removal, and the City's cost of snow and ice removal will be collected from the owner of the property or by special assessment. The property owner will be subject to collection procedures in the event accounts are not paid within 30 days.

Section 10.3-4 – Hearing for approval of assessment

If the City determines that an unpaid account for City snow removal must be collected by special assessment, the City will prepare the assessment against the property for the removal of snow and will submit the assessment to the City Council for its approval in accordance with the procedure for special assessments.

Section 10.3-5 – Special assessment declared

From the date of approval and filing of the assessment made under this Article, the assessment will be filed against the property described in the assessment and will be collected as a special assessment.

Section 10.3-6 – Penalties and liability for noncompliance

Any person whose duty it is to remove snow and ice, in addition to a fine for the Ordinance violation and liability for the costs incurred by the City's removal of snow and ice, will be liable for any damage caused by their neglect to keep the sidewalk clear and free of snow and ice.

CHAPTER 11.
TRAFFIC AND VEHICLE OPERATION
ARTICLE 1.
IN GENERAL

Section 11.1-1 – Definitions

The following words, terms and phrases, when used in this chapter, shall have the meanings provided in this Section, except where the context clearly indicates a different meaning:

Authorized emergency vehicle means any vehicle of a fire department, police vehicle, and any ambulance and emergency vehicle of a municipal department or public service corporation as is designated or authorized by the South Dakota Department of Public Safety.

Crosswalk means that part of a roadway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the street measured from the curbs or, in the absence of curbs, from the edges of the traversable roadway; or any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface.

Curb applies to the curb on such streets as are fitted with curbs and on streets as are not fitted with curbs, it shall be construed to mean the outside edge of the parking area as defined by ordinance.

Driveway means the surfaced portion of the boulevard between the roadway curb, or edge of the roadway, and the sidewalk or property line, that is intended to provide access to the abutting public or private property.

Highway means the portion of Highway 14 contained within City limits.

Intersection means the area embraced within the prolongation of the lateral curblines or, if none, then the lateral boundary lines of two or more streets which join one another at an angle whether or not one such street crosses the other; but such area in the case of the point where an alley and a street meet shall not be deemed an intersection.

Law enforcement officer means any county, state, or other law enforcement officer.

Motor vehicle means every vehicle which is self-propelled.

Official traffic signals means all signals, not inconsistent with this chapter, placed or erected by authority of a public body or official having jurisdiction, for the purpose of directing, warning or regulating traffic.

Official traffic signs means all signs and markings, other than signals, not inconsistent with this chapter, placed or erected by a public body or official having jurisdiction, for the purpose of guiding, directing, warning or regulating traffic.

Operator means any person who is in actual physical control of a vehicle.

Parking means the standing of a vehicle, whether attended or unattended, upon a street or alley, other than temporarily for the purpose of and while actually engaged in loading or unloading, or in obedience to traffic regulations or traffic signs or signals.

Pedestrian means any person on foot, in a wheelchair, on skates or on a skateboard.

Private road and *driveway* mean every road or driveway which is not open to the use of the public for purposes of vehicular travel.

Residential district means any residential zoning district of the city.

Right and Left side of street means the right side and the left side of the street as used in this Chapter shall mean that side of the street at the right hard side and left hand side of the street of the driver of the vehicle when seated in the proper position to drive, use or operate the vehicle.

Right-of-way means the lawful right of one vehicle or pedestrian to proceed in a lawful manner in preference to another vehicle or pedestrian approaching under such circumstances of direction, speed and proximity as to give rise to danger of collision unless one grants precedence to the other.

Roadway means that portion of a street which is improved, designed or ordinarily used for vehicular travel, exclusive of the berm or shoulder. If a highway includes two or more separate roadways, the term "roadway" shall refer to any such roadway separately but not to all such roadways collectively.

Sidewalk means that portion of a street between the curblines, or the lateral lines of a street and the adjacent property lines intended for use by pedestrians.

Street means the entire width between the boundary lines of every road which is publicly maintained when any part thereof is open to the use of the public as a matter of right for purposes of vehicular travel.

Traffic means pedestrians and vehicles while using any street for the purpose of travel.

Traffic control signal means any device using colored lights, words, or sounds or any combination thereof, whether manually, electrically or mechanically operated, by which traffic is alternately directed to stop and to proceed.

Vehicle means every device in, upon or by which any person or property is or may be transported upon a public street, except devices moved by human power or used exclusively upon stationary rails or tracks; provided, however, that for the purposes of this chapter, a bicycle or a ridden animal is a vehicle.

Section 11.1-2 – Prohibited truck and trailer traffic

It shall be unlawful for the driver or owner of any motor truck or trailer to drive, operate, park, or leave standing, or permit to be driven, operated, parked or left standing, except for the purpose of loading or unloading, any motor truck or trailer with a manufacturer's gross vehicle weight capacity of four (4) tons per axle or greater, in or adjacent to a residential zoned area or where otherwise prohibited by an official sign or marking. Vehicles exceeding this weight limit must use designated streets.

Section 11.1-3 – Covering of vehicle loads; spillage

(a) No person may not drive or move a vehicle on a street or highway unless the vehicle is so constructed or loaded as to prevent its contents from dropping, sifting, leaking, blowing off, or otherwise escaping from the vehicle. This requirement does not apply to a vehicle transporting agricultural or horticultural products when hay, straw, silage, or residue from a product, but not including the product itself, or when materials such as water used to preserve and handle agricultural or horticultural products while in transportation, escape from the vehicle in an amount that does not interfere with other traffic on the highway. The tailgate, faucets and taps on a vehicle shall be securely closed to prevent spillage during transportation, whether the vehicle is loaded or empty, and the vehicle must not have any holes or cracks through which material can escape. Any highway maintenance vehicle engaged in either ice or snow removal shall be exempt from this section.

(b) Actual spillage of material on a street or highway or proof of that spillage is not necessary to prove a violation of this section.

Section 11.1-4 – Golf Cart Traffic Regulations

(a) Definition – For the purposes of this Section, the term, golf cart, means a four wheeled vehicle originally and specifically designed and intended to transport one or more individuals and golf clubs for the purpose of playing the game of golf on a golf course.

(b) Regulations – The City hereby permits the use of golf carts on the municipal streets and highways to the City subject to the following:
   (1) The golf cart is to be insured as provided in SDCL Chapter 32.35.
   (2) The person operating the golf cart shall hold a driver license as defined by SDCL 32-12-1.
   (3) The person operating the golf cart shall obtain an annual permit from the City of Volga to operate the golf cart on municipal streets; the fee for said permit shall be established by Resolution of the City Council.

(c) Highway Crossing – No person may operate a golf cart on a state or county highway within the City except for crossing from one side of the highway to the other. A golf cart may cross the highway at a right angle, but only after stopping and yielding the right-of-way to all approaching traffic, and crossing as closely as possible to an intersection or approach.

Section 11.1-5 – Regulation of snowmobiles

(a) Definitions – For the purpose of this Section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

Operate – to control the operation of a snowmobile

Operator – every person who operates or who is in actual physical control of a snowmobile

Roadway – that portion of a highway which is improved, designed, or ordinarily used for vehicles or travel, exclusive of the berm or shoulder

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

Streets – all streets and public roads and highways located within the boundaries of the City

(b) Any person who shall operate a snowmobile on the public streets in the City shall be governed by the following rules of the road pertaining to the operation of said vehicle, to-wit:
   (1) Snowmobiles shall be driven at all times on the right shoulder or far edge of the road.
   (2) It shall be unlawful for a snowmobile to cross the public roadway other than at duly designated intersections except said snowmobiles may be driven across a public road for the purpose of gaining access to private property but said crossing shall be made only at right angles with the roadway and the operator of said snowmobile must yield to all traffic on the roadway.
   (3) Snowmobiles operating on the public roadways in the City shall stop at all intersections and yield the right-of-way to any traffic in or approaching said intersection before proceeding through the intersection.

(4) The operator of any snowmobile in the City must otherwise comply with the laws set forth in Chapter 32-20 A, SDCL.

(c) A violation of this Section constitutes a misdemeanor and any person who shall be convicted thereof shall be subject to a fine as established by Resolution of the City Council.

Section 11.1-6 – Bicycle/Wheeled, Electronically Propelled Devices.

(a) Definition of Terms – A wheeled, electronically propelled device is any wheeled device that is powered wholly or partially by an electric motor or battery and includes but is not limited to: electric bicycles, electric scooters, self-balancing personal transporters, electric skateboards or longboards, and any other motor-assisted personal mobility device.

(b) Operations Generally – No person shall ride or propel a bicycle or wheeled, electronically propelled device upon any public street, highway, or public ground except in a careful and prudent manner and unless such person shall be capable of efficient control and operation of such bicycle or wheeled, electronically propelled device; nor shall any person propel or operate a bicycle or wheeled, electronically propelled device upon any street, highway, or public ground carrying another person upon such bicycle or wheeled, electronically propelled device unless the bicycle or wheeled, electronically propelled devices is specifically designed to carry two people.

(c) Interference With Pedestrians – No person shall ride or propel any bicycle or wheeled, electronically propelled device upon any public street, highway, or public grounds in such a manner as to interfere with any pedestrian thereon.

(d) Speed – No bicycle or wheeled, electronically propelled device shall be ridden faster than is reasonable and proper, and every bicycle and wheeled, electronically propelled device shall be operated with reasonable regard to the safety of the operator and any other person upon the streets, highways, and sidewalks of the City. No bicycle or wheeled, electronically propelled device shall be operated at speeds exceeding 15 miles per hour on public sidewalks.

(e) Lights and Reflectors – No bicycle or wheeled, electronically propelled device shall be permitted on any street, highway, or public ground or sidewalk between one-half hour after sunset and one-half hour before sunrise without a headlight visible from the front of not less than 300 feet. The bicycle or wheeled, electronically propelled device light shall be firmly attached to said bicycle or wheeled, electronically propelled device and properly lit. A bicycle or wheeled, electronically propelled device shall also be equipped with a reflex mirror or lamp on the rear of the bike or wheeled, electronically propelled device exhibiting a red or yellow light visible from the rear of such bicycle or wheeled, electronically propelled devices for a distance of not less than 200 feet.

(f) Obedience to Signs – Persons riding or propelling any bicycle or wheeled, electronically propelled device shall observe all traffic signs and stop at all stop signs.

(g) Other Traffic Rules – Every person riding or propelling a bicycle or wheeled, electronically propelled device upon any public street, highway, public grounds or sidewalk shall observe all other traffic rules and regulations, except those which by their nature can have no application.

(h) Requirements – Any wheeled, electronically propelled device shall comply with any applicable State laws. No person under 18 years of age shall operate or ride upon a wheeled, electronically propelled device at a speed exceeding 20 miles per hour on the public streets, highways or sidewalks of this City unless the person wears a protective helmet of a type meeting Department of Transportation Motor Vehicle Safety Standard 218 as in effect on January 1, 1984. No person may operate a wheeled, electronically propelled device with any person under 18 as a passenger if the passenger is not wearing a protective helmet.

(i) Penalty Defined – Any person who violates Section 11.1-6 shall be subject to a fine as set by City resolution.

Section 11.1-7 – Unnecessary Noise
It shall be unlawful for any person operating any motor vehicle in the City to cause by such operation any unnecessary noise, such as but not limited to, undue and unnecessary use of the horn, unnecessary racing of the motor, screeching of tires by turning corners or stopping and starting, or any other unnecessary disturbance to the peace and quiet.

Section 11.1-8 – Uniform Traffic Control Devices Manual Adopted
The future design, construction, and use of all signs and traffic control devices within the City or under its jurisdiction shall conform as nearly as possible to the most recent Manual on "Uniform Traffic Control Devices," as adopted by the state highway commission, and such manual is adopted, by reference, with the same full force and effect as though set forth at length in this section. A copy of such manual is on file in the office of the City Engineer.

ARTICLE 2. ACCIDENTS AND ACCIDENT REPORTS

Section 11.2-1 – Duties of vehicle operator in case of accident*
The driver of any vehicle involved in any accident resulting in injury or death to any person or damage to property shall immediately stop and give their name and address, and the name and address of the owner and the license number of the vehicle the driver is driving to the person struck or the driver or occupants of any vehicle collided with, and shall render to any person injured in such accident reasonable assistance, including the carrying of such person to a health care facility or physician for medical treatment if it is apparent that such treatment is necessary or is requested by the injured person.

Section 11.2-2 – Personal injury
The driver of any vehicle involved in an accident which results in injury to or death of any person shall immediately stop at the scene of such accident or as close thereto as possible and shall then immediately return to and, in every event, remain at the scene of the accident until the

driver has fulfilled the requirements of **Section 11.2-1**. Every such stop shall be made in a manner so that obstruction of traffic is minimized.

Section 11.2-3 – Immediate report to police authority when persons entitled to receive information are disabled

If none of the persons specified in **Section 11.2-1** are in a condition which allows them to receive the information to which they otherwise would be entitled, and no law enforcement officer is present, the driver of any vehicle involved in such accident, after fulfilling all other requirements of **Section 11.2-1**, insofar as possible on their part to be performed, shall forthwith report such accident to the nearest office of a duly authorized law enforcement officer and submit to law enforcement the information specified in **Section 11.2-1**.

Section 11.2-4 – Unattended vehicle and property

The driver of any vehicle which collides with or is involved in an accident with any vehicle or other property which is unattended and which results in any damage to such other vehicle or property shall immediately stop and shall then and there either locate and notify the operator or owner of such vehicle or other property of the name and address of the driver and owner of the vehicle striking the unattended vehicle or property and the license number of the driver's vehicle or shall attach securely in a conspicuous place in or on the vehicle or other property which was struck a written notice giving the name and address of the driver and of the owner and the license number of the vehicle which struck the unattended vehicle or property. Such driver shall, without unnecessary delay, notify a law enforcement officer of such accident. Every such stop shall be made in a manner so that obstruction of traffic is minimized.

Section 11.2-5 – Information furnished by driver involved in property damage accident

Any driver of any vehicle involved in an accident resulting in damage to property shall stop their vehicle at the scene of the accident and immediately give their name and address, and the name and address of the owner of the vehicle. If the damage is to another motor vehicle and the owner of the damaged vehicle is not at the scene of the accident, the driver shall immediately leave such information on the other motor vehicle. If the damage is to property other than a motor vehicle, and the owner of the damaged property is not at the scene, the driver shall leave such information with the owner of the property or with a law enforcement agency as soon as possible.

Section 11.2-6 – Duty to give immediate notice of accident to law enforcement officer

The driver of any motor vehicle involved in an accident resulting in bodily injuries or death to any person or property damage to an apparent extent of $1,000.00 or more to any one person's property or $2,000.00 per accident shall immediately, by the quickest means of communication, give notice of the accident to the nearest available law enforcement officer who has jurisdiction.

ARTICLE 3. RULES OF VEHICLE OPERATION

DIVISION 1. IN GENERAL

Section 11.3-1 – Driver's license required

It is unlawful for any person to operate or drive upon any of the streets or alleys within the City any motor vehicle without first having secured and having in their possession a driver's license.

Section 11.3-2 – Age of operator

No person under the age of 14 years may operate or drive a motor vehicle upon the streets of the City.

Section 11.3-3 – License plates

No person may operate or drive a motor vehicle within the City without having conspicuously displayed thereon a license plate or plates as required by state law, securely fastened, and which shall be kept free from mud, dirt, or other obstruction so that such license plate or plates are clearly legible by other persons upon such street.

Section 11.3-4 – Maximum number of passengers in front seat

No person may drive a vehicle when it is so loaded, or when there are in the front seat such a number of persons, exceeding three, as to obstruct the view of the driver to the front or sides of the vehicle or which interferes with the driver's control over the driving mechanism of the vehicle.

Section 11.3-5 – Failure to stop; fleeing from police officer; penalties

(a) It is unlawful for any driver of a motor vehicle within the City to willfully or intentionally fail or refuse to bring their vehicle to a stop, or to otherwise flee or attempt to elude a pursuing police vehicle, when given a visual or audible signal to bring the vehicle to a stop.
(b) The signal given by a police officer may be by hand, voice, emergency light, or siren.
(c) The officer giving such signal shall be in uniform, prominently displaying their badge of office, and their vehicle shall be appropriately marked showing it to be an official police vehicle.

Section 11.3-6 – U-turns

The operator of a vehicle shall not turn such vehicle so as to proceed in the opposite direction except at an intersection.

Section 11.3-7 – When prohibited at intersections

At any intersection where traffic is controlled by traffic control signals or by a law enforcement officer, or where there is conspicuously posted an official traffic control sign displaying the words "No U-Turn," "No Left Turn," or "No Right Turn," it is unlawful for the driver of a vehicle to turn such vehicle in a manner which is in violation of the traffic control signal, direction of the law enforcement officer, or posted sign.

Section 11.3-8 – Corner cutting

It is unlawful for any person to drive any motor vehicle upon or across any sidewalk, driveway, gas station, convenience store, or other commercial driveway or other similar surface located at the corner of any intersection protected by a traffic light or other traffic signal or sign, for the purpose of evading or avoiding the regulations governing the turning of motor vehicles at intersections.

Section 11.3-9 – Driving on sidewalk

The operator of a vehicle shall not drive within or upon any sidewalk or sidewalk area except at a permanent or temporary driveway.

Section 11.3-10 – Exhibition driving

It is unlawful and shall constitute exhibition driving for any person to drive a vehicle within the City in such a manner that creates or causes unnecessary engine noise; tire squeal, skid, or slide upon acceleration or stopping; that simulates a temporary race; or that causes the vehicle to unnecessarily turn abruptly or sway.

Section 11.3-11 – Following too closely

The operator of a motor vehicle shall not follow another vehicle more closely than is reasonable and prudent, having due regard for the speed of such vehicles and the traffic upon and condition of the street.

Section 11.3-12 – Following fire apparatus

It is unlawful for the operator of any vehicle, other than one on official business, to follow closer than 500 feet of fire department vehicles traveling in response to a fire alarm, or to drive into or stop any vehicle within the block where fire department vehicles have stopped in answer to a fire alarm or emergency call.

Section 11.3-13 – Street and highway equipment and personnel

(a) Street and highway equipment and personnel in the performance of their duties of maintaining the street or highway shall have the preference of right-of-way and shall be permitted to drive upon the left-hand side of the traveled portion of the highway for the purpose of dumping materials, for repairing or maintaining the street or highway, and for smoothing the road surface.

(b) Street and highway equipment shall, at all times, display a flashing or revolving light to warn the traveling public. However, street and highway equipment may not indiscriminately block traffic, but shall allow reasonable room on the traveled portion of the street or highway for other vehicles to pass. Street and highway equipment are not required to turn to the right when meeting other vehicles or allow them to pass when work requires such equipment to remain on the other side of the traveled portion of the street or highway. Street and highway equipment is subject to the laws of travel as provided in this Chapter, unless the performance of maintenance work requires otherwise.

Section 11.3-14 – Unsafe backing

The driver of a vehicle shall not back the vehicle unless such movement can be made with safety and without interfering with other traffic or pedestrians.

Section 11.3-15 – Driving over fire hose

No vehicle may be driven over any unprotected hose of a fire department when laid down on any street, private road, or driveway to be used at any fire, emergency call, or fire department use without the consent of the fire department official in command.

Section 11.3-16 – Stop required upon approaching stopped emergency vehicle using signals

Upon approaching from any direction any stopped authorized emergency vehicle making use of an activated light bar or activated visual signals, the driver of every other vehicle shall come to a complete stop before reaching the stopped emergency vehicle and may, unless otherwise directed, proceed with caution only after ascertaining that it is safe to do so, and upon approaching from any direction any stopped vehicle making use of amber or yellow warning lights, the driver of every other vehicle shall:

(a) If driving on a street or highway with two or more lanes traveling in the same direction as the vehicle, merge into the lane farthest from the vehicle and proceed with caution, unless otherwise directed; or

(b) If driving on a two lane street or highway, slow to a speed that is at least 20 miles per hour less than the posted speed limit or five miles per hour when the speed limit is posted at 20 miles per hour or less and proceed with caution, unless otherwise directed.

Section 11.3-17 – Yielding right-of-way to emergency vehicles

The driver of a vehicle upon a street or highway shall yield the right-of-way to police and fire department vehicles and ambulances if they are operated upon official business and their drivers give an audible signal by bell, siren, or whistle or by visual signal by flashing, oscillating, or rotating beams of red light or any combinations of red, blue, white, or yellow light visible 180 degrees to the front of the vehicle. The provisions of this Section do not relieve the driver of a police, fire department vehicle, or ambulance from the duty to drive with due regard for the safety of all persons using the street or highway, nor does it protect the driver of any such vehicle from the consequence of an arbitrary use of such right-of-way.

DIVISION 2. SPEED AND RELATED OFFENSES

Section 11.3-18 – Speed limits inapplicable under specified conditions

The speed limits provided in this Article do not apply to any authorized emergency vehicle responding to an emergency call if the driver sounds an audible siren or air horn or both and displays flashing, oscillating, or rotating beams of red light or any combination of red, blue, or white light visible 180 degrees to the front of the vehicle. The lights shall be capable of warning the public of the presence of an emergency vehicle under normal atmospheric conditions. The speed limits provided in this Article do not apply to authorized emergency vehicles operated by law enforcement officers who are measuring the speed of other vehicles by use of the law enforcement vehicle's speedometer.

Section 11.3-19 – Requirement that speed be reasonable and lawful under statutes

It is unlawful for any person to drive a motor vehicle on a street or highway located in this state at a speed greater than is reasonable and prudent under the conditions then existing, or at speeds in excess of those established by this Article or displayed on signs established by the City.

Section 11.3-20 – Exceeding limits

It is unlawful for any person to operate any vehicle at a rate of speed in excess of the applicable maximum speed limit established within the City pursuant to the provisions of this Article; and any speed in excess of such limit shall be prima facie evidence that the speed is not reasonable or prudent.

Section 11.3-21 – Maximum speed limit generally

It is unlawful for any person to operate or drive any vehicle on any street within the City at a speed in excess of 25 miles per hour, unless signs are erected on streets within the City designating another speed limit in accordance with this Article.

Section 11.3-22 – Speed zones

(a) The City Council is authorized and empowered to determine and establish upon any street or highway within the City or any part thereof, limited speed zones which shall provide the speed limit which constitutes the maximum speed at which any person may drive or operate any vehicle within such zone, street, highway, or portion thereof so zoned and on which street or highway the maximum speed permissible in such zone has been conspicuously posted by appropriate signs.

(b) Limited speed zones shall be conspicuously posted by appropriate signs. The beginning and end of such limited speed zones shall be indicated by signs showing the maximum speed limits permissible within the zone.

(c) The City Council may change the speed limit or the extent of any such limited speed zone at any time it may deem necessary.

(d) The following speed limits are established for the streets and portions of streets enumerated as follows:

Street	Extent	Speed (mph)
Caspian Avenue	From Highway 14 to Sixth Street	35
Samara Avenue	From Highway 14 to the north city limits	35
US Highway 14	From the west city limits to a point 300 feet west of the intersection of US Highway 14 and Samara Avenue	45
	From a point 300 feet west of the intersection of US Highway 14 and Samara Avenue to a point 1,550 feet west of the intersection of US Highway 14 and Caspian Avenue	35
	From a point 1,550 feet west of the intersection of US Highway 14 and Caspian Avenue to the east city limits	50

Section 11.3-23 – School zones

It is unlawful for any person to operate or drive any vehicle at a speed greater than 15 miles per hour through any school zone as may be marked or designated within the City during the hours indicated upon signs erected in such zones or whenever children are present in such zones.

Section 11.3-24 – Alleys

It is unlawful for any person to operate or drive any vehicle upon any alley in the City at a speed in excess of ten miles per hour.

Section 11.3-25 – Slow speed

No person shall drive a motor vehicle at such a slow speed as to impede the normal and reasonable movement of traffic except when reduced speed is necessary for safe operation or to comply with law.

Section 11.3-26 – Reckless driving

No person shall drive any vehicle upon a street, highway, alley, public park, recreational area, parking lot, or any public or private property carelessly and heedlessly in disregard of the rights or safety of others, or without due caution and circumspection and at a speed or in a manner so as to endanger or be likely to endanger any person or property.

Section 11.3-27 – Careless driving

No person shall drive any vehicle upon a street or highway, alley, public park, recreational area, parking lot, or any public or private property carelessly and without due caution, at a speed or in a manner so as to endanger any person or property, not amounting to reckless driving.

Sec. 11.3-28. Mobile electronic communication device regulations—Definitions.

Electronic communication device means wireless or cellular phones and any other mobile communication device that uses shortwave analog or digital radio transmission between the device and a transmitter to permit wireless communications to and from the user of the device.

Electronic message means a self-contained piece of digital communication that is designed or intended to be transmitted between two electronic communication devices. An electronic message includes, but is not limited to, email, a text message, an instant message, a command or request to access a web page, or other data that uses a commonly recognized electronic communications protocol. An electronic message does not include the use of global positioning or navigation systems or voice or other data transmitted as a result of making a phone call or data transmitted automatically by a wireless communication device without direct initiation by a person.

Sec. 11.3-29. Prohibited use of mobile electronic device.

No person may operate or be in actual physical control of a motor vehicle while using a mobile electronic device.

Sec. 11.3-30. Exceptions to prohibited use of electronic communication devices and electronic message.

Section 11.3-29 shall not apply if the mobile electronic device is being used as follows:

(1) A law enforcement officer, firefighter, emergency medical technician, paramedic, operator of an authorized emergency vehicle, or similarly engaged paid or volunteer

public safety first responder during the performance of that person's official duties, and a public utility employee or contractor acting within the scope of that person's employment;

(2) The use of a mobile electronic device for emergency purposes, including a text messaging device to contact a 911 system, an emergency call to a law enforcement agency, health care provider, fire department, or other emergency services agency or entity, or to report to appropriate authorities a fire, traffic accident, serious road hazard, or medical or hazardous materials emergency, or to report the operator of another motor vehicle who is driving in a reckless or otherwise unsafe manner or who appears to be driving under the influence of alcohol or drugs, or to report a crime;
(3) The use of a global positioning or navigation system feature of a mobile electronic device, but this exception does apply to manually entering information into the global positioning or navigation system feature of the device;

(4) Reading, selecting, or entering a telephone number or name in a mobile electronic device for the purpose of making or receiving a telephone call and using the device for the call, or if a person otherwise activates or deactivates a feature or function of a mobile electronic device; or

(5) The use of a mobile electronic device in a voice-operated or hands-free mode if the operator of the motor vehicle does not use the operator's hands to operate the device, except to activate or deactivate a feature or function of the device.

Sec. 11.3-31. Social networking sites – Prohibition.

No person may access, read or post to a social networking site while operating a motor vehicle.

Sec. 11.3-32. Obedience of drivers of vehicles.

The driver of any vehicle shall obey the instructions of any official traffic control device applicable thereto placed in accordance with the provisions of this Chapter or other city ordinance unless otherwise directed by a police officer, subject to the exceptions concerning the driver of an authorized emergency vehicle.

Sec. 11.3-33. Designation.

Whenever any ordinance of the city designates any one-way street or alley, the city administrator or designee shall place and maintain a sign providing notice thereof. One-way streets or alleys shall be designated with signs which shall conform to the uniform traffic control devices. Such signs indicating the direction of lawful traffic movement shall be placed at every intersection where movement of traffic in the opposite direction is prohibited.

Sec. 11.3-34. Obedience to division provisions.

It is unlawful for any person to operate any vehicle in violation of the markings, signs, barriers or other devices placed in accordance with the provisions of this Chapter.

Sec. 11.3-35. Enumeration of one-way streets.

Pursuant to the provisions of this Chapter, the following streets and alleys, or portions thereof, are designated as one-way streets or alleys, and traffic thereon shall move only in the indicated direction:

Street	Direction
West 1st Street between Samara Ave and Kasan Ave	East

ARTICLE 4. PARKING

Section 11.4-1 – Angle parking

(a) The City Administrator or designee, subject to the approval of the City Council, may determine upon which streets angle parking is permitted and shall designate by sign such streets. Angle parking shall not be indicated or permitted at any place which causes passing traffic to drive upon the left side of the street or upon any railroad tracks.

(b) Upon those streets which have been signed or marked for angle parking, no person shall park a vehicle other than at the angle to, and with the front wheel within 12 inches of the curb or edge of street which has been signed or marked for angle parking.

Section 11.4-2 – Parking on Left Hand side of Street

It shall be unlawful for any vehicle to be allowed to stand on the left hand side of the street, except that a delivery truck may be so allowed to stand while loading or unloading and as soon as loaded or unloaded it must be moved.

Section 11.4-3 – Double Parking

It shall be unlawful for any person to park or stop a motor vehicle behind any properly parked vehicle except momentarily and then only when the driver remains in the vehicle and such vehicle must be moved immediately upon request.

Section 11.4-4 – Park within markings

Whenever a parking space is marked by lines on the pavement, whether for parallel or angle parking, a vehicle shall be parked entirely within the lines of the parking space.

Section 11.4-5 – Parking in alleys

No vehicle, other than trucks, shall be parked or left standing, whether attended or unattended, in public alleys, and trucks shall not be parked or left standing in public alleys except for the purpose of receiving or delivering property, and trucks shall not be parked for a longer period of time than is necessary to load or unload. Such trucks when loading or unloading shall be parked on the side of the alley. When two or more trucks are parking on opposite sides of the same alley, the truck last arriving shall be placed in such a staggered position as to leave sufficient space between it and the first truck for the passage of other vehicles.

Section 11.4-6 – Parking in municipal parking lots

No vehicle shall be parked for more than 72 hours at any one location in public parking lots owned, operated, or under the control of the City. No person shall sell or offer for sale any fruit, vegetables, produce, goods, wares, or merchandise of any kind or character from any wagon, automobile, truck, or other vehicle or from stands within a municipal parking lot.

Section 11.4-7 – Parking Required on Surfaced Area

No vehicle shall be parked or stored on any private property unless it is located on a surfaced area. A surfaced area is an area of land improved with concrete, asphalt, or gravel. Bicycles are exempt from this provision.

Section 11.4-8 – Restricted vehicle parking

The City Council shall determine and designate certain streets where particular hazards exist and determine whether vehicles shall be parked on these streets and shall cause to be erected a sign at every place where obedience thereto is required.

Section 11.4-9 – Parking for people with disabilities

The City Administrator or designee is authorized to determine which parking spaces in the City are designated as parking spaces usable only by disabled persons and shall mark or sign such parking spaces accordingly. It is unlawful for any person to park or leave standing a vehicle in or upon a parking space designated by a sign or other markings unless such vehicle displays a portable serially numbered certificate or distinctive license plates issued pursuant to SDCL 32-5-76—32-5-76.2 which indicate the motor vehicle is operated to transport a disabled person.

Section 11.4-10 – Parking Prohibited

Unless necessary to avoid conflict with other traffic, or unless a police officer or official traffic control device has so directed, no person may stand or park a vehicle, whether occupied or not, except momentarily to pick up or discharge passengers:

(a) In front of an alley or a public or private driveway not closer than five (5) feet on either side of an alley or driveway measured from the edge of the alley or driveway at the curb line or edge of the roadway;
(b) In front of a U.S. mailbox and not closer than six (6) feet on either side of a U.S. mailbox, between the hours of 8 a.m. and 6 p.m., Monday through Saturday; parking in front of a U.S. mailbox under this section is not prohibited on Sunday;
(c) Within 15 feet of a fire hydrant;
(d) Within 20 feet at an intersection;
(e) Within 30 feet upon the approach to any flashing signals, stop sign, yield sign, or traffic control signal located at the side of a roadway;
(f) In front of the driveway entrance to any fire station;
(g) At any place where official signs or curb markings prohibit parking.

Section 11.4-11 – Places where stopping is prohibited

Unless necessary to avoid conflict with other traffic, or unless a law enforcement officer or official traffic control device has so directed, no person may stop, stand or park a vehicle:

(a) On the roadway side of any vehicle stopped or parked at the edge or curb of a street;
(b) On a sidewalk;
(c) Within an intersection;
(d) On a crosswalk;
(e) Alongside or opposite any street excavation or obstruction when stopping, standing, or parking would obstruct traffic;
(f) Upon any boulevard;
(g) On any railroad tracks; and
(h) At any place where official signs prohibit stopping.

Section 11.4-12 – Prohibited parking in residential districts

(a) It shall be unlawful for the driver, operator, or owner to park a bus, semi or road tractor, farm tractor, trailers of any size, boat, boat trailer, camper or motor home, farm equipment, construction equipment, or recreational vehicle on a street in a residential district between the hours of 11:00 P.M. to 5:00 A.M. This section does not prohibit the parking of commercially licensed vehicles or trailers which are used by owners, operators, or drivers who are actively working within the block where the vehicle is parked but do not reside in said block.

(b) For purposes of this Section, a recreational vehicle is a portable vehicular structure built on a chassis designed to be used as a temporary dwelling for travel, recreational, and vacation uses, permanently identified as "travel trailer" by the manufacturer of the trailer.

(c) Long-term parking of vehicles of any type within seven and-a-half feet (7.5') of a street could potentially restrict the visibility of approaching vehicles, pedestrians and cyclists. Therefore, it is unlawful for any person to store or park a car, truck, bus, semi or road tractor, farm tractor, trailers of any size, boat, boat trailer, camper or motor home, farm equipment, construction equipment, or recreational vehicle within the area of a driveway or acceptable parking surface within seven and-a-half feet (7.5') of a curb or the point where the driveway adjoins the street for a consistent period of more than seventy-two (72) hours at a time.

(d) At no time shall a semi-trailer be parked or left standing in or adjacent to a residential zoned area or where otherwise prohibited by an official sign or marking, with the exception of those semi-trailers actively engaged in pick-up or delivery within the block where the semitrailer is parked.

(e) It is unlawful for any person to store or park a car, truck, bus, semi or road tractor, farm tractor, trailers of any size, boat, boat trailer, camper or motor home, farm equipment, construction equipment, or recreational vehicle on or across a sidewalk at any time.

Section 11.4-13 – Areas of Prohibited Parking

It is unlawful for the driver or any owner of any motor vehicle, trailer, or implement to park or leave standing or permit to be parked or left standing any motor vehicle, trailer, or implement on the following locations in the City.

(a) On both the north side and south side of Third Street between the existing driveways located nearest to Hansina Avenue on both sides of the street and Hansina Avenue
(b) On the north side of Fourth Street between the existing driveway and nearest to Dakota Avenue and extending east One Hundred Feet
(c) On the south side of Fourth Street between Leeann Avenue and extending east to Caspian Avenue
(d) On both the north side and south side of the entirety of Watts Street

Subsection (d) added in Ordinance 2021-04

Section 11.4-14 – Limited and Restricted Parking areas

Wherever in any street or avenue in the City the curb is painted with a solid yellow stripe or an appropriate sign or signs are erected, by or under the direction of the City Administrator, such stripe, marking, or sign shall indicate a "No Parking" area or zone, and it shall be unlawful for any person to park a vehicle adjacent to such marking.

Wherever in any street or avenue in the City the curb is painted with a broken yellow stripe, or an appropriate sign or signs are erected, by or under the direction of the City Administrator, such broken stripe, marking, or signs shall indicate a limited parking area or zone, the extent of such limitation to be indicated by signs at the end of each such limited area or zone and it shall be unlawful for any person to park a vehicle adjacent to such limited parking zone for a longer period than indicated upon said signs.

Section 11.4-15 –Parking prohibited during street maintenance

It is unlawful for the driver or owner of any motor vehicle, trailer, or implement to park or leave standing or permit to be parked or left standing any motor vehicle, trailer, or implement on any streets, avenues, alleys, or public right-of-way after it shall be publicly announced by the City Administrator or designee that such streets, avenues, alleys, or public rights-of-way will be undergoing street maintenance including but not limited to chip sealing, sealcoating, crack sealing, striping, painting, overlayments, surface patching, pothole remediation, debris collection, or maintenance to storm drainage system. Publicly announced shall mean the posting of "No Parking" signs in the affected area(s) and by forwarding said announcement to at least one form of mass media, social media, or website for subsequent dissemination of such parking ban at least four hours prior to such parking ban.

Section 11.4-16 – Parking Prohibited During Snow Removal

It is unlawful for the driver or owner of any motor vehicle, trailer or implement to park or leave standing or permit to be parked or left standing any motor vehicle, trailer or implement on any street, avenue or alley in the City, after it shall be publicly declared by the city administrator or designee that such streets, avenues or alleys will be undergoing snow removal. Parking may not be resumed until such streets have been cleaned of such snow from curb to curb. Public announcement shall include, but not be limited to, announcement on at least one local radio station of such parking ban at least four hours prior to such parking ban.

Section 11.4-17 – Parking during State of Emergency

It is unlawful for the driver or owner of any motor vehicle, trailer, or implement to park or leave standing or permit to be parked or left standing any motor vehicle, trailer, or implement on any street or alley in the City when a state of emergency has been declared in the City.

A state of emergency shall exist when the mayor or City Administrator or designee shall declare an emergency. The mayor or City Administrator or designee may, in the event of threatening or existing adverse weather or street conditions, declare a state of emergency in the City and prohibit parking on streets which are otherwise regulated in this Article for a period of 72 hours or until a particular street has been cleaned from curb to curb. Notice of such declared emergency shall be given to the public by means of radio broadcast.

Section 11.4-18 – Parking in Excess of 72 Hours
It shall be unlawful for the driver, operator, or owner of any motor vehicle, trailer, or implement, to park or leave standing, or permit to be parked or left standing, any motor vehicle, trailer, or implement on any street, avenue, or alley in the City for a continuous period of seventy-two (72) hours or longer.

Section 11.4-19 – Removal of cars illegally parked
Any vehicle parked in violation of this Article or any other Ordinance of the City may be removed from the street by the City or its authorized agent and placed in public or private storage. The owner of the vehicle, in addition to the fine and penalty which may be imposed for such violation, shall pay the charge for towing and storage of such vehicle so removed by the City or its agents.

Section 11.4-20 – Fines for parking violations
When any vehicle is illegally parked in the City , law enforcement officers shall attach to such vehicle a notice showing the violation, which notice shall be in envelope shape and instructing the owner or operator to enclose a specified fine amount in said envelope and to deliver same to the office of the Finance Officer. Fine for any illegal parking violations shall be established through Resolution of the City Council, which shall be paid in the manner provided herein.

(a) If said amount is not delivered and paid to the office of the Finance Officer within seventy-two (72) hours as provided above, the above mentioned fines shall be increased by an amount as established through Resolution of the City Council and be delivered to the office of the Finance Officer.
(b) In computing the 72 hour period as hereinbefore provided, weekends and holidays when the City office is closed shall be excluded from the computation.
(c) If a warrant must be issued against such violator, then he shall be subject to any penalty which may be imposed for the violation of traffic ordinances within the City.

CHAPTER 12.
OFFENSES
ARTICLE 1.
OFFENSES INVOLVING ADMINISTRATION OF GOVERNMENT

Section 12.1-1 – Aiding police
It is the duty of all persons in the City when called upon by any police officer to promptly aid and assist the police in the execution of their duties.

Section 12.1-2 – Assaulting officers
It is unlawful for any person to assault or strike any law enforcement officer of the City while such officer is in the discharge of their duties or to attempt to cause or knowingly cause any bodily injury to a law enforcement officer or other public officer or official engaged in the performance of their duties.

Section 12.1-3 – Resisting or obstructing an officer
No person shall resist or obstruct or attempt to obstruct any law enforcement officer in the performance of any official duty.

Section 12.1-4 – Resisting legal process
No person shall resist the execution or service of any legal process.

Section 12.1-5 – Interfering with officers
It is unlawful for any person to interfere with any law enforcement officer in the performance of any official duty.

Section 12.1-6 – Fleeing from police officer
(a) It is unlawful for any person to willfully fail or refuse to stop or to otherwise flee when given a visual or audible signal to stop by a law enforcement officer.

(b) The signal given by a law enforcement officer may be by hand, voice, emergency light, or siren.

(c) The officer giving such signal shall be in uniform, prominently displaying their badge of office.

(d) For purposes of this section, the term law enforcement officer means county and state law enforcement officers.

Section 12.1-7 – Escape
It is unlawful for any person to escape from lawful confinement or to assist any person so confined to escape such confinement.

Section 12.1-8 – False emergency alarms
No person shall knowingly make or give any false alarm of fire or other emergency by calling or causing to be called a police officer, the fire department, a 911 operator, or any authorized emergency vehicle.

Section 12.1-9 – Impersonation of officer causing injury or fraud
No person shall intentionally impersonate any law enforcement officer or police employee, or any firefighter or any person having special authority by law to perform any act affecting the rights or interests of another, or assume, without authority, any uniform or badge by which such law enforcement officer, employee, firefighter, or person is usually distinguished, and in such assumed character do any act where another person is injured or defrauded.

ARTICLE 2.
OFFENSES INVOLVING PUBLIC PEACE AND ORDER

Section 12.2-1 – Prohibiting indecent exposure

(a) It is unlawful for any person or premises licensed for the sale of alcoholic beverages which includes a licensee authorized to sell malt beverage or wine, while in the presence of any other person to:

(g) Fail to conceal with a fully opaque covering the sexual parts of his or her body, to include the genitals, pubic area, and anus of any person or the nipple and areola of the female breast.

(1) 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 female breast.

(2) Allow erotic dancing which simulates sexual activity.

(b) It is unlawful for any licensee in alcoholic beverages to cause, allow, or permit any person on said licensed premises to violate the provisions of subsection (a) of this section.

(c) It is unlawful for any person or premises licensed for the sale of alcoholic beverages to permit any professional female or male dancer, stripper, or performer to engage in any physical contact with patrons or customers while dancing or performing; and all such dancing or performances shall be confined to a stage or designated area separate and apart from the seating area for patrons and customers.

(d) Any licensee of alcoholic beverages who violates this article shall be subject to a fine, and the licensee shall be subject to suspension or revocation of its license for such violation whether or not a complaint for such violation has been issued.

Section 12.2-2 – Public urination
It is unlawful for any person to urinate in any public place in the City. For purposes of this section, a public place shall be any public or private property which is not within a building.

Section 12.2-3 – Hindering or molesting passersby
No person shall obstruct pedestrian traffic upon any street or alley, or at the entrance of any building or upon any sidewalk in the city.

Section 12.2-4 – Obstructing vehicular traffic

It is unlawful for any person or group of persons to stand on any public street or alley or entrance to any street or alley in such a manner as to obstruct vehicular traffic on any street or alley or to the entrance to any street or alley in the City.

Section 12.2-5 – Disturbing the peace
No person shall disturb or cause to be disturbed the peace of the City or of any person by violent, threatening, or offensive behavior, or by a loud or unreasonable noise or by language reasonably calculated to provoke an immediate breach of the peace, or by assaulting, striking, or attempting to assault or strike another person, or inviting or defying another person to fight or by fighting. No person in possession and present in any premises shall disturb, or cause to be disturbed, the peace by loud or unreasonable noise.

Section 12.2-6 – Unlawful use of Engine Brakes and Compression Brakes
It shall be unlawful for the driver of any vehicle to use or operate or cause to be used or operated within the city limits of the City any engine brake, compression brake, or mechanical exhaust device designed to aid in the braking or deceleration of any vehicle that results in excessive, loud, unusual, or explosive noise from such vehicle.

Section 12.2-7 – Loud and raucous noise
(a) It shall be unlawful for any person to willfully make or cause or allow to be made or allow to be continued any loud and raucous noise.

(b) No person in possession and present in any premises shall make or cause or allow to be made or allow to be continued any loud and raucous noise resulting from a gathering of people.

(c) For purposes of subsection (a) and (b) of this section, the term "loud and raucous noise" shall mean any sound which, because of its volume level, duration and character, annoys, disturbs, injures or endangers the comfort, health, peace or safety of reasonable persons of ordinary sensibilities within the limits of the city. Quieter standards are expected during nighttime hours. The term includes the kinds of noise generated by the activities enumerated in subsection (d) of this section, except as provided in subsection (e) of this section. The term shall be limited to loud and raucous noise heard in any occupied residential unit which is not the source of the noise or upon the yard or driveway of such occupied residential unit, upon the public sidewalks and streets, school or public building or upon the grounds thereof while in use, upon any parking lot open to members of the public as invitees or licensees, and in any event from a location not less than 50 feet from the source of the noise, measured in a straight line from the radio, loudspeaker, voice or other noise source.

(d) Enumeration – The following acts, subject to the exceptions provided in subsection (e) of this section, are declared to be public nuisances in violation of subsections (a) and (b) of this section, namely:

    (1) Using, operating or permitting to be played, used or operated any radio, amplifier, musical instrument, tape player, compact disc, MP3, loudspeaker or other device for the producing or reproducing of sound in such manner as to cause loud and raucous noise.

(2) Yelling, shouting, whistling or singing, or any prolonged sounds made by people at any time or place so as to create a loud and raucous noise between the hours of 10:00 p.m. and 7:00 a.m. on any day of the week.

(e) Exceptions – The term "loud and raucous noise" does not include noise or sound generated by the following:

(1) Cries for emergency assistance and warning calls.

(2) Radios, sirens, horns, and bells on police, fire, and other emergency response vehicles.

(3) Activities on or in municipal facilities and on school or municipal athletic facilities and on or in publicly owned property and facilities, provided that such activities have been authorized by the owner of such property or facilities or their authorized personnel.

(4) Fire alarms and security alarms.

(5) Activities within the “CB” Central Business Overlay District, provided such activities have been authorized by the owner of such property or facilities or their agent and permission has been obtained from the City.

Section 12.2-8 – Indecent Conduct, profanity

It shall be unlawful for any person to appear in any public place in a state of nudity or to indulge in any indecent, lewd, or lascivious conduct or behavior or to commit any indecent, wanton, or filthy act in the presence or hearing of any person or to use vile, profane, or vulgar language in any public place in the presence or hearing of any other person.

ARTICLE 3.
OFFENSES INVOLVING PUBLIC SAFETY

Section 12.3-1 – Discharging weapon and bow and arrow

No person shall willfully discharge any type of firearm, air gun, pellet or BB gun, blow gun, dart gun, or any other gun or shoot a bow and arrow in the City limits, unless one of the following exceptions is met:

(1) The prohibitions of section shall not apply to law enforcement officers in the performance of their duties.
(2) Animal control officers may use a pneumatic powered pellet pistol or rifle to eliminate birds or wild animals which pose a health or safety threat.
(3) Firearms, air guns, pellet or BB guns, blow guns, and dart guns may be used in indoor target ranges where the use thereof does not endanger any person.
(4) Bow and arrow may be used at authorized indoor or outdoor target ranges located at a public facility where the use thereof does not endanger any person.
(5) Special events or demonstrations with prior approval of the City Administrator.

ARTICLE 4.
OFFENSES INVOLVING GRAFFITI AND PROPERTY DAMAGE

Section 12.4-1 – Definitions

Graffiti means any unauthorized inscription, word, figure, painting, or other defacement that is written, marked, etched, scratched, sprayed, drawn, painted, or engraved on or otherwise affixed to any surface of public or private property by any graffiti implement, to the extent that the graffiti was not authorized in advance by the owner or occupant of the property, or, despite advance authorization, is otherwise deemed a public nuisance by the City Council.

Section 12.4-2 – Prohibited acts

Intentional damage to property – It is unlawful for any person to intentionally injure, damage, or destroy public property without the lawful consent of the appropriate governing body having jurisdiction thereof, or private property in which other person have an interest without the consent of such other persons.

Defacement – It is unlawful for any person to apply graffiti to any natural or manmade surface on any City-owned property or, without the permission of the owner or occupant, on any non-City owned property.

Section 12.4-3 – Graffiti as nuisance

(a) The existence of graffiti on public or private property in violation of this Article is expressly declared to be a public nuisance and, therefore, is subject to the removal and abatement provisions specified in this Article as well as any other law which permits abatement of a public nuisance.

(b) It is the duty of both the owner of the property to which the graffiti has been applied and any person who may be in possession or who has the right to possess such property to at all times keep the property clear of graffiti.

Section 12.4-4 – Removal of graffiti by perpetrator*

Any person applying graffiti on public or private property shall have the duty to remove the graffiti within 24 hours after notice by the City or private owner of the property involved. Such removal shall be done in a manner prescribed by any City official. Any person applying graffiti shall be responsible for the removal or for the payment for the removal of the graffiti. Failure of any person to remove graffiti or pay for the removal shall constitute an additional violation of this Article. Where graffiti is applied by an unemancipated minor, the parents or legal guardian shall also be responsible for such removal or for the payment for the removal of the graffiti.

Section 12.4-5 – Removal of graffiti by property owner or City

If graffiti is not removed by the perpetrator according to **Section 12.4-4**, graffiti will be removed pursuant to the following provisions:

(a) It is unlawful for any person who is the owner or who has primary responsibility for control of property or for repair or maintenance of property in the City to permit property that is defaced with graffiti to remain defaced for a period of ten days after service by the City of notice of the defacement. The notice shall contain the following information:

(1) The street address or legal description of the property sufficient for identification of the property;

(2) A statement that the property is a potential graffiti nuisance property with a concise description of the conditions leading to the finding; and

(3) A statement that the graffiti must be removed within ten days after receipt of the notice and that if the graffiti is not abated within that time the City may declare the property to be a public nuisance, subject to nuisance abatement.

(b) Exceptions to property owner responsibility – The removal requirements of subsection (a) above shall not apply if the property owner or responsible party can demonstrate that: they lack the financial ability to remove the defacing graffiti.

(c) Right of City to remove

(1) Whenever the City becomes aware of graffiti or is notified and determines that graffiti is located on publicly or privately owned property viewable from a public place, the City shall be authorized to use public funds for the removal of the graffiti, or for the painting or repairing of the article affected by the graffiti, but shall not authorize or undertake to provide for the painting or repair of any more extensive an area than that where the graffiti is located, unless the City Administrator determines in writing that a more extensive area is required to be repainted or repaired in order to avoid an aesthetic disfigurement to the area or neighborhood, or unless the property owner or responsible party agrees to pay for the costs of repainting or repairing the more extensive area.

(2) Prior to entering upon private property or property owned by a public entity other than the City for the purpose of graffiti removal, the City shall attempt to secure the consent of the property owner or responsible party. If the property owner or responsible party fails to remove the offending graffiti within the time specified by this Article, or if the City has requested consent to remove or paint over the offending graffiti and the property owner or responsible party has refused consent for entry on terms acceptable to the City and consistent with the terms of this section, the City may commence abatement and cost recovery proceedings for the graffiti removal according to state law or City Ordinances which provide further abatement procedures for public nuisances.

CHAPTER 13.
CITY OWNED PUBLIC UTILITIES
ARTICLE 1.
IN GENERAL

Section 13.1-1 – Definitions

For the purposes of this chapter the term "utility" means and includes water, sewer, storm sewer, electricity, and waste collection, furnished by the City to utility consumers.

Section 13.1-2 – Charges, rates, deposits, regulations, etc., saved from repeal

Nothing contained in this Code shall be construed to repeal or otherwise affect in any manner any Ordinance prescribing the charges to be paid for taps and connections to the various utility services and utilities furnished by the City, or the rates and charges to be paid for the utilities rendered by the City, or the amount of the deposits required by the City to ensure the payment of such rates and charges, or rules, regulations and specifications governing the use, consumption and enjoyment of such utility services, and all such Ordinances, rules, regulations and specifications are hereby saved from repeal and recognized as continuing in full force and effect to the same extent as if set out at length in this Code.

Section 13.1-3 – Termination of service authorized

The City shall have the right to disconnect or refuse to connect or reconnect any utility service for the following reasons:

(a) Failure to comply with the applicable provisions of law
(b) Violation of the rules and regulations pertaining to utility service
(c) Nonpayment of bills or accounts
(d) Willful or negligent waste of service due to improper or imperfect pipes, fixtures, appliances or other utility equipment
(e) Intentionally damaging any meter, seal or other equipment controlling or regulating the supply of utility service
(f) Theft or diversion of service or use of a utility service without payment
(g) Premises which have been vacated

Section 13.1-4 – Liability of City

The City is not liable for any damage to the property of any utility customer due to backflow of the wastewater system, failure of the water supply, water quality, interruption of utility service, including interruption of electricity service, or for any cause which is not within the direct control of the City.

Section 13.1-5 – Service not available to certain debtors

In accordance with criteria established by the utility board, the City may decline to furnish utility service to any person who may be in debt to the City for failure to pay any lawful utility charge.

Section 13.1-6 – Use presumed

A property or location which is connected to any utility service of the City shall be presumed to be using such service and the owner or occupant shall be charged for utility service provided the property or location remains connected with the utility service.

Section 13.1-7 – Right of entry

An authorized employee of the City may inspect any property or location which is supplied with any utility service by the City at any time for the purpose of protecting the utility service from improper, unlawful, or unauthorized use.

Section 13.1-8 – Right of entry; inspection; search warrant

(a) Right of entry – Authorized City employees may enter and have free access to any residence or structure where utility service is connected or supplied for the purpose of reading or maintenance of meters. Entry will be made during normal business hours of 8:00 a.m. to 5:00 p.m., Monday through Friday, unless unusual or emergency circumstances require otherwise. If entry is required at other times, the authorized utility employee will give notice to a property owner or tenant before entering the property.

(b) Inspection and sampling – The authorized employee shall have the right to enter the premises of any utility user to determine whether the utility user is complying with all requirements of this Chapter and the utility regulations of the City and with any wastewater discharge permit or order issued under this Chapter or pursuant to the rules and regulations governing the municipal utilities. Utility users must allow ready access to all parts of the premises for the purpose of inspection, sampling and the performance of any additional duties. In addition, the authorized employee of the utility may require the following:
   (1) The right to set up on the utility user's property or require installation of such devices as are necessary to conduct sampling and/or metering of the utility user's operations.
   (2) The right to require the utility user to install monitoring equipment as necessary, which shall be maintained at all times in a safe and proper operating condition by the utility user at the user's own expense. All devices used to measure wastewater flow and quality shall be calibrated to ensure their accuracy.
   (3) Any temporary or permanent installation that hampers convenient access to the facility to be inspected and/or sampled shall promptly be removed by the utility user at the written or verbal request of the utilities manager or an authorized utility employee. The cost of clearing such access shall be borne by the utility user.
   (4) Unreasonable delays in allowing the utilities manager or an authorized utility employee access to the utility user's premises is a violation of this Chapter.

(c) Inspection or search warrant – If the authorized employee has been refused access to a building, structure, property, or any part thereof, and is able to demonstrate probable cause to believe that there may be a violation of this Chapter or of the rules or regulations governing the municipal utilities, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the City designed to verify compliance with this Chapter or any permit or order issued under this Chapter, or to protect the overall public health, safety and welfare of the City, then the City may seek issuance of either an inspection warrant or a search warrant from a magistrate or circuit court judge of the Third Judicial Circuit located in Brookings County, South Dakota.

Section 13.1-9 – Obtaining information

The City Administrator or designee is 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 of the information in question might result in an advantage to competitors.

Section 13.1-10 – Safety rules
While performing the necessary work on private properties in accordance with this Chapter, the City Administrator or designee 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 this Chapter.

Section 13.1-11 – Access to easements
The City Administrator or designee 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.

Section 13.1-12 – Damage to utility systems
No person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure or equipment which is a part of the City's electric, water, or wastewater facilities.

ARTICLE 2.
ELECTRIC UTILITY

Section 13.2-1 – Utility Rates
The rates for electrical, water, wastewater, and garbage services shall be established by Resolution of the City Council.

Section 13.2-2 – Load Management System
There is hereby established a Load Management System for all residential and commercial electrical consumers of power from the City, hereinafter known as consumers within this Section, who utilize said power for electric water heaters. The purpose of the Load Management System is to control the consumption of electric power within the City's electric distribution system during the periods of maximum or peak consumption.

Required equipment

(a) The City shall install in each home or commercial building which has controllable devices to which it distributes electric power a load control receiver, the cost of said installation to be an obligation of the City.
(b) Said receivers shall be connected to all electric water heaters.
(c) The City, through its employees and agents, shall have the right to enter upon the consumer's premises upon written or oral notice to said consumer, for the purpose of installing, maintaining, relocating, repairing, and removing said receivers.
(d) The receivers shall be considered fixtures and shall remain the property of the City of Volga after installation on the consumer's premises.

Duties of Consumer
(a) It shall be the duty of the consumer to allow City employees and agents access to their premises, upon reasonable written or oral notice for the purpose of installing, maintaining, relocating, repairing, and removing said receiver.
(b) Consumer shall not tamper with or alter any receiver.

The City shall furnish the receivers to the consumer who shall be responsible for installing the same at the consumer's expense.

Section 13.2-3 – Adoption of PURPA

The City of Volga adopts the Interconnection Process and Requirements for Qualifying Facilities to Implement Co-Generation of Electricity and Small Power Production Facilities Under the Public Utility Regulatory Policies Act ("PURPA"), which is by reference made a part thereof.

ARTICLE 3.
WASTEWATER UTILITY

DIVISION 1. IN GENERAL

Section 13.3-1 – Definitions

The following words, terms, and phrases, when used in this Article, shall have the meanings provided in this Section, except where the context clearly indicates a different meaning:

Building sewer – the extension from the building drain to the public sewer or other place of disposal, also called house connection.

Easement – an acquired legal right for the specific use of land owned by others.

Floatable oil – oil, fat, or grease in a physical state such that it will separate by gravity from wastewater by treatment in an approved pretreatment facility. A wastewater shall be considered free of floatable fat if it is properly pretreated and the wastewater does not interfere with the collection system.

Garbage – the animal and vegetable waste resulting from the handling, preparation, cooking, and serving of foods.

Industrial wastes – the wastewater from industrial processes, trade, or business as distinct from domestic or sanitary wastes.

Natural outlet – any outlet, including storm sewers, into a watercourse, pond, ditch, lake, or other body of surface or groundwater.

Properly shredded garbage – the wastes from the preparation, cooking, and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than k inch (1.27 centimeters) in any dimension.

Public sewer – a common sewer controlled, owned and operated by the City.

Sanitary sewer – shall mean a sewer that carries liquid and water-carried wastes from residences, commercial buildings, industrial plants, and institutions together with minor quantities of ground, storm, and surface waters that are not admitted intentionally.

Sewage – the spent water of a community. The preferred term is "wastewater."

Sewer – a pipe or conduit that carries wastewater or drainage water.

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 flows during normal operation and shall adversely affect the collection system and/or performance of the wastewater treatment works.

Storm drain a drain or sewer for conveying water, groundwater, subsurface water, or unpolluted water from any source, also sometimes termed “storm sewer.”

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.

Unpolluted water – 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.

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.

Wastewater facilities – the structures, equipment, and processes required to collect, carry away, and treat domestic and industrial wastes and dispose of the effluent.

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."

Watercourse – a natural or artificial channel for the passage of water either continuously or intermittently.

Section 13.3-2 – Owner must connect

The owner of any house, building, or property used for human occupancy, employment, recreation, or other purpose which is located within the City and abutting on any street, alley or right-of-way in which there is now located a public sewer or in which there may, in the future, be located a public sanitary sewer, is hereby required, at the owner's expense, to install suitable toilet facilities therein, and to connect such facilities directly with the proper municipal sewer within 90 days after the date of official notice to do so, provided that the municipal sewer is within 200 feet of the property line.

Section 13.3-3 – Discharge of stormwater, surface water, groundwater, etc.

(a) No person may discharge or cause to be discharged any stormwater, surface water, roof runoff, subsurface drainage, cooling water, groundwater, or untreated industrial process waters to any sanitary sewer. At no time shall the abovementioned water be allowed to be pumped or drained to any sanitary sewer.

(b) No person may make connections of roof downspouts, exterior foundation drains, areaway drains, or other sources of surface runoff or groundwater to a building drain which in turn is connected directly or indirectly to a public sanitary sewer.

(c) If sump pumps are required for floor drains only, the sump pump must be properly trapped and connected directly to the sanitary sewer.

(d) Where there is a sump pump located for the purpose of drainage of surface or subsurface water, all new residential or commercial construction shall have a pump discharge installed and connected to a drainage facility other than the sanitary sewer.

(e) Stormwater and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as storm sewers, or to a natural outlet approved by the City.

Section 13.3-4 – Prohibited wastes

(a) Except as provided in this Section, no person may discharge or cause to be discharged any of the following described waters or wastes to any municipal sewer:
   (1) Any liquid or vapor having a temperature higher than 150 degrees Fahrenheit.
   (2) Any water or waste which may contain more than 100 parts per million, by weight, of fat, oil or grease.
   (3) Any gasoline, benzine, naphtha, fuel oil or other flammable or explosive liquid, solid or gas.
   (4) Any garbage that has not been properly shredded.
   (5) Any ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, paunch manure, or any other solid or viscous substance capable of causing obstruction to the flow in sewers or other interference with the proper operation of the sewerage system.
   (6) Any waters or wastes containing a toxic or poisonous substance in sufficient quantity to injure or interfere with any sewage treatment process, or which constitute a hazard to humans or animals or which create any hazard in the receiving waters of the sewerage treatment plant.
   (7) Any waters or waste containing suspended solids of such character and quantity that unusual attention or expense is required to handle such materials at the sewage treatment plant.
   (8) Any noxious or malodorous gas or substance capable of creating a public nuisance.

(b) Grease, oil, and sand interceptors shall be provided when, in the opinion of the City Administrator or the Administrator's authorized representative, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any inflammable wastes, sand and other harmful ingredients. However, such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the City and shall be located so they may be readily and easily accessible for cleaning and inspection.
(c) Grease and oil interceptors shall be constructed of impervious materials capable of withstanding abrupt and extreme changes in temperature. They shall be of substantial construction, watertight, and equipped with easily removable covers which when bolted in place shall be gastight and watertight.
(d) All grease, oil, and sand interceptors shall be maintained by the owner, at the owner's expense, and shall be in continuously efficient operation at all times.
(e) No person or local government unit may discharge or cause or allow to be discharged into the City disposal system or any connected disposal system any wastes which will cause the influent flow of the wastewater treatment plant to exceed the concentrations set forth in sewer use rules and regulations.

Section 13.3-5 – Permission required
No unauthorized person shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining written permission from the City.

Section 13.3-6 – Costs borne by owner
All costs and expense incidental to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

Section 13.3-7 – Connecting to old building sewers
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 Article.

Section 13.3-8 – Supervision required when connecting
The owner shall notify the City when the building sewer is ready for inspection and connection to the public sewer. The connection and testing shall be made under the supervision of the City.

Section 13.3-9 – Excavations
All excavations for building sewer installation shall be adequately guarded with barricades and light 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.

Section 13.3-10 – Pretreatment of wastewater
Where pretreatment or flow-equalizing facilities are provided or required for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his expense.

Section 13.3-11 – Structures needed
When required by the City, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable structure together with such necessary 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 City. The structure shall be installed by the owner at his expense and shall be maintained by him so as to be safe and accessible at all times.

Section 13.3-12 – Information required
The City may require a user of sewer services to provide information needed to determine compliance with this Article. These requirements may include:
(a) Wastewaters discharge peak rate and volume over a specified time period
(b) Chemical analyses of wastewaters
(c) Information on raw materials, processes, and products affecting wastewater volume and quality.
(d) Quantity and disposition of specific liquid, sludge, oil, solvent, or other materials important to sewer use control
(e) A plot plan of sewers of the user's property showing sewer and pretreatment facility location
(f) Details of wastewater pretreatment facilities
(g) Details of systems to prevent and control the losses of materials through spills to the municipal sewer

Section 13.3-13 – Testing methods
All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this Article 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.

Section 13.3-14 – Special agreements
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.

Section 13.3-15 – Private sanitary sewer service line ownership
A private sanitary sewer service line is a pipe that connects the plumbing in a home or business to the public sanitary sewer main. The property owner owns the private sewer line, up to and including the connection to the public sanitary sewer main. Any maintenance required to the private sewer line that connects to the public sanitary sewer main shall be at the property owner’s expense.

DIVISION 2. PRIVATE WASTEWATER DISPOSAL

Section 13.3-16 – Private sewage disposal—When permissible

If a municipal sanitary sewer is not available for connection as required by the provisions of this Article, the building sewer shall be connected to a private sewage disposal system which complies with the provisions of this Article.

Section 13.3-17 – Permit required

Before commencement of construction of a private sewage disposal system, the owner shall first obtain a written permit from the City Administrator. The applicant shall provide any plans, specifications, and other information as deemed necessary by the City Administrator. The City may request a permit and inspection fee as deemed necessary.

Section 13.3-18 – Inspection

A permit for a private sewage disposal system shall not become effective until the installation is completed to the satisfaction of the City. The City Administrator or authorized representative shall be allowed to inspect the work at any stage of construction and, in any event, the applicant for the permit shall notify the City when the work is ready for final inspection and before any underground portions are covered. The inspection will be made within 48 hours of the receipt of notice by the City.

Section 13.3-19 – Specifications

The type, capacities, location, and layout of a private sewage disposal system shall comply with all recommendations of the state department of health. No permit may be issued for any private sewage disposal system employing subsurface soil absorption facilities where the area of the lot is less than 20,000 square feet. No septic tank or cesspool shall be permitted to discharge to any municipal or natural outlet.

Section 13.3-20 – Abandonment

At such time as a City wastewater system becomes available to a property served by a private sewage disposal system, a direct connection shall be made to the City wastewater system in compliance with this Chapter and any septic tanks, cesspools, and other similar private sewage disposal facilities shall be abandoned and filled with suitable material.

Section 13.3-21 – Liability for expense

The owner of the property served by a private sewage disposal facility shall operate and maintain the private sewage disposal facility in a sanitary manner at all times and at no expense to the City.

Section 13.3-22 – Additional requirements

No statement contained in this Article shall be construed to interfere with any additional requirements of private sewage disposal facilities that may be imposed by any other Ordinance or regulation of the City.

ARTICLE 4.
WATER UTILITY

Section 13.4-1 – Owner must connect

The owner of any house, building, or property used for human occupancy, employment, recreation, or other purpose which is located within the City and abutting on any street, alley or right-of-way in which there is now located a public water supply system or in which there may, in the future, be located a public water supply system, is hereby required, at the owner's expense, to install suitable plumbing fixtures within, and to connect such facilities directly with the proper municipal water system within 90 days after the date of official notice to do so, provided that the municipal water system is within 200 feet of the property line.

Section 13.4-2 – Service
Not more than one house or premise shall be supplied from one tap or one service pipe except by permission of the City Administrator and not then, in any case, unless provision is made so that such premises can be shut off independently of every other house or premises. No consumer shall supply water to other families, nor suffer them to take water off the premises, or after water is introduced to any premises, shall any person make taps, connections, extensions, or attachments beyond the premises where first installed without permission from the City Administrator.

Section 13.4-3 – Hydrants
All hydrants erected for the purpose of extinguishing fires are hereby declared public hydrants and no person or persons except members of the Fire Department, authorized law enforcement official, or authorized employees of the City shall open any of said hydrants or attempt to draw water from the same, or at any time attempt to uncover or remove any protection from or interfere with or case to damage any of the hydrants.

Section 13.4-4 – Restrictions The City reserves the right to at any time restrict the use of water from the water system and to prevent the use of water from the water system for purposes which, in the sole discretion of the City Council, may jeopardize the City's ability to meet its objectives of providing adequate amounts of potable water to the community and protecting the health, safety, general welfare of the community, and to maintain maximum fire protection. The Council shall authorize the imposition of water conservation measures established in Section 13.4-5. The City Council may grant exceptions from any water restrictions imposed if it finds and determines that the restrictions are not warranted by weather conditions or would cause an unnecessary and undue economic or other hardship to the applicant or to the public. Any person in violation of this Section shall be subject to a fine as established in Section 13.4-8.

Section 13.4-5 Water Conservation Measures Established For the purposes of regulating and conserving the use of water, the following measures are established and shall be enforced.

Water Alert Levels. The Council shall authorize the imposition of these restrictions. The Finance Officer shall notify municipal water system users of the Council's determination by publishing notice in the official newspaper and on the City's Website. The day and time for sprinkling, watering or irrigating yards and grass by any method may be regulated or prohibited as follows:

1. **Level 1** - Lawn watering restricted to three (3) days per week using the watering

schedule below. The last digit of the address shall determine the authorized watering date. Water use shall occur before 10:00 a.m. or after 5:00 p.m. No watering is permitted other than pursuant to the following chart:

Address ending in:	Day watering may occur:
0, 2, 4, 6, 8	Monday
1, 3, 5, 7, 9	Tuesday
0, 2, 4, 6, 8	Wednesday
1, 3, 5, 7, 9	Thursday
0, 2, 4, 6, 8	Friday
1, 3, 5, 7, 9	Saturday
No Watering Allowed	Sunday

2. **Level 2** - Lawn watering restricted to two (2) days per week using the watering schedule below. The last digit of the address shall determine the authorized watering date. Water use shall occur before 10:00 a.m. or after 5:00 p.m. No watering is permitted other than pursuant to the following chart:

Address ending in:	Day watering may occur:
0, 1, 2	Monday
3, 4, 5	Tuesday
6, 7, 8, 9	Wednesday
0, 1, 2	Thursday
3, 4, 5	Friday
6, 7, 8, 9	Saturday
No Watering Allowed	Sunday

3. **Level 3** - Lawn watering restricted to one (1) day per week using the watering schedule below. The last digit of the address shall determine the authorized watering date. Water use shall occur before 10:00 a.m. or after 5:00 p.m. No watering is permitted other than pursuant to the following chart:

Address ending in:	Day watering may occur:
0 or 1	Monday
2 or 3	Tuesday
4 or 5	Wednesday
6 or 7	Thursday
8 or 9	Friday
No Watering Allowed	Saturday
No Watering Allowed	Sunday

4. **Level 4** - No lawn watering and any other non-essential water uses determined by the Council permitted.

Section 13.4-6 Violations. It shall be unlawful for any person to violate any of the provisions of this ordinance. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such under the Code of Ordinances of the City of Volga. Any individual found in violation of this ordinance shall be subject to a penalty fee of $100.00 for each violation, payable within five business days of the time when the notice of violation was given to the office of the Finance Officer in full resolution of the violation. Upon failure of the individual to pay the penalty fee to the office of the Finance Officer within the time period indicated, and upon conviction of a violation of this ordinance, the individual in violation shall be subject to a fine in Magistrate Court in the amount of $200.00 plus court costs. The individual cited has the right to contest the penalty or citation and plead "not guilty" and have the matter transferred to Magistrate Court. The penalties in this ordinance may be adjusted by resolution of the City Council.

Section 13.4-7 – Unauthorized Uses
Any unauthorized person or persons who shall turn on the water in any hydrant, or shall climb on the water tower or the ladder thereon, or shall use water unnecessarily when restrictions apply, or shall turn on the supply of water to a service pipe from which the which the same has been turned off by the City for non-payment of water rates, or shall unnecessarily use water during the time of fires, shall be guilty a misdemeanor and upon conviction thereof be charged accordingly as allowed by law.

Section 13.4-8 – Extensions
Any developer or subdivider of any lots within the City limits shall construct a complete water distribution system which shall include but not be limited to water mains, fire hydrants, valves, and individual services which would adequately serve all lots and this system would be properly connected to the existing public water supply and must meet the requirements of the State Department of Environment and Natural Resources.

Section 13.4-9 – Private water service line ownership
A private water service line is a pipe that connects the plumbing in a home or business to the public water system main. The property owner owns the private water line from the home to the water main. Any maintenance, repairs or replacement required to the private water line that connects to the water main shall be at the property owner’s expense.

All costs and expenses for the installation and connection of the private water service line shall be borne by the owner. The owner shall indemnify the City for any loss or damage that may be directly or indirectly caused by the installation of the private water service line.

All owners must, at their own expense, keep their private water line pipe from the point of connection with the City main to their premises, and all other apparatus, in good working order, free from unmetered leaks and properly protected from frost and other dangers. If leaks develop, the owner must, at the owner's own expense, repair the leak within a reasonable time. If, in the opinion of a city staff member, the owner is negligent in repairing unmetered water leaks, the City may order the work performed at once and all costs of such work shall be charged to and paid by the owner. No claim will be paid by the City in the event of a break in a private water

line or apparatus or from any other damage that may result from shutting off water for repairs or any other purpose, or for any variation in water pressure. No reduction will be made from regular water rates for water usage or loss resulting from leaking pipes or fixtures.

Sections in Chapter 14 refer to Ordinance 2019-05 unless otherwise noted.

CHAPTER 14.
PLANNING AND SUBDIVISION REGULATIONS
ARTICLE 1.
IN GENERAL

Section 14.1-1 – Definitions

The following words, terms, and phrases, when used in this Chapter, shall have the meanings provided in this Section, except where the context clearly indicates a different meaning:

Alley: A public or private right-of-way which affords only a secondary means of access to abutting property.

Arterial street: A street that has the capacity to carry large volumes of traffic quickly and is designated as such on the major street plan.

Building: Any structure having a roof, supported by columns or walls, for shelter or enclosure of persons or property.

Collector street: A street that is a primary connector between arterial streets and is designated as such on the major street plan.

Comprehensive plan: Any legally adopted part or element of the comprehensive plan of the City of Volga. This may include but is not limited to the zoning ordinance, subdivision ordinance, community facilities plan, major street plan, capital improvements plan, and land use plan.

Cul-de-sac: A local street with only one outlet having an appropriate terminal for safe and convenient reversal of traffic movement.

Dedicated: A grant of land to the public for perpetual use by the public.

Detention basin: A facility within an urban development which is designed to hold stormwater runoff for various periods of time.

Developer (or subdivider): An owner or agent of an owner of property who desires to subdivide, establish, alter, change or improve the use of property.

Double frontage: A lot which abuts a street on two opposite sides (not a corner lot).

Easement: Authorization by a property owner for the use by another, and for a specified purpose, of any designated part of the property.

Local street: A street intended to provide access to other streets from individual properties and not intended to be used for through traffic.

Lot: A piece, plot or parcel of land, or group of abutting and contiguous parcels of land, established by survey, plat or deed, occupied or to be occupied by a building, or a unit group of buildings and accessory buildings thereto, and having its frontage on a dedicated public street.

Major drainageway: The main corridor for stormwater flow through developments. Major drainageways are identified as intermittent streams on USGS quadrangle maps, or as otherwise approved by the city engineer.

Major street plan: The major street plan adopted through the transportation planning process approved by the city council.

Monument: A boundary marker of concrete, permanently planted and firmly fixed in the ground placed so that the top of the monument is flush with natural ground. The monument shall be six inches in diameter or six inches square and 24 inches in depth. A steel rod, five-eighths-inch by 12 inches, shall be placed at the center point on the monument.

Planting basin: An area in the boulevard that extends to within 12 inches of any abutting sidewalk, driveway or curb.

Plat: A map, or representation on paper, of a piece of land subdivided into lots, parcels, tracts or blocks, including streets/roads, commons and public grounds, if any, all drawn to scale and complete with the owner's dedication and all applicable acknowledgements.

Preliminary subdivision plat: Drawing or drawings indicating the proposed layout of the lots, blocks and public rights-of-way within a subdivision.

Primary access: A hard surface roadway, dedicated as a right-of-way or as a private street, that connects to a street network and provides vehicular ingress/egress.

Private street/road: A street or road that has not been dedicated, but rather reserved as private access to property. A private street/road is owned and maintained by the property owners which it serves.

Reverse frontage lot: A lot, among a group of double frontage lots, that contains a dwelling unit that is oriented in the opposite direction from the adjacent dwellings so that its front yard abuts the adjacent rear yards and its rear yard abuts the adjacent front yards.

Right-of-way: A strip of land occupied by a street, railroad, pedestrian walkway or other special use. The use of the term right-of-way for platting purposes shall mean that every right-of-way hereafter established and shown on a plat is to be separate and distinct from the lots or parcels adjoining such right-of-way and not included within the dimensions or area of such lots or parcels.

Secondary access: A surfaced roadway, designed and constructed in accordance with the City of Brookings Engineering Design Standards Manual and connected to the street network that provides an alternative means of vehicular ingress/egress to/from an area which would otherwise only be accessible by a single primary access. Secondary access shall be evidenced by either a dedicated street right-of-way or a recorded public access easement.

Structures: Anything constructed or erected with a fixed location on the ground or attached to something having a fixed location on the ground. Among other things, structures include buildings, walls, fences and signs.

Subdivider: See developer.

Subdivision: The division of any tract or parcel of land into two or more lots platted for the purpose of transfer of ownership, or building development, whether future or immediate; or any division of land involving a new street or road regardless of parcel size or the number of parcels.

Section 14.1-2 – Title

These regulations may be referred to as the "Subdivision Regulations of the City of Volga and the joint jurisdictional area", or as the "Subdivision Regulations."

Section 14.1-3 – Purpose
It is the purpose of this Chapter to regulate the subdivision of land in order to coordinate streets within subdivisions and with other subdivisions and uses, to provide adequate open space, to efficiently distribute population and traffic, to provide water and sanitation facilities, to manage storm drainage and flood control, to prevent haphazard and premature land subdivision, to promote the harmonious development of the municipality and its environment and to conform with the comprehensive plan.

Section 14.1-4 – Authority
In accordance with SDCL Chapters 11-3, 11-6 and any other authority provided by law, the City does hereby exercise the power and authority to approve or disapprove plats for the subdivision of land within the City and for land in the area of extraterritorial jurisdiction.

Section 14.1-5 – Jurisdiction
(a) These regulations shall apply to all subdivisions of land, as defined herein, located within the City, except as specifically provided in this Chapter.
(b) It is unlawful for any person having control of any land within the City to subdivide or lay out such land in lots, unless by plat, in accordance with the laws of the State of South Dakota and the regulations contained herein.

Section 14.1-6 – Subdivision regulations for streets and utilities
The recommended subdivision regulations may include requirements as to the extent and the manner in which the streets of the subdivision shall be graded and improved. Water, sewer, and other utilities, mains, piping, connections, or other facilities shall be installed as a condition precedent to the approval of the plat. The regulations may provide for the tentative approval of the plat previous to such improvements and installation, but any such tentative approval shall not be entered on the plat.

Such regulations may provide that, in lieu of the completion of such work and installations previous to the final approval of the plat, the City Council may accept a bond or letter of credit, in an amount and with surety and conditions satisfactory to it, providing for and securing to the City the actual construction and installation of such improvements and utilities within a period specified by the City Council and expressed in the bond, or development agreement which shall accompany the letter of credit; and the City is hereby granted the power to enforce such bonds, development agreements, and letters of credit by all appropriate legal and equitable remedies.

Such regulations may provide, in lieu of the completion of such work and installations previous to the final approval of the plat, for an assessment or other method whereby the City is assured that the work, improvement, and installations are made at the cost of the owners of the property within the subdivision.

Section 14.1-7 – Street construction approval*

The City shall not accept, lay out, open, improve, grade, pave, or light any street or lay or authorize the laying of water mains, sewers, connections, or other facilities or utilities in any street within the City unless such street:

(a) has been accepted or opened,
(b) has or shall have otherwise received the legal status of a public street prior to the adoption of a comprehensive plan, or
(c) unless such street corresponds in its location and lines with a street shown on a subdivision plat approved by the City Council or on a street plan made and adopted by the Planning Commission.

However, the City Council may locate and construct or may accept any other street if it is first submitted to the Planning Commission for approval. If approved by the Planning Commission or approved by not less than two-thirds (2/3) of the membership of the City Council following disapproval of the Planning Commission, said street shall have the status of an approved street as fully as though it had been originally shown on a subdivision plat approved by the Planning Commission.

Section 14.1-8 – Building construction

No building permit shall be issued for and no building shall be erected on any lot within the territorial jurisdiction of the Planning Commission unless the street giving access to the lot in which said building is proposed to be placed has been approved as a street in accordance with **Section 14.1-7**. Any building erected in violation of this Section shall be deemed an unlawful structure and the City or other governing body may bring action to enjoin such erection or cause it to be vacated or removed.

Section 14.1-9 – Variances

The Planning Commission may reduce or otherwise vary the requirements of these regulations whenever it encounters the situation described below. In granting such variances, the Planning Commission may require the conditions it determines are necessary to satisfy the basic objectives of the particular regulations. Any variance granted by the Planning Commission shall be noted in its official minutes.

(a) Hardship – Where the Planning Commission finds that extraordinary hardships or particular difficulties may result from strict compliance with these regulations, it may, after written application by the developer, grant variances to the regulations subject to specified conditions so that substantial justice may be done and the public interest secured. Such variances shall not have the effect of nullifying the intent and purpose of these regulations or the comprehensive plan. The planning commission shall not grant variances to these regulations unless they make findings based upon evidence presented to them in each specific case that:

    (1) Because of unusual surroundings, shape, or topographical conditions of the specific property, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of the regulations were adhered to.

    (2) The conditions upon which the request for a variance is based are unique to the property and are not applicable, generally, to other property and have not been created by any person having an interest in the property.

(3) The purpose of the variance is not based exclusively upon a desire for financial gain.

(4) The granting of the variance will not be detrimental to the public's health, safety, or welfare or injurious to property or improvements in the neighborhood in which the property is located.

(b) Large scale residential developments – The standards and requirements of these regulations may be modified by the Planning Commission in the case of a plan for a new residential neighborhood which, in the judgment of the Planning Commission, complies with the objectives of the comprehensive plan and zoning ordinance.

(c) Design innovations – From time to time subdivisions may be designed to provide unusual amenities and at the same time fail to conform strictly to the provisions of these regulations. The Planning Commission may waive certain requirements of these regulations in approving subdivisions involving detailed and workable design innovations that would yield an enhanced living environment for future occupants.

Section 14.1-10 – Enforcement
It shall be the duty of the City Administrator to enforce these regulations and to bring to the attention of the City Planning Commission any violations or lack of compliance herewith.

No owner or agent of the owner of any parcel of land located in a proposed subdivision shall transfer or sell any such parcel before a plat of such subdivision has been approved by the City Council in accordance with the provisions of these regulations and filed with the County Register of Deeds.

No building permit shall be issued for the construction of any building or structure located on a lot or plat subdivided or sold in violation of the provisions of these regulations, and no excavation of land or construction of any public or private improvements shall take place or be commenced except in conformity with the regulations.

ARTICLE 2.
SUBDIVISION APPLICATION PROCEDURE AND APPROVAL PROCESS

DIVISION 1. IN GENERAL

Section 14.2-1 – Plat approval process
All proposed subdivision plats must be approved by the City through a three-step development process: an initial, informal discussion meeting with the City Administrator, preparation and submission of a preliminary plat of the proposed subdivision, and preparation and submission of a final plat of the subdivision.

(a) Initial meeting – Prior to the submission of the preliminary plat to the Planning Commission, the developer shall present a sketch of the proposed plan to the City Administrator for discussion and comments regarding the requirements for the general layout of streets/roads, street improvements, parks, trails, and open spaces, sewerage, availability of services and similar matters.

(b) Preliminary plat – Based on the discussion during the initial meeting with the City Administrator, the applicant may submit the preliminary plat for approval. The preliminary plat shall provide all of the information indicated in Division 2 of this Chapter. The plat will be subject to review and approval by the Planning Commission prior to approval by the City Council. Either all or a portion of the preliminary plat may be final platted.
(c) Final plat – The final plat shall consist of the final layout of all lots and blocks, rights-of-way, and include all easements and other items which may be required by the City. A final utility plan, a final storm drainage study and plan, grading plan, and a groundwater control plan may also be required. The final plat will be subject to review and approval by the Planning Commission prior to approval by the City Council.

Section 14.2-2 – Waiving the preliminary plat
The requirement for a preliminary plat may be waived by the City Administrator if the proposed plat or replat contains only a small number of lots and no new rights-of-way or changes to existing rights-of-way.

Section 14.2-3 – Replats
If the land proposed for platting is a resubdivision, it shall require a preliminary plat and a final plat of the resubdivision, requiring the same review and approval procedures as the preliminary plat and the final plat. The City Administrator may waive the requirements for a preliminary plat.

Section 14.2-4 – Filing fees
A filing fee shall be deposited at the City for all preliminary plats, final plats, and replats. Reasonable fees sufficient to cover the costs of administration, and similar matters shall be charged to applicants for the preliminary plat and final plat approval. The amount of fees charged shall be set forth by Resolution of the City Council. Fees established in accordance with this section shall be paid upon submission of a signed application.

Section 14.2-5 –Initial Meeting
Before filing a preliminary plat, the subdivider shall consult with the City Administrator for advice regarding general requirements, minimum standards of design, and required improvement as set forth in this Chapter. A sketch of the proposal shall be submitted. The subdivider shall also submit a location map showing the relationship of the proposed subdivision to existing or platted streets and existing community facilities. This informal review should prevent unnecessary costly revisions in the layout and development of the subdivision. The informal advisory meeting does not require formal application, fee, or filing of plat with the Planning Commission.

DIVISION 2. PRELIMINARY PLAT APPROVAL

Section 14.2-6 – Preliminary plat approval in general
After meeting informally with the City Administrator, the developer shall cause to be prepared a preliminary plat prior to the making of any street improvements or the installation of any utilities.

Section 14.2-7 – Preliminary plat procedure

(a) Three (3) copies of the preliminary plats and the required supplemental material shall be filed with the City Administrator who shall transmit them to the Planning Commission. Such filing shall take place at least ten (10) days prior to the meeting of the Planning Commission at which time it is to be considered.

(b) The Planning Commission shall study the said preliminary plat to see if it is consistent with the standards set forth in this Ordinance. Following a public hearing before due consideration by the Planning Commission, the Commission shall transmit all copies of the preliminary plat to the City Council, together with its recommendations at least forty-five (45) days after receipt thereof. Said recommendations shall include approval, disapproval, or suggestions for modification and the reasons thereof, and a discussion of the effect of said plat on the comprehensive plan.

Said recommendations shall be of an advisory nature only. If the Planning Commission does not act within sixty (60) days, the preliminary plat shall be deemed to have received a favorable recommendation in all respects and shall receive due consideration by the City Council.

(c) Following a public hearing and due consideration of the preliminary plat, the City Council shall approve, disapprove, or modify the recommendations of the Planning Commission and shall impose those requirements or grant those variances in conformance with this Ordinance deemed necessary and appropriate by the City Council for final approval. The action of the City Council, together with all modifications, requirements, variances, and reasons thereof, shall be noted on all copies of the preliminary plat application. One (1) copy shall be returned to the subdivider, one copy relayed to the Planning Commission, and one copy retained by the City Council.

(d) Approval of the preliminary plat by the City Council shall not constitute acceptance of the final plat. Approval of the preliminary plat shall indicate approval of the development concept only, and it does not constitute an acceptance or approval of the subdivision plan. Therefore, no building permits shall be issued based on the approval of the preliminary plat. The approval of the preliminary plat shall lapse unless a final plat, based thereon, is submitted within two (2) years from the date of such approval. An extension of time may be applied for by the subdivider and granted by the City Council.

Section 14.2-8 – Preliminary plat information

The developer shall submit two copies of the preliminary plat to the City which shall meet the standards of design as set forth in Article 3 of this Chapter and shall contain the following information:

(a) The proposed name of the subdivision. The name shall not duplicate, be the same in spelling or alike in pronunciation with the name of any other recorded subdivision, unless it is an extension of or adjoining an existing subdivision.

(b) The names of all adjoining subdivisions and all lot and block lines, easements and rights-of-way. Adjoining unplatted property shall be labeled as such.

(c) The owner, developer and surveyor's names, addresses and telephone numbers.

(d) The correct legal description, notations stating acreage, scale, north arrow, and date. Scale shall be at an appropriate engineering scale but in no case greater than 200 feet to one inch.

(e) A systematic lot and block numbering pattern, lot lines and street/road names.

(f) The location and width of proposed and existing streets/roads, alleys, easements, parks, railroad rights-of-way and other significant features.

(g) Boundary lines of floodways and special flood hazard areas delineated on the flood insurance rate maps (FIRM).

(h) Existing contours referenced to city datum with intervals sufficient to determine the character and topography of the land to be subdivided.

The City may require other preliminary plans in addition to the preliminary plat. These plans may include but are not limited to a grading plan, drainage plan, groundwater control plan, and/or utility plan.

DIVISION 3. FINAL PLAT APPROVAL

Section 14.2-9 – Final plat approval in general

The final plat shall conform substantially to the preliminary plat as approved, and it may constitute only a portion of the preliminary plat which the subdivider proposes to record and develop.

Section 14.2-10 – Final plat procedure

(a) Three (3) copies of the final plat and required supplemental material shall be filed with the City Administrator, who shall transmit them to the Planning Commission. Such filing shall take place at least ten (10) days prior to the meeting of the Planning Commission at which it is to be considered.

(b) The Planning Commission shall study the said final plat to see if it is consistent with the minimum standards set forth in this Ordinance. Following a public hearing before due consideration of the Planning Commission, the Commission shall transmit all copies of the final plat to the City Council, together with its recommendations at least sixty (60) days after receipt thereof. Said recommendations shall include approval, disapproval, or suggestions for modifications and reasons thereof, and a discussion of the effect of said plat on the comprehensive plan.

Said recommendations shall be of an advisory nature only. If the Planning Commission does not act within forty-five (45) days, the final plat shall be deemed to have received a favorable recommendation in all respects, and shall then receive due consideration by the City Council.

(c) When the final plat has been approved by the City Council, one (1) copy, shall be returned to the subdivider with the approval of the City Council certified thereon, for filing with the County Register of Deeds as an official plat of record within ninety (90) days. Another copy certified by the City Council will be transmitted to the Director of Equalization for his records.

Section 14.2-11 – Final Plat Information

Two copies and one reproducible mylar of the plat with signatures shall be submitted to the City. The plat shall be drawn at a scale of 100 feet to one inch, or at an appropriate scale as determined by the licensed land surveyor, from an accurate survey and on one or more sheets whose dimensions are as required by state law. If more than two sheets are required, an index sheet of the same dimension shall be attached and filed. The plat shall show the following information:

(a) The proposed name of the subdivision. The name shall not duplicate, be the same in spelling or alike in pronunciation with the name of any other recorded subdivision, unless it is an extension of or adjacent to said subdivision.
(b) The names of all adjacent subdivisions, all lot and block lines, types of easements and rights-of-way. Adjoining unplatted property shall be labeled as such.
(c) The correct legal description, notations stating acreage, scale, north arrow, and date.
(d) A systematic lot and block numbering pattern, lot lines and street names, and the square footage of all lots.
(e) The location and width of all proposed and existing rights-of-way, alleys, and easements, as well as the location of any parks.
(f) The boundary lines of the area being subdivided with accurate angles or bearings and distances tying the perimeter boundaries to the nearest established street line, section corner, other previously described subdivision or other recognized permanent monuments which shall be accurately described on the plat.
(g) Location of all monuments and permanent control points, and all property pins, either set or located.
(h) The identification of any portions of the property intended to be dedicated or granted for public use such as school or parkland.
(i) All dimensions, both linear and angular, necessary for locating the boundaries of the subdivision lots, streets/roads, alleys, easements and other areas for public or private use. Linear dimensions are to be given to the nearest 1/100 of a foot.
(j) The radii, chords, length or curve, point of tangency and central angles for all curvilinear streets/roads and radii for rounded corners.
(k) The boundary lines of the floodway and special flood hazard areas, along with the base flood elevation on each lot as delineated on the flood insurance rate maps (FIRM).
(l) The certificate of the surveyor attesting to the accuracy of the survey and the correct location of all pins and monuments shown.
(m) Acknowledgement of the owner or owners of the plat of any restrictions, including dedication to public use of all streets/roads, alleys, parks or other open spaces shown thereon and the granting of easements required.
(n) All formal irrevocable offers of dedications for all streets/roads, alleys, parks and other uses as required.
(o) Certificates of approval for endorsements by the Mayor and acknowledgement by the Finance Officer.
(p) Certificates for the director of equalization, county treasurer, register of deeds and highway or street authority (when applicable).

The City may require other final plans in addition to the final plat. These plans may include but are not limited to a grading plan, drainage plan, groundwater control plan, and/or utility plan.

Section 14.2-12 – Assurance agreements
No plat or replats of any subdivision shall be approved unless the improvements required by this Chapter have been installed prior to such approval or unless the developer shall have signed an assurance agreement to establish the responsibility for the construction of such improvements in a satisfactory manner as specified by the City Council. This assurance agreement shall be recorded with the Register of Deeds at the time of the filing of the plat.

ARTICLE 3.
GENERAL REQUIREMENTS AND MINIMUM STANDARDS OF DESIGN

Section 14.3-1 – General
The City Council shall impose the following general requirements and compel all developers to comply with the principles of design in the layout of subdivisions hereinafter described. Furthermore, all proposed subdivision regulations shall conform to the City's comprehensive plan.

Section 14.3-2 – Suitability of the land for subdivision development
(a) If the City Council finds that land proposed to be subdivided is unsuitable for subdivision development due to flooding, bad drainage, steep slopes, rock formations, and other such conditions as may increase the danger of health, life, or property or aggravate erosion or flood hazards; and, if from adequate investigations, conducted by all public agencies concerned, it has been determined that in the best interest of the public, the land should not be platted and developed for the purpose proposed, the City Council shall not approve the land for subdivision unless adequate methods are formulated by the developer for meeting the problems that will be created by the subdivision and development of the land.
(b) The City Council may refuse to approve what it considers to be scattered or premature subdivision of land which would necessitate an excessive expenditure of public funds for the supply of such services such as undue maintenance costs for adequate roads.

Section 14.3-3 – Street design and coordination
(a) Design – All public street improvements, including pavement width, street grades, alignment and visibility, and intersections shall be designed in accordance with standard accepted engineering practice and are subject to the approval of the City.
(b) Arrangement – The arrangement of streets in new subdivisions shall conform to the major street plan and provisions shall be made for the continuation of existing streets in adjoining areas or their proper projection where adjoining land is not subdivided. There will be occasions when new streets are proposed which were not included in the major street plan. When this occurs, the major street plan will be amended to include these new streets.
(c) Design criteria – In general, provisions should be made for a collector street every half mile, and there should be a street connecting adjacent subdivisions at appropriate intervals where topographical and land use considerations permit. The arrangement of all streets and alleys shall be such as not to cause a hardship to owners of adjoining property when they plat their own land and seek to provide for convenient access to it.

Section 14.3-4 – Dedication of Right-of-Way and roadway width

The following conditions shall govern the designation and minimum street right-of-way and roadway width:

(a) The minimum widths of streets and marginal access to be dedicated to the City shall be indicated on the major street plan and where not shown thereon shall not be less than as follows:

Street Type	Minimum Dedicated Right-of-Way Width
Arterial	100 feet
Collector	70 feet
Local	60 feet
Alleys	20 Feet

(b) Minimum roadway widths:

Street Type	Pavement Width (Measured from Curb Faces)
Arterial	60
Collector	38
Local	30
Alleys	16

Section 14.3-5 – Intersections

(a) Streets shall intersect as nearly possible at right angles, and no intersection shall be at an angle of less than 60 degrees.
(b) No lot or other parcel of land which abuts on and has access to an arterial street and a collector or a local street shall have a service drive, curb cut, or other means of access to the arterial street within seventy-five (75) feet of the right-of-way of the collector or local street.
(c) Street jogs with center line offsets of less than One Hundred and Twenty-five feet (125') shall not be made.

Section 14.3-6 – Dead-end streets (Cul-de-sacs)

Local terminal or dead-ends streets or courts which are designed so as to have one end permanently closed shall not be longer than five hundred (500) feet and shall be provided at the closed end with a turnaround having a radius at the outside of the pavement of at least forty feet (40') and a radius at the outside of the right-of-way of at least sixty feet (60').

Section 14.3-7 – Blocks

(a) Length – Block lengths shall not exceed twelve hundred feet (1200') or be less than three hundred feet (300'), except as the City Council considers necessary to secure efficient use of land or desired features of street layout.
(b) Width – Blocks shall be wide enough to allow two (2) tiers of lots of minimum depth. However, where this would require lots to front on an arterial street or highway or where topographical conditions or the size of the property prevents two (2) tiers of lots, the City Council may approve a single tier of lots of minimum depth.

Section 14.3-8 – Lots

(a) The lot dimensions shall be appropriate for the location of the subdivision and for the type of development and use contemplated and conform to the requirements of the zoning ordinance.
(b) Corner lots shall have sufficient extra width to meet the building setback lines established on both the front street and side street.
(c) Each lot shall be provided with access to a street.
(d) Side lot lines shall be at right angles to the street except on curves where they shall be radial.
(e) Double frontage lots shall be avoided when possible except where deemed necessary for the efficient subdivision of the property. Where double frontage lots are planned, an extra lot depth shall be required to allow for a greater building setback to offset the impact of high traffic volume.
(f) Lot development that would result in reverse frontage lots shall be prohibited.
(g) Lots abutting major drainageways, detention basins, or a railroad right-of-way shall be designed with an increased depth to allow for extra setback.

Section 14.3-9 – Easements

(a) Except where alleys are permitted for the purpose, the City Council shall require easements at least ten (10) feet in width centered along all rear lot lines. Where necessary or advisable in the opinion of the City Council, similar easements shall be provided along side lot lines or across lots.
(b) If the City Council deems it necessary for proper drainage within or through a subdivision, it shall require that a storm water easement or drainage right-of-way be provided.
(c) All easements shall be identified on the final plat.

Section 14.3-10 – Street names

Streets in alignment with existing streets shall bear the same name. Any new street names must be approved by the City Council.

ARTICLE 4.
REQUIRED IMPROVEMENTS PREREQUISITE TO FINAL APPROVAL

Section 14.4-1 – General

The developer is required to install or construct the improvements hereinafter prior to receiving approval of his final plat unless an assurance agreement is approved, signed, and recorded.
All public and private water mains, sanitary sewers, laterals, and storm sewers shall be installed as necessary to prevent the future cutting of pavement of any street, sidewalk, or other required pavement.

Section 14.4-2 – Property markers

The corners of all lots and the beginning and ending of all curves on property lines shall be accurately marked on the ground with three-fourths (3/4) inch diameter iron rods or pipes at least twenty-four (24) inches long.

Section 14.4-3 – Curbs and gutters

Curbs and gutters shall be placed on both sides of all streets unless waived by the City Council.

Section 14.4-4 – Sidewalks
When constructed, sidewalks shall be no less then four (4) feet wide and four (4) inches thick and constructed according to standard engineering design practices..

Section 14.4-5 – Water supply system
Where, in the opinion of the City Council, the public water supply is reasonably accessible or available to the proposed subdivision, the developer shall take the action necessary to create or extend a water supply system capable of providing domestic water use and fire protection to the entire subdivision. The system shall include appropriately spaced fire hydrants. All water facilities, including water mains, valves, fire hydrants, storage facilities, and pumping stations shall be subject to approval of the City.

Section 14.4-6 – Sanitary sewers
Where, in the opinion of the City Council, the public sanitary sewer system is reasonably accessible or available to the proposed subdivision, the developer shall construct a subdivision sewer system to adequately serve all lots and connect the subdivision system to the public system. All sanitary sewer facilities including gravity sewers, manholes, lift stations, and force mains shall be designed in accordance with standard accepted engineering practice and are subject to the approval of the City.

Section 14.4-7 – Storm drainage
An adequate drainage system, including necessary open ditches, pipes, culverts, intersectional drains, drop inlets, bridges, etc., for the proper drainage of all surface water shall be provided. Cross drains shall be provided to accommodate all natural water flow, and they shall be of sufficient length to permit full width roadways and required slopes. The system shall be approved by the City Council.

Section 14.4-8 – Oversize facilities
The City Council may participate in the cost of "oversize" improvements within a subdivision if it is adjudged that such oversize improvements are necessary to serve large areas of land not in the subdivision and if the cost of such oversize improvements is an unreasonable burden on the developer.

Section 14.4-9 – Street lights and electrical service
Installation of street lights shall be required in accordance with design and specification standards approved by the City Council. City will furnish all wire from point of distribution to customer service entrance and will furnish meter socket for a hookup fee to be set by the City Council.

Section 14.4-10 – Inspection
Each facility constructed in the subdivision shall be installed under inspection of the an authorized City employee.

CHAPTER 15.
FLOOD DAMAGE PREVENTION
ARTICLE 1.
STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND METHODS

Section 15.01. Statutory Authorization, Findings of Fact, Purpose and Methods of Reducing Flood Losses.

1. Statutory Authorization

The Legislature of the State of South Dakota has in SDCL Chapter 11-4 delegated the responsibility to local governmental units to adopt land use regulations designed to promote the public health, safety, and general welfare of its citizenry through flood plain and land use regulation. Therefore, the City Council of the City of Volga, South Dakota, ordains as follows:

The City of Volga elects to comply with the requirements of the National Flood Insurance Act of 1968 (P.L. 90-488, as amended). The National Flood Insurance Program (NFIP) is a voluntary program administered by the Federal Emergency Management Agency (FEMA), a component of the U.S. Department of Homeland Security, and the City of Volga's community officials have elected to join the program, participate and enforce these flood damage prevention regulations to areas not identified as Special Flood Hazard Areas (SFHAs) by FEMA on the community's effective Flood Insurance Rate Map (FIRM), if the community has documentation to support that there is an inherent risk of flooding in such areas.

2. Findings of Fact

a. The flood hazard areas of the City of Volga are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare of the inhabitants of the City of Volga.

b. These potential flood losses are caused by:

i) The cumulative effect of obstructions in floodplains which cause an increase in flood heights and velocities;

ii) The occupancy of flood hazards areas by uses vulnerable to floods and hazardous to other lands because they are inadequately elevated, floodproofed or otherwise protected from flood damage; and

iii) Uses deemed unsuitable for floodplain areas or that do not account for the increased flood risk.

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

    a. To protect human life and health.

    b. To minimize expenditure of public expenditures flood control projects.

    c. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public.

    d. To minimize prolonged business interruptions caused by flooding.

    e. To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in areas of special flood hazard.

    f. To help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas.

    g. To ensure that potential buyers are notified that property is in an area of special flood hazard.

4. Methods of Reducing Flood Losses. In order to accomplish its purpose, this Ordinance includes methods and provisions for:

    a. Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in times of flooding, or cause excessive increases in flood heights or velocities;

    b. Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

    c. Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of flood waters.

    d. Controlling filling, grading, dredging, and other development which may increase flood damage.

    e. Preventing or regulating the construction of flood barriers which will unnaturally divert floodwaters, or which may increase flood hazards in other areas.

Section 15.02. Definitions.

The words or phrases used in Chapter 15 shall be interpreted so as to give them the meaning they have in common usage and to give this Ordinance its most reasonable application. The definitions contained in Section 15.02 shall supersede the definitions in Article V of the Zoning Ordinance of the City of Volga only in the interpretation of Chapter 15 of this ordinance. In all other cases where these definitions conflict with the definitions in Article V, the definitions in Article V shall apply.

100-Year Flood means a flood having a recurrence interval that has a 1-percent chance of being equaled or exceeded during any given year (1-percent-annual-chance flood). The terms "100-hundred-year flood" and "1-percent-annual-chance flood" are synonymous. The term does not imply that the flood will necessarily happen once every 100 hundred years. Mandatory flood insurance requirements may apply.

100-Year Floodplain means the area of land susceptible to being inundated due to the occurrence of a 1-percent-annual-chance flood.
500-Year Flood means a flood having a recurrence interval that has a 0.2-percent chance of being equaled or exceeded during any given year (0.2-percent-annual-chance flood). The term does not imply that the flood will necessarily happen once every 500 years and mandatory flood insurance requirement generally does not apply.

500-Year Floodplain means the area of land susceptible to being inundated due to the occurrence of a 0.2-percent-annual-chance flood.

Accessory Structure is a structure that is on the same parcel of property as a principal structure. Its use is incidental to the use of the principal structure the ownership of the accessory structure is the same owner as of the principal structure. An accessory structure is a non-residential structure of low value that is used solely for the parking of vehicles and storage of tools, materials, or equipment. No human habitation is allowed within an accessory structure.

Addition is any improvement that expands the enclosed footprint or increases the square footage of an existing structure. This includes lateral additions added to the side, front, or rear of a structure; vertical additions added on top of a structure; and enclosures added underneath a structure.

Alluvial Fan Flooding means flooding occurring on the surface of an alluvial fan or similar landform that originates at the apex. It is characterized by high-velocity flows; active processes of erosion, sediment transport, and deposition; and unpredictable flow paths.

Apex means a point on an alluvial fan or similar landform below which the flow path of the major stream that formed the fan becomes unpredictable and alluvial fan flooding can occur.

Appurtenant Structure—see *Accessory Structure*.

Area of Future-Conditions Flood Hazard means the land area that would be inundated by the 1-percent-annual-chance (100-year) flood, based on future-conditions hydrology.

Area of Shallow Flooding means a designated AO, AH, AR/AO, or AR/AH zone on a community's Flood Insurance Rate Map (FIRM) with a 1 percent or greater annual chance of flooding to an average depth of 1 to 3 feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Area of Special Flood-Related Erosion Hazard is the land within a community that is most likely to be subject to severe flood-related erosion losses. The area may be designated as Zone E on the Flood Hazard Boundary Map (FHBM). After the detailed evaluation of the special flood-related erosion hazard area, in preparation for publication of the FIRM, Zone E may be further refined.

Area of Special Flood Hazard is the land in the flood plain within a community subject to a 1 percent or greater chance of flooding in any given year. The area may be designated as Zone A on the FHBM. After detailed ratemaking has been completed in preparation for publication of the FIRM, Zone A usually is refined into Zones A, AO, AH, A1-30, AE, A99, AR, AR/A1-30, AR/AE, AR/AO, AR/AH, AR/A, or V1-30, VE, or V. For purposes of these regulations, the term "special flood hazard area" is synonymous in meaning with the phrase "area of special flood hazard".
Base Flood means the flood having a 1-percent chance of being equaled or exceeded in any given year.

Base Flood Elevation (BFE) is the water surface elevation of the 1-percent-annual-chance flood event. It is the height in relation to mean sea level expected to be reached by the waters of the base flood at pertinent points in the floodplains of coastal and riverine areas. It is also the elevation shown on the FIRM and found in the accompanying Flood Insurance Study (FIS) for Zones A, AE, AH, A1-A30, AR, V1-V30, or VE that indicates the water surface elevation resulting from the flood that has a 1-percent chance of equaling or exceeding that level in any given year.

Basement means any area of the building having its floor subgrade (below ground level) on all sides. A walkout basement that does not require a step up to grade is not considered a basement.

Best Available Data is existing flood hazard information adopted by a community and reflected on an effective FIRM, FBFM, and/or within an FIS report; or draft or preliminary flood hazard information supplied by FEMA or from another source. Other sources may include, but are not limited to, state, other federal agencies, or local studies, the more restrictive of which would be reasonably used by the community.

Breakaway Wall means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system. Any walls below the lowest floor in a building in a V or VE Zone should give way under wind and water loads without causing collapse, displacement, or other damage to the elevated portion of the building of the supporting pilings or columns. Breakaway walls apply only to V or VE Zones.

Building—see S*tructure*.

Channelization means the artificial creation, enlargement, realignment, or alteration of a stream channel's slope, shape, or alignment. Streambank restoration may be deemed as channelization.

Code of Federal Regulations (CFR) is the codification of the general and permanent rules published in the Federal Register by the executive departments and agencies of the Federal Government.

Conditional Letter of Map Revision (CLOMR) is FEMA's comment on a proposed project that would, upon construction, affect the hydrologic and/or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective BFEs, and/or the SFHA. The letter does not revise an effective map; it indicates whether the project, if built as proposed, would be recognized by FEMA.

Conditional Letter of Map Revision Based on Fill (CLOMR-F) is FEMA's comment on a proposed structure or property. The letter does not revise an effective map; it indicates whether the project, if built as proposed, would be removed from the floodplain.

Crawlspace means an under-floor space that has its interior floor area (finished or not) no more than 4 feet from the bottom floor joist the next higher floor elevation, designed with proper openings that equalize hydrostatic pressures of flood water, and is not used for habitation.

Critical Facility means a facility or building where even a slight chance of flooding is too great a threat. Typical critical facilities include hospitals, fire stations, police stations, schools, storage of critical records, assisted living and similar facilities.

Deed Restriction refers to a clause in a deed that limits the future use of the property in some respect. Deed restrictions may impose a vast variety of limitations and conditions. For example, they may limit the density of buildings, dictate the types of structures that can be erected, or prevent buildings from being used for specific purposes or from being used at all.

Detached Garage is a building that is used solely for storage of materials or vehicle parking for up to four housing occupants. If a detached garage is designed or used for habitation or conducting business, or has multiple stories, then the building is not considered a detached garage under the NFIP.

Development means any human-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, demolition, excavation or drilling operations, or storage either temporary or permanent of equipment or materials.

Elevated Building is a non-basement building built, in the case of a building in Zone A1-30, AE, A, A99, AR, AO, AH, B, C, X and D, to have the top of the elevated floor above the ground level by means of pilings, columns (post and piers), or shear walls parallel to the flow of the water and adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. In the case of a building in Zone A1-30, AE, A, A99, AR, AO, AH, B, C, X and D, an "elevated building" also includes a building elevated by means of fill or

solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters.

Enclosure refers to an enclosed walled-in area below the lowest floor of an elevated building. Enclosures below the BFE may only be used for building access, vehicle parking, and storage.

Erosion means the process of the gradual wearing away of land masses by wind, water, or other natural agents.

Existing Construction refers to structures for which the "start of construction" commenced before the effective date of the FIRM or before January 1, 1975, for FIRMs effective before that date. It may also be referred to as *Existing Structures*.

Existing Manufactured Home Park or Subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

Existing Structures—see *Existing Construction*.
Expansion to an Existing Manufactured Home Park or Subdivision means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufacturing homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

FEMA means the Federal Emergency Management Agency.

Fill refers to the placement of materials, such as dirt, sand, or rock to elevate a structure, property, or portion of a property above the natural elevation of the site, regardless of where the material was obtained from. The common practice of removing unsuitable material and replacing with engineered material is not considered fill if the elevations are returned to the existing conditions. Any fill placed or used prior to the area being mapped as a flood hazard area is not deemed as fill.
Flood or Flooding means:

1. A general and temporary condition of partial or complete inundation of normally dry land areas from:

    a. The overflow of inland or tidal waters.

    b. The unusual and rapid accumulation or runoff of surface waters from any source.

2. Mudslides (i.e., mudflows) that are proximately caused by flooding as defined in this ordinance and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.

3. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in this ordinance.

Flood Insurance Manual is the document FEMA produces twice a year and is used to write flood insurance policies underwritten by the NFIP. The document contains definitions, policy rates, coverage and limitations, application, and insurance policy forms.

Flood Insurance Rate Map (FIRM) means an official map of a community, on which the Administrator has delineated both the SFHAs, and the risk premium zones applicable to the community.

Flood Insurance Study (FIS) or Flood elevation study means an examination, evaluation, and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation, and determination of mudslide (i.e., mudflow) and/or flood-related erosion hazards.

Floodplain Development Permit is a community issued permit or document that is used for any development that occurs within an SFHA identified by FEMA or the community. It is used to address the proposed development to ensure compliance with the community's ordinance.

Floodplain or Flood-Prone Area means any land area susceptible to being inundated by water from any source whether or not identified by FEMA (see definition of *Flooding*).

Floodplain Management means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works, mitigation plans, and floodplain management regulations.

Floodplain Management Regulations means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance and erosion control ordinance) and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for flood damage prevention and reduction.

Flood Opening refers to an opening in the wall of an enclosed structure that allows floodwaters to automatically enter and exit the enclosure. Refer to FEMA Technical Bulletin 1.
Flood Protection System means those physical structural works for which funds have been authorized, appropriated, and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the area within a community subject to an SFHA and to reduce the depths of associated flooding. Such a system typically includes hurricane tidal barriers, dams, reservoirs, levees, or dikes. These specialized, flood modifying works are those constructed in conformance with sound engineering standards. FEMA only accredits levees, both private and public, that have been certified by a professional engineer or firm in which the certification shows

that the levee have met and continue to meet the minimum regulatory standards cited in Title 44, Chapter 1, Section 65.10 of the Code of Federal Regulations (44 CFR 65.10).

Floodproofing means any combination of structural and non-structural additions, changes, or adjustments to structures that reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures, and their contents. Floodproofing can either be accomplished in the form of dry floodproofing in which the structure is watertight below the levels that need flood protection, or wet floodproofing in permanent or contingent measures applied to a structure that prevent or provide resistance to damage from flooding, while allowing floodwaters to enter the structure or area.

Floodway—see *Regulatory Floodway*.

Floodway encroachment lines mean the lines marking the limits of floodways on federal, state, and local flood plain maps.

Freeboard means a factor of safety usually expressed in feet above a flood level for purposes of flood plain management. "Freeboard" tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings, and the hydrological effect of urbanization of the watershed.

Functionally Dependent Use means a development that cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and repair facilities. It does not include long-term storage or related manufacturing facilities.

Highest Adjacent Grade (HAG) means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure. In AO Zones, the highest adjacent grade is utilized by comparing the lowest floor elevation to that of the highest adjacent grade and the depth of the AO Zone.

Historic Structure means any structure that is:

1. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

3. Individually listed on a state inventory of historic places in states with historic reservation programs that have been approved by the Secretary of the Interior; or

4. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

    a. By an approved state program as determined by the Secretary of the Interior, or

    b. Directly by the Secretary of the Interior in states without approved programs.

Letter of Map Amendment (LOMA) means an official amendment, by letter, to an effective FIRM. A LOMA establishes a property's location in relation to the SFHA. It is usually issued because a property or structure has been inadvertently mapped as being in the floodplain when the property or structure is actually on natural high ground above the BFE.

Letter of Map Revision (LOMR) means FEMA's modification or revision to an entire or portion of the effective FIRM, or Flood Boundary and Floodway Map, or both. LOMRs are generally based on the implementation of physical measures that affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective BFEs, or the SFHA.

Letter of Map Revision Based on Fill (LOMR-F) means FEMA's amendment, by letter, to an effective FIRM where fill was brought in or used to elevate a property, portion of property or structure above the BFE.

Levee means a man-made structure usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water so as to provide protection from temporary flooding.

Levee System means a flood protection system that consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

Lowest Adjacent Grade (LAG) means the lowest natural elevation of the ground surface prior to construction next to the proposed walls of a structure. For an existing structure, it means the lowest point where the structure and ground touch, including but not limited to attached garages, decks, stairs, and basement windows.

Lowest Floor means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of Section 60.3.

Manufactured Home means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle"; however, a manufactured home may be used for both residential and non-residential use.

Manufactured Home Park or Subdivision means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

Map means the FHBM or the FIRM for a community issued by FEMA.
Mean Sea Level means, for purposes of the NFIP, the National Geodetic Vertical Datum (NGVD) of 1929, North American Vertical Datum (NAVD) of 1988, or other datum, to which BFEs shown on a community's FIRM are referenced.

Mixed Use Structures are structures with both a business and a residential component, but where the area used for business is less than 50 percent of the total floor area of the structure.

New Construction means structures for which the start of construction commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures. For the purposes of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures.

New Manufactured Home Park or Subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.

No-Rise Certifications are formal certifications signed and stamped by a professional engineer licensed to practice in the state, demonstrating through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that a proposed development will not result in any increase (0.00 feet) in flood levels within the community during the occurrence of a base flood event.

Physical Map Revision (PMR) is FEMA's action whereby one or more map panels are physically revised and republished.

Recreational Vehicle means a vehicle which is:

1. Built on a single chassis;

2. 400 square feet or less when measured at the largest horizontal projection;

3. Designed to be self-propelled or permanently towable by a light duty truck; and

4. Designed primarily, not for use as a permanent dwelling but, as temporary living quarters for recreational, camping, travel, or seasonal use.

Regulatory Floodway means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

Riverine means relating to, formed by, or resembling a river (including tributaries), stream, brook, creek, etcetera, which can be intermittent or perennial.

Section 1316 refers to the section of the National Flood Insurance Act of 1968, as amended, which provides for the denial of flood insurance coverage for any property that the Administrator finds has been declared by a duly constituted State or local authority to be in violation of State or local floodplain management regulations. Section 1316 is issued for a property, not a property owner, and remains with the property even after a change of ownership.
Special Flood Hazard Area—see *Area of Special Flood Hazard*.

Start of Construction (for other than new construction or substantial improvements under the Coastal Barrier Resources Act (Pub. L. 97-348)) includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Structure means, for floodplain management purposes in Chapter 15, a walled and roofed building, culvert, bridge, dam, or a gas or liquid storage tank that is principally above ground, as well as a manufactured home. *Structure*, for insurance purposes and Chapter 15, means:

1. A building with two or more outside rigid walls and a fully secured roof, which is affixed to a permanent site;

2. A manufactured home ("a manufactured home," also known as a mobile home, is a structure: built on a permanent chassis, transported to its site in one or more sections, and affixed to a permanent foundation); or

3. A travel trailer without wheels built on a chassis and affixed to a permanent foundation, that is regulated under the community's floodplain management and building ordinances or laws.

For insurance purposes, “structure” does not mean a recreational vehicle or a park trailer or other similar vehicle, except as described in paragraph (3) of this definition, or a gas or liquid storage tank.

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

Substantial Improvement means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the “start of construction” of the improvement. This term includes structures which have incurred “substantial damage”, regardless of the actual repair work performed.

The term does not, however, include:

1. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications that have been identified by the local code enforcement official and are the minimum necessary to assure safe living conditions; or

2. Any alteration of a “historic structure”, if the alteration will not preclude the structure's continued designation as a “historic structure.”

Variance means a grant of relief by a community from the terms of a flood plain management regulation. Reference: 15.05. VARIANCE PROCEDURES

Violation means the failure of a structure or other development to be fully compliant with the community's flood plain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in Sections 44 CFR 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided.

Water surface elevation means the height, in relation to the North American Vertical Datum (NAVD) of 1988, (or other datum, where specified) of floods of various magnitudes and frequencies, such as the 1-percent-annual-chance flood event, in the flood plains of coastal or riverine areas.

Watercourse means the channel and banks of an identifiable water in a creek, brook, stream, river, ditch, or other similar feature.

Section 15.03. General Provisions.

1. Lands to Which This Ordinance Applies.

   This Ordinance shall apply to all areas of special flood hazard identified by FEMA within the jurisdiction of Volga.

2. Compliance.

No structure or land shall hereafter be constructed, located, extended, or altered without full compliance with the terms of this Ordinance and other applicable regulations.

3. Basis for Establishing the Areas of Special Flood Hazard.

   The areas of special flood hazard identified by the Federal Emergency Management Agency in a scientific and engineering report entitled, "The Flood Insurance Study for Brookings County and Incorporated Areas," dated April 23, 2025 with accompanying Flood Insurance Rate Maps and Flood Boundary-Floodway Maps (FIRM and FBFM) and any revisions thereto are hereby adopted by reference and declared to be a part of this Ordinance.

4. Abrogation and Greater Restrictions.

   This Ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Ordinance and another Ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

5. Interpretation - In the interpretation of this Ordinance, all provisions shall be:

   a. Considered as minimum requirements;

   b. Liberally construed in favor of the governing body; and

   c. Deemed neither to limit nor repeal any other powers granted under State statute.

6. Warning and Disclaimer of Liability.

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. On rare occasions, greater floods can and will occur and flood heights may be increased by human-made or natural causes.

This ordinance does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of the community or any official or employee thereof for any flood damages that result from reliance on this ordinance, or any administrative decision lawfully made thereunder.

7. Penalties for Noncompliance.

In accordance with Section 59.2(b) of CFR 44, Chapter 1, of the NFIP regulation, to qualify for the sale of federally subsidized flood insurance, a community must adopt floodplain management regulations that meet or exceed the minimum standards of Section 60. "These

regulations must include effective enforcement provisions." In accordance with Section 60.1(b) of CFR 44, Chapter 1, of the NFIP regulations, "These regulations must be legally enforceable, applied uniformly throughout the community to all privately and publicly owned land within flood-prone (i.e., mudflow) or flood-related erosion areas, and the community must provide that the regulations take precedence over less restrictive conflicting local laws, ordinances, or codes."

Section 15.04. Administration.

1. Designation of the Floodplain Administrator.

   The City Administrator is hereby appointed the Floodplain Administrator to administer and implement the provisions of this ordinance and other appropriate sections of the NFIP Regulations and 44 CFR pertaining to floodplain management.

2. Duties and Responsibilities of the Floodplain Administrator.

   Duties and responsibilities of the Floodplain Administrator shall include, but not be limited to, the following:

   a. Uphold the goals of the community and the NFIP to reduce risk when possible and increase the community's resistance to future disasters.

   b. Maintain and hold open for public inspection all records pertaining to the provisions of this ordinance, including the actual elevation of the lowest floor (including basement or crawlspace) of all new or substantially improved structures and any floodproofing certificates, including the data supporting such certificates.

   c. Maintain and hold open for public inspection maps that identify and locate the boundaries of the SFHAs to which this ordinance applies, including, but not limited to, the FIRM.

   d. Review development proposals to determine whether a proposed building site, including sites designed for the placement of manufactured homes, will be reasonably safe from flooding.

   e. Review, approve, or deny all applications for development permits required by adoption of this ordinance.

   f. Ensure that all necessary permits have been obtained from those federal, state, or local governmental agencies (including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334 and the Endangered Species Act of 1973) from which prior approval is required.

   g. Assure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained.

h. Notify, in riverine situations, adjacent communities and the State Coordinating Agency which is the South Dakota Office of Emergency Management, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to FEMA.

i. Where interpretation is needed as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), the Floodplain Administrator shall make the necessary interpretation.

j. When BFE data has not been provided by FEMA, the Floodplain Administrator shall obtain, review, and reasonably utilize any BFE data and floodway data available from a federal, state, or other source including data provided by the applicant, in order to administer the provisions of this ordinance.

k. When a regulatory floodway has not been designated, no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A1-30, AE, and AH on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than 1.00 foot at any point within the community.

l. Under the provisions of 44 CFR Chapter 1, Section 65.12 of the NFIP Regulations, a community may approve certain development in Zones A1-30, AE, and AH on the community's FIRM, which increases the water surface elevation of the base flood by more than 1.00 foot, provided that the community first meets the requirements of Section 65.12 for a conditional FIRM revision through FEMA's CLOMR process.

m. If the project is determined or reasonably believed to cause an adverse effect on the BFE(s), boundaries of the floodplain or any insurable structures, technical justification for the proposed development shall be submitted and the community may require a CLOMR or LOMR to be submitted prior to the permit approval or as a requirement of the permit.

3. Requirement to Submit New Technical Data.

a. The property owner or developer shall notify FEMA by submittal of a LOMR within 6 months of project completion when an applicant had obtained a CLOMR from FEMA or when development altered a watercourse, modified floodplain boundaries, or modified BFE.

b. The property owner or developer shall be responsible for preparing technical data to support the CLOMR or LOMR application and paying any processing or application

fees to FEMA. The property owner or developer is responsible for submitting the CLOMR and LOMR to FEMA and shall provide all necessary data to FEMA if requested during the review process to ensure the CLOMR or LOMR is issued.

c. The Floodplain Administrator shall be under no obligation to sign the Community Acknowledgement Form, which is part of the CLOMR/LOMR application, until the applicant demonstrates that the project will or has met the requirements of this ordinance and all applicable state federal, and local laws.

4. Permit Procedures.

a. Application for a Development Permit shall be presented to the Floodplain Administrator on forms furnished by him/her and may include, but not be limited to:

i) Duplicated plans drawn to scale showing the location, dimensions, and elevation of proposed landscape alterations.

ii) Duplicated plans drawn to scale showing the location, dimensions, and elevation of existing and proposed structures, including the placement of manufactured homes.

iii) Location of the foregoing in relation to SFHAs.

iv) Elevation (in relation to mean sea level), of the lowest floor (including basement and crawlspace) of all new and substantially improved structures, if applicable;

v) Elevation (in relation to mean sea level), to which any nonresidential structure (if applicable) shall be floodproofed.

vi) A certificate from a registered professional engineer or architect that the nonresidential floodproofed structure (if applicable) shall meet the floodproofing criteria of this ordinance and the NFIP Regulations.

vii) Description of the extent to which any watercourse or natural drainage will be altered or relocated because of proposed development, if applicable.
viii) At the community's discretion, the community may charge a fee for issuance of floodplain development permits.

ix) Copies of all floodplain development permits, and the associated documents shall become property of the community and a permanent record.

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

i) The danger to life and property due to flooding or erosion damage.

ii) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.

iii) The danger that materials may be swept onto other lands to the injury of others.

iv) The compatibility of the proposed use with existing and anticipated development.

v) The safety of access to the property in times of flood for ordinary and emergency vehicles.

vi) The costs of providing governmental services during and after flood conditions including maintenance and repair of streets and bridges, and public utilities and facilities such as sewer, gas, electrical, and water systems.

vii) The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site.

viii) The necessity to the facility of a waterfront location, where applicable.

ix) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use.

x) The relationship of the proposed use to the comprehensive plan for that area.

Section 15.05. Variance Procedures.

1. The Board of Adjustment as established by the community shall hear and render judgment on requests for variances from the requirements of this Ordinance.

2. The Board of Adjustment shall hear and render judgment on an appeal only when it is alleged there is an error in any requirement, decision, or determination made by the Floodplain Administrator in the enforcement or administration of this Ordinance.

3. Any person or persons aggrieved by the decision of the Appeal Board may appeal such decision in the courts of competent jurisdiction.

4. The Floodplain Administrator shall maintain a record of all actions involving an appeal and shall report variances to the Federal Emergency Management Agency upon request.

5. Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this Ordinance.

6. Variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the relevant factors in 15.05.10 have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.

7. Upon consideration of the factors noted above and the intent of this Ordinance, the Appeal Board may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this Ordinance (3.11.01 (3).

8. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

9. Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

10. Prerequisites for granting variances:

    a. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

    b. Variances shall only be issued upon:

        i) showing a good and sufficient cause;

        ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and

        iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or Ordinances.

    c. Any application to whom a variance is granted shall be given written notice that the structure will be permitted to be built with the lowest floor elevation below the base flood elevation, and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

11. Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that:

    a. the criteria outlined in 15.05 are met, and

b. the structure or other development is protected by methods that minimize flood; and

c. damages during the base flood and create no additional threats to public safety. (Ord. 682, 2001; Ord. 759, 2009)

Section 15.06. General Standards for Flood Hazard Reduction.

1. General Standards.

In all areas of special flood hazards, the following provisions are required for all new construction and substantial improvements:

a. All new construction or substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.

b. All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage.

c. All new construction or substantial improvements shall be constructed with materials resistant to flood damage.

d. All new construction or substantial improvements shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

e. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.

f. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharge from the systems into flood waters.

g. On-site waste disposal systems shall be designed or located to avoid impairment to them or contamination from them during flooding.

2. Substantial Improvement.

Any combination of repair, reconstruction, rehabilitation, addition, or improvement of a building or structure, if the cumulative cost of the entire project equals or exceeds 50 percent of the market value of the structure only (not of the structure and land value combined) before the improvement or repair is started then the work shall be considered as

substantial improvement. If the structure has sustained substantial damage, any repairs are considered substantial improvements regardless of the actual repair work performed. For Substantial Damage, refer to 15.06.3 SUBSTANTIAL DAMAGE. The term does not, however, include either:

a. Any project for improvement of a building required to correct existing health, sanitary, or safety code violations identified by the building official and that are the minimum necessary to assure safe living conditions.

b. Any alteration of a historic structure provided that the alteration will not preclude the structure's continued designation as a historic structure.

3. Substantial Damage

Substantial damage means damage of any origin sustained by a structure whereby the cost of restoring the structure to its pre-damaged condition would equal or exceed 50 percent of the market value of the structure only before the damage occurred. This term also applies to structures which have incurred any damage that equals or exceeds 50 percent of the structure's market value regardless of the actual repair work performed. When a structure or building has been determined as substantially damaged, any work or repair on said structure or building will be considered as substantial improvement and will be required to meet the development requirements set forth within this ordinance for substantial improvement.

4. Substantial Improvement and Substantial Damage Determination

For applications for building permits to improve buildings and structures, including alterations, movement, enlargement, replacement, repair, change of occupancy, additions, rehabilitations, renovations, and any other improvement of or work on such buildings and structures, the Floodplain Administrator, in coordination with the applicable community officials and staff, shall:

a. Estimate the market value or require the applicant to obtain an appraisal of the market value prepared by a qualified independent appraiser, of the building or structure only, not of land and building, before the start of construction of the proposed work. In the case of repair, the market value of the building or structure shall be the market value before the damage occurred and before any repairs are made.

b. Compare the cost to perform the improvement, the cost to repair a damaged building to its pre-damaged condition, or the combined costs of improvements and repairs, if applicable, to the market value of the building or structure.

c. Determine and document whether the proposed work constitutes substantial improvement or repair of substantial damage; the determination requires evaluation of

previous permits issued for improvements and repairs as specified in Section 15.06.2 SUBSTANTIAL IMPROVEMENT.

d. Utilize FEMA's Substantial Improvement/Substantial Desk Reference when making any determination on Substantial Improvement and/or Substantial Damage.

e. The substantial improvement regulations apply to all of the work that is proposed as the improvement, even if multiple permits are issued. Therefore, the determination of the cost of the improvement should consider all costs of all phases of the work before issuance of the first permit.

f. Notify the applicant that if it is determined that the work constitutes substantial improvement or repair of substantial damage, that compliance with the floodplain management ordinance is required.

Section 15.07. Specific Standards for Flood Hazard Reduction.

In all SFHAs and areas of suspected flood risk areas, the following provisions are required:

1. Residential Construction

New construction and substantial improvement of any residential structure shall have the lowest floor (including basement) elevated to the BFE, A registered professional engineer, architect, or land surveyor shall submit certified elevations to the Floodplain Administrator that the standards of this ordinance are satisfied.

2. Nonresidential Construction

New construction and substantial improvements of any commercial, industrial, or other nonresidential structure shall either have the lowest floor (including basement) elevated to the base flood level, or together with attendant utility and sanitary facilities, be designed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice as outlined in this subsection. A record of such certification that includes the specific elevation (in relation to mean sea level) to which such structures are floodproofed shall be maintained by the Floodplain Administrator. If the use or occupancy of the building changes in the future to residential, then the dry floodproofing of the structure cannot be used when determining compliance of the structure to the residential construction of this ordinance, Section 15.07.1 RESIDENTIAL CONSTRUCTION. As such, the building will not be grandfathered into compliance and will be required to be brought into compliance with the residential construction requirements of this ordinance.

3. Enclosures

New construction and substantial improvements, with fully enclosed areas below the lowest floor that are to be used solely for parking of vehicles, building access, or storage in an area other than a basement, and are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect, or must meet or exceed the following minimum criteria:

a. A minimum of two openings having a total net area of not less than 1 square inch for every square foot of enclosed area subject to flooding shall be provided.

b. The bottom of all openings shall be no higher than 1 foot above grade.

c. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

d. The development and construction of the structure must conform with the provision in FEMA/Federal Insurance Administration (FIA)-Technical Bulletins 1 and 2. Certification and documentation from a professional, licensed engineer or architect is required if the structure's lowest floor is built below the BFE.

4. Crawlspace

New construction and substantial improvements built on a crawlspace or sub-grade (below grade) crawlspace may be permitted if the development is designed and meets or exceeds the standards found in FEMA's Technical Bulletins 1, 2, and 11, which include but are not limited to the following:

a. The structure must be affixed to a permanent foundation, designed, and adequately anchored to resist flotation, collapse, and lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy. Because of hydrodynamic loads, crawlspace construction is not allowed in areas with flood velocities greater than 5 feet per second unless the design is reviewed by a qualified design professional, such as a registered architect or professional engineer.

b. The crawlspace is an enclosed area below the BFE and, as such, must have openings that equalize hydrostatic pressures by allowing the automatic entry and exit of floodwaters. The bottom of each flood vent opening can be no more than 1 foot above the lowest adjacent grade (LAG).

c. The crawlspace enclosure must have proper openings that allow equalization of hydrostatic pressure by allowing automatic entry and exit of floodwaters. To achieve this, a minimum of 1 square inch of flood opening is required per 1 square foot of the enclosed area subject to flooding.

d. Portions of the building below the BFE must be constructed with materials resistant to flood damage. This includes not only the foundation walls of the crawlspace used to

elevate the building, but also any joists, insulation, piers, or other materials that extend below the BFE. Ductwork, in particular, must either be placed above the BFE or sealed from floodwaters.

e. Any building utility systems within the crawlspace must be elevated above the BFE or designed so that floodwaters cannot enter or accumulate within the system components during flood conditions.

f. The interior grade of a crawlspace below the BFE must not be more than 2 feet below the LAG.

g. The height of the below-grade crawlspace, measured from the lowest interior grade of the crawlspace floor to the bottom of the floor joist of the next higher floor cannot exceed 4 feet at any point.

h. There must be an adequate drainage system that removes floodwaters from the interior area of the crawlspace. The enclosed area should be drained within a reasonable time after a flood event.

i. Buildings with below-grade crawlspaces will have higher flood insurance premiums than buildings that have the preferred crawlspace construction, with the interior elevation at or above the LAG.

5. Manufactured Homes

a. Require that all manufactured homes to be placed within Zone A on a community's FHBM or FIRM shall be installed using methods and practices that minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.

b. Require that manufactured homes that are placed or substantially improved within Zones A1-30, AH, and AE on the community's FIRM on sites outside of a manufactured home park or subdivision;) in a new manufactured home park or subdivision; in an expansion to an existing manufactured home park or subdivision; or in an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as a result of a flood, be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated as high as the BFE, and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

c. In A-1-30, AH, AO and AE Zones, require that manufactured homes to be placed or substantially improved in an existing manufactured home park to be elevated so that

the lowest floor is at least as high as the BFE; or the chassis is supported by reinforced piers no less than 36 inches in height above grade and securely anchored.

6. Recreational Vehicles

Require that recreational vehicles placed on sites within Zones A1-30, AH, and AE on the community's FIRM either:

a. Be on the site for fewer than 180 consecutive days and be fully licensed and ready for highway use;

i) A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions.

b. Or meet the permit requirements of 15.04.4, PERMIT PROCEDURES, and the elevation and anchoring requirements for "manufactured homes" of this section.

Section 15.08. Standards for Subdivision Proposals.

1. All subdivision proposals including the placement of manufactured home parks and subdivisions shall be consistent with the provisions of this ordinance.

2. All subdivision proposals including the placement of manufactured home parks and subdivisions shall have adequate drainage provided to reduce exposure to flood hazards.

3. All proposals for the development of subdivisions including the placement of manufactured home parks and subdivisions shall meet Development Permit requirements of this ordinance.

4. BFE data shall be generated for subdivision proposals and other proposed development including the placement of manufactured home parks and subdivisions, which is greater than 50 lots or 5 acres, or whichever is lesser.

5. All subdivision proposals including the placement of manufactured home parks and subdivisions shall minimize flood damage.

6. All subdivision proposals including the placement of manufactured home parks and subdivisions shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.

Section 15.09. Floodways.

Floodways located within SFHAs are extremely hazardous areas due to the velocity of flood waters that carry debris, potential projectiles, and erosion potential, the following provisions shall apply:

1. Designate a regulatory floodway that will not increase the base flood level more than 1 foot.

2. Encroachments are prohibited, including fill, new construction, substantial improvements, and other development within the adopted regulatory floodway *unless* it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase greater than 0.00 feet in flood levels within the community during the occurrence of the base flood discharge.

3. All new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of this ordinance.

4. Under the provisions of 44 CFR Chapter 1, Section 65.12, of the NFIP Regulations, a community may permit encroachments within the adopted regulatory floodway that would result in an increase in BFEs, provided that the community first applies for a conditional FIRM and floodway revision through FEMA.

Section 15.10. Severability.

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

Section 15.11. Penalties for Noncompliance.

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this ordinance and other applicable regulations. Violation of the provisions of this ordinance by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall upon conviction thereof be fined not more than $500 for each violation assessed daily, and in addition shall pay all costs and expenses involved in the case. Nothing herein contained shall prevent the City of Volga from taking such other lawful action as is necessary to prevent or remedy any violation.

CHAPTER 16. ZONING REGULATIONS

See separate document for zoning regulations.

All sections refer to Ordinance 2019-03 unless otherwise noted.

* An asterisk by a section indicates that the section is referenced elsewhere in City Ordinance.