

TITLE I – ADMINISTRATION

CHAPTER 1

DEFINITIONS

This section will be alphabetized and split into four chapters; letters A – G, H – M, N – S, and T - Z.

Section 1.1.1 Definitions

As in this Code, the following words or phrases shall be construed as follows:

Affiliate or Affiliated Company – shall mean a corporation, partnership, or other business entity which is wholly owned by the same person or persons who own Sanborn Telephone Cooperative or its parent company.

Alcoholic Beverages – The term “alcoholic beverages” shall include any intoxicating beverages, liquor, wine or beer.

Alluvial Fan Flooding – means flooding occurring on the surface of an alluvial fan or similar landform which originates at the apex and is characterized by high-velocity flows; active processes of erosion, sediment transport, and deposition; and unpredictable flow paths.

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.

Area of Shallow Flooding – means a designated AO, AH, or VO zone on a community's Flood Insurance Rate Map (FIRM) with a one percent chance or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Area of Special Flood Hazard – is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. The area may be designated as Zone A on the Flood Hazard Boundary Map (FHBM). After detailed ratemaking has been completed in preparation for publication of the FIRM, Zone A usually is refined into Zones A, AE, AH, AO, A1-99, VO, V1-30, VE or V.

Authorized Emergency Vehicle – Vehicles of the Fire Department (Fire Patrol), police vehicles and such ambulances and emergency vehicles of municipal departments or public service corporations as are designated or authorized by the City Council.

Base Flood – means the flood having a one percent chance of being equaled or exceeded in any given year.

Basement – means any area of the building having its floor sub-grade (below ground level) on all sides.

Broken Seals – The term “broken seals” shall include any such beverage not in its original package or with the cap or seal broken.

Business District – The term “business district” as used in this title shall include the territory contiguous to a street when fifty percent or more of the frontage thereon for a distance of three hundred feet or more is occupied by buildings in use for business.

Cable Television System, Cable System or CATV – shall mean a system utilizing coaxial cable and certain electronic and other components which deliver to subscribing members of the public various communications services.

Cable Television Reception Service – shall mean the simultaneous delivery by the Grantee to television receivers or any other suitable type of audio-video communications receivers.

City – The term “city” shall mean the City of Mount Vernon, South Dakota.

City Council – shall mean the City Council of Mount Vernon, South Dakota.

Collector – The term “collector” shall mean the same as “Collector of Refuse.”

Collector of Refuse – The term “collector of refuse” shall mean City of Mt. Vernon.

Commercial Unit – The term “commercial unit” shall be deemed to be and mean any type of business unit, which has a permanent location. Each separate office and each separate building is one separate commercial unit regardless of how many of the units might be in the same building.

Corporation Counsel – The attorney for the City of Mount Vernon.

Crosswalk – That portion of a roadway ordinarily included within the prolongation of curb and property lines at intersections, or any other portion of a roadway clearly indicated for pedestrian crossing by lines or other markings on the surface.

Critical Feature – means an integral and readily identifiable part of a flood protection system, without which the flood protection provided by the entire system would be compromised.

Development – means any man-made change in improved and unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

Elevated Building – means a non-basement building (i) built, in the case of a building in Zones A1-30, AE, A, A99, AO, AH, B, C, X, and D, to have the top of the elevated floor, or in the case of a building in Zones V1-30, VE, or V, to have the bottom of the lowest horizontal structure member of the elevated floor elevated above the ground level by means of pilings, columns

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

Existing Construction – means for the purposes of determining rates, structures for which the "start of construction" commenced before the effective date of the FIRM or before January 1, 1975, for FIRMs effective before that date. "Existing construction" may also be referred to as "existing structures."

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.

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 manufactured 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). FCC – shall mean Federal Communications Commission.

Family Domestic Unit – The term "family domestic unit" shall be deemed to be and mean any single independent family unit irrespective of the number of persons constituting such family, but shall not include a situation where one or more independent families may be living together in any single residence or abode, but in such situation each of such independent families shall be deemed and regarded as a separate and distinct family domestic unit, each independent family unit living in multiple dwelling residences, apartment houses or any type of residence including trailer houses shall each be deemed a family domestic unit for the purpose of this ordinance. Rooming houses at which the roomers do not obtain their meals shall be deemed to be one family domestic unit.

Flood or Flooding – means a general and temporary condition of partial or complete inundation of normally dry land areas from:

1. the overflow of inland or tidal waters.
2. the unusual and rapid accumulation or runoff of surface waters from any source. Flood

Insurance Rate Map (FIRM) – means an official map of a community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

Flood Insurance Study – is the official report provided by the Federal Emergency Management Agency. The report contains flood profiles, water surface elevation of the base flood, as well as the Flood Boundary-Floodway Map.

Floodplain or Flood Prone Area – means any land area susceptible to being inundated by water from any source (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 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 the purpose of flood damage prevention and reduction.

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 areas within a community subject to a "special flood hazard" and the extent of the depths of associated flooding. Such a system typically includes hurricane tidal barriers, dams, reservoirs, levees or dikes. These specialized flood modifying works are those constructed in conformance with sound engineering standards.

Flood Proofing – means any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

Floodway (Regulatory Floodway) – means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

Functionally Dependent Use – means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

Garbage – The term “garbage” shall include kitchen refuse, an accumulation of animal and vegetable matter which attends the preparation, cooking, and eating of food, and including cans, bottles as ashes (no animal carcasses), birds and fish placed in sealed bag.

Grantee – shall mean Sanborn Telephone Cooperative and affiliate or successor in accordance with the provision of this Franchise by Grantee.

Highest Adjacent Grade – means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Historic Structure – means any structure that is:

- a. 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;
- b. 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;
- c. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior; or
- d. Individually listed on a local inventory or historic places in communities with historic preservation programs that have been certified either:
 - i. by an approved state program as determined by the Secretary of the Interior or;
 - ii. directly by the Secretary of the Interior in states without approved programs.

Intersection – The area embraced within the prolongation of the lateral curb lines, or if none, then the lateral boundary lines of two or more streets or highways which join one another at an angle whether or not one such street or highway crosses the other.

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 which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

Lowest Floor – means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking or vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirement of Section 60.3 of the National Flood insurance Program regulations.

Manufactured Home – means a structure transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle".

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.

Mean Sea Level – means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

Motor Vehicle – Every vehicle, as herein defined, which is self-propelled.

Municipality – The City of Mount Vernon.

New Construction – means, for the purpose of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, "new construction" means structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

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.

Operator – Any person who is in actual physical control of a vehicle.

Parking – The standing of a vehicle whether attended or unattended, upon a roadway or street otherwise than temporarily for the purpose of and while actually engaged in loading or unloading, or in obedience to traffic regulations or traffic signs or signals.

Person – The word "person" as used herein shall include the singular and the plural and shall also mean and include any person, firm or corporation, association, club, co-partnership or society or any other organization.

Peddler – Includes any person, whether a resident of the City of Mount Vernon or not, traveling by foot, wagon, automotive vehicle, or any other type of conveyance, from place to place, from house to house, or from street to street, carrying, conveying or transporting goods, wares, merchandise, meats, fish, vegetables, fruits, garden trust, farm products or provisions, offering and exposing the same for sale, or making sales and delivering articles to purchasers or who without traveling from place to place, shall sell or offer the same for sale from wagon, automotive vehicle, railroad car, or other vehicle or conveyance, and further provide that one who solicits orders and as a separate transaction makes deliveries to purchaser as a part of a scheme or design to evade the provisions of this chapter. The word “peddlers” shall include the words “hawker” and “huckster”.

Person – shall mean any person, firm, partnership, association, corporation or organization of any kind and any other legally recognized entity.

Public Dance Hall – Any building, place or space open to public patronage in which dancing, wherein the public may participate, is carried on, and to which admission may be had by the public by payment either directly or indirectly, or an admission fee or price for dancing, for the personal gain or profit of the person, persons, firm or corporation conducting, maintaining or operating such public dance hall.

Public Officer—Any elected official or designee

Recreational Vehicle – means a vehicle which is:

- a. built on a single chassis;
- b. 400 square feet or less when measured at the largest horizontal projections;
- c. designed to be self-propelled or permanently towable by a light duty truck;
- d. designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use; and
- e. All terrain vehicles, snowmobiles, motorcycles, and the same.

Residential District – The term “residential district” as used in this title, shall include the territory contiguous to a highway not comprising a business district when the frontage of such highway for a distance of three hundred feet or more is mainly occupied by dwellings and buildings in use for business.

Rubbish – The term “rubbish” shall include paper, boxes, and cartons, all household wastes other than garbage, all wastes from commercial units, clipped grass, tree leaves, and other wastes from gardens and lawns, trimmings of trees, and all nonputrescible wastes, but shall not include building wastes and dead trees or limbs or branches therefrom, which are over 4” in length or 6” in diameter.

Shall – is always mandatory and not merely directory

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

Solicitor, Canvasser – Any individual, whether resident of the City of Mount Vernon or not, traveling either by foot, wagon, automobile, motor truck, or any other type of conveyance, from place to place, from house to house, or from street to street, taking or attempting to take orders for sale of goods, wares, and merchandise, personal property of any nature whatsoever for future delivery, taking subscriptions to periodicals, or for services to be furnished or performed in the future; whether or not such individual has, carries, or exposes for sale a sample of the subject of such sale and who collects any advance payment on such sale provided that such definition shall include any person who, for himself, or for another person, firm or corporation, hires, leases, uses or occupies any building, structure, tent, railroad box car, hotel room, lodging house, apartment, shop, trailer, or any other place within the City for the sole purpose of exhibiting samples and taking orders for future delivery.

Start of Construction – (for other than new construction or substantial improvements under the Coastal Barrier Resources Act (Pub. L. 97-348)), includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

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

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

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 "start of construction" of the improvement. This includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either:

- a. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary conditions or

b. Any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure."

Subscribers – Those persons contracting to receive cable television reception services furnished under this Franchise by Grantee.

Supervisor of Streets – The member of the Council who has been appointed to act in a supervisory capacity over the streets and public ways.

Vehicle – Every device in, upon or by which any person or property is or may be transported or drawn upon a public highway excepting devices moved by human power or used exclusively upon stationary rail or tracks.

Variance – is a grant of relief to a person from the requirement of this ordinance when specific enforcement would result in unnecessary hardship. A variance, therefore, permits construction or development in a manner otherwise prohibited by this ordinance. (For full requirements see Section 60.6 of the National Flood Insurance Program regulations.)

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

Water Surface Elevation – means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929 (or other datum, where specified), of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

Nuisance – Whatever is dangerous to human health, whatever renders the ground, the water, the air, or food a hazard or an injury to human health, and the following specific acts, conditions and things are, each and all of them, hereby declared to constitute nuisances:

1. Garbage and Refuse – Depositing, maintaining, or permitting to be maintained or to accumulate upon any public or private property, 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.
2. Impure Water – Any well or other supply of water used for drinking or household purposes which is polluted or which is so constructed or situated that it may become polluted.
3. Undressed Hides – Undressed hides kept longer than twenty-four hours, except at the place where they are to be manufactured, or in a storeroom, or basement whose construction is approved by the Health Department.

4. Manure – The accumulation of manure, unless it be in a properly constructed fly-proof pit, bin or box.
5. Breeding Places for Flies – The accumulation of manure, garbage, or anything whatever in which flies breed.
6. Stagnant Water – Any excavation in which stagnant water is permitted to collect.
7. Weeds – Permitting weeds to grow to maturity on any private property, including vacant lots.
8. Dead Animals – Owner of a dead animal must dispose of said animal within twenty-four (24) hours.
9. Privies and Cesspools – Erecting or maintaining any privy or cesspool except such sanitary privies and cesspools, the plans of which are approved by the State Health Department.
10. Garbage Handling Improperly – Throwing or letting fall on or permitting to remain on any street, alley, or public ground any manure, garbage, rubbish, filth, fuel or wood while engaged in handling or removing any such substance.
11. Rodents – Accumulation of junk, old iron, automobiles or parts thereof, or anything whatever in which rodents may live, breed, or accumulate.
12. Bonfire in Public Places – Burning, causing or permitting to be burned in any street, alley, or public ground, any dirt, filth, manure, garbage, sweeping, leaves, ashes, paper, rubbish or material of any kind.
13. Parking Livestock Trucks or Trailers in Residential Districts – Parking or permitting livestock trucks or trailers to remain on any street, area, or public ground in a residential district where such truck or trailer gives off an offensive odor or is contaminated with manure or other filth, except at times specified by Council.

Deteriorating Influence on Neighborhood: Any accumulation of furniture, appliances, junk, car parts, wood, debris, objects or materials that has a blighting or deteriorating influence on the neighborhood. Junk Cars on Private Property: A vehicle shall be declared a nuisance on private property when the vehicle is junked, wrecked, partially dismantled, inoperative, and or unlicensed. This shall not apply to vehicles under repair for a period of not more than 72 hours or those completely enclosed in a garage or building for purposes of storage. Empty or Vacant Buildings: Empty or vacant buildings which have doors, windows or openings that allow entrance of vermin or invite vandalism or create a health or safety hazard.

The City Council or the Council's duly authorized representative shall give written notice to any person creating, permitting or maintaining any nuisance as defined in this Chapter, to abate such nuisance forthwith. Said notice shall be by certified mail. That is such person shall neglect or

refuse to do so within thirty (30) days after such notice, he shall be deemed guilty of a violation of this Chapter. That each day said person is in violation of this Chapter shall be deemed a new violation. That each violation, said person shall be subject to a fine of \$25.00 for each of said violation. (Amended March 2018)

Public Nuisances: A public nuisance consists of unlawfully doing an act, or omitting to perform a duty within the city or in any public ground or park belonging to the City or within one mile of the City, which act or omission either:

- A. Annoys, injures or endangers the comfort, repose, health or safety of others, or
- B. Offends decency, or
- C. In any way renders other persons insecure in life, or in the use of property and which affects at the same time an entire community or neighborhood, or any considerable number of persons, although the extent of the annoyance or damage inflicted upon the individuals may be unequal.

Nuisances defined and prohibited generally

- A. No person shall create, commit, maintain or permit to be created, committed or maintained any nuisance as defined herein.
- B. Whatever is dangerous to human health, whatever renders the ground, the water, the air or food a hazard or an injury to human health and the following specific acts, conditions and things are, each and all of them, hereby declared to constitute nuisances:
 - 1. Imperfect plumbing. Any imperfect, leaking, unclean or filthy sink, water closet, urinal or other plumbing fixture in any building, used or occupied by human beings.
 - 2. Garbage and Refuse. Depositing, maintaining or permitting to be maintained or to accumulate upon any public or private property, any household waste water, sewage, garbage, tin cans, offal or excrement, any decaying fruit, vegetables, fish meat or bones of any fowl, putrid or obnoxious liquid substance.
 - 3. Impure water. Any well or other supply of water used for drinking or household purposes which is polluted or which is so constructed or situated that it may become polluted.
 - 4. Undressed hides. Undressed hides kept longer than twenty-four hours, except at the place where they are to be manufactured, or in a storeroom, or basement whose construction is approved by the health department.
 - 5. Manure. The accumulation of manure, unless it be in a properly constructed fly-proof pit, bin or box.
 - 6. Breeding places for flies. The accumulation of manure, garbage or anything whatever in which flies breed.
 - 7. Stagnant water. Any excavation in which stagnant water is permitted to collect.

8. Weeds. Permitting weeds to grow to maturity on any private property, including vacant lots.
9. Poison Ivy. Permitting poison ivy to be or to grow upon any private property nearer than fifteen feet from the sidewalk of any public street.
10. Dead animals. Owner of a dead animal must dispose of said animal within twenty-four (24) hours.
11. Polluting bodies of water. Throwing or leaving any dead animal or decayed animal or vegetable matter or any slops of filth whatever, either solid or fluid, into any pool of water.
12. Privies and cesspools. Erecting or maintaining any privy or cesspool, except such sanitary privies and cesspools, the plans of which are approved by the state health department.
13. Garbage handled improperly. Throwing or letting fall on or permitting to remain on any street, alley, or public ground any manure, garbage, rubbish, filth, fuel or wood while engaged in handling or removing any such substances.

Transient Merchant or Itinerant Merchant – Any person, firm or corporation whether as owner, agent or consignee or employee who engages in a temporary business of selling and delivering goods, wares and merchandise within the said city and who in furtherance of such purpose hires, leases, uses or occupies any building, structure, motor vehicle, tent, railroad boxcar or any street, alley, lot or other place within the city for the exhibition and sale of such goods, wares and merchandise, either privately or at public auction; provided that such definitions shall not be construed to include any person, firm or corporation who while occupying such temporary location does not sell from stock but exhibits samples only for the purpose of securing orders for future delivery only. The person, firm or corporation so engaged shall not be relieved from complying with the provisions of this chapter merely by reason of associating temporarily with any local dealer, trader, merchant or auctioneer or by conducting such transient business in connection with or as a part of or in the name of any local dealer, trader, merchant or auctioneer.

TITLE I -ADMINISTRATION

CHAPTER 2

ORDINANCE

Section 1.2.1 Revision

There is hereby adopted by the City Council of Mount Vernon, South Dakota, that certain set or ordinances entitled “The Revised Ordinances of the City of Mount Vernon, South Dakota, 2012,” containing certain ordinances of a general and permanent nature as compiled, consolidated and codified in Title I and II, both inclusive, of which revised set or ordinances not less than two copies are now filed in the Office of the Municipal Finance Officer.

Section 1.2.2 Effective Date

This Ordinance shall become effective twenty (20) days after the last date of publication of said Ordinance.

Section 1.2.3 Separability

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

Section 1.2.4 Purpose of Subtitles

The subtitles appearing in connection with the foregoing sections are inserted simply for convenience to serve the purpose of any index and they shall be wholly disregarded by any person, officer, court, or other tribunal in construing the terms and provisions of this Ordinance.

Section 1.2.5 Repeal of Conflicting Ordinances

All ordinances or parts of ordinances in conflict with this Ordinance, or inconsistent with the provisions of this Ordinance, are hereby repealed to the extent necessary to give this Ordinance full force and effect.

Section 1.2.6 Penalties

Any person found guilty of violating any section of this Ordinance shall be fined not more than Five Hundred Dollars (\$500.00), imprisonment in a local jail for not more than thirty (30) days, or both such fine and imprisonment. Each day of violation shall be considered a separate offense. In addition, such person shall pay all costs and expenses involved in the case.

Except in cases where a different penalty is imposed by another ordinance, or by some existing provision of law, every violation of a provision of an ordinance of the City of Mount Vernon shall be a Class II misdemeanor offense.

1. CLASS II MISDEMEANOR: Five Hundred Dollars (\$500) fine and/or thirty (30) days imprisonment in the County Jail.

TITLE I – ADMINISTRATION
CHAPTER 3
CORPORATE LIMITS AND SEAL

Sections 1.3.1 Corporate Limits Defined

The current boundaries of the incorporated City of Mount Vernon are on file with the Municipal Finance Officer.

Section 1.3.2 Official City Map

The map illustrating the corporate limits, filed within with the Municipal Finance Office, shall be the Official Map of the City of Mount Vernon.

Section 1.3.3 Corporate Seal

The City of Mount Vernon, South Dakota, shall have a corporate seal stating thereon as follows: “Incorporated City of Mount Vernon, South Dakota” which shall be in the custody of the Municipal Finance Officer and shall appear upon all official signatures of the Mayor and Municipal Finance Officer.

Section 1.3.4 Legal Newspaper

The City Council shall designate each year, prior to the first day of May, a legal newspaper for the City of Mount Vernon.

Section 1.3.5 Depository

The City Council shall designate each year, prior to the first day of May, a primary depository for the City’s finances.

TITLE I – ADMINISTRATION

CHAPTER 4

ELECTED OFFICIALS

Section 1.4.1 Election

There shall be elected at each annual municipal election, Council Members, who shall hold office for four (4) years, with staggered terms.

Section 1.4.2 Council Members

The City Council of Mount Vernon shall consist of six (6) members, each of whom shall be legally qualified electors thereof, and such members shall hold office for four (4) years. Such members shall qualify for office at the regular May meeting by filing an oath or affirmation of office with the Municipal Finance Officer. Minimum of 18 years of age.

Section 1.4.3 Mayor – Duties.

The Mayor shall preside at all meetings of the Council but shall have no vote except in the case of a tie. He shall perform such other duties as may be prescribed by the laws and ordinances, and take care that such laws and ordinances are faithfully executed. He shall annually and from time to time give the Council information relative to the affairs of the City, and shall recommend for their consideration such measures, as he may deem expedient. He shall have the power to sign or veto any ordinance or resolution passed by the Council, and the power to veto any part or item of an ordinance or resolution appropriating money.

Section 1.4.4 President of Council – Vice President

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

The President of the Council, in the absence of the Mayor, shall be presiding officer of the council, and during the absence of the Mayor from the City or his temporary disability, shall be acting Mayor and possess all the powers of the Mayor. In the absence or disability of the Mayor and President of the Council, the Vice President shall perform the duties of the Mayor and President of the Council.

Section 1.4.5 Mayor and Council – Compensation

The Mayor and members of the City Council are hereby allowed compensation as follows:

MayorTo be set first meeting in January
Council Members.....To be set first meeting in January

The above compensation shall be paid in such installments as may be determined by the governing body.

Section 1.4.6 Supervision of Department

The Mayor, with the approval of the Council, at the first meeting in May of each year, shall appoint one member of the Council to act in a supervisory capacity in the departments of water, street, fire and any other departments of the City, and such Councilmen, so appointed, shall have supervision over the department to which he is named as supervisor, and shall from time to time and as requested by the Council, report as to the condition and matters in said department.

Section 1.4.7 Salaries

- A. The annual salaries of the Municipal Finance Officer, City Attorney and City Maintenance Engineer shall be set annually by the City Council at its first meeting in January.
- B. All other salaries and wages of officers or employees of the City shall be fixed by resolution of the governing body.
- C. All salaries and wages fixed by Ordinance or by resolution of the Council shall be paid monthly, except as otherwise specifically provided.
- D. Appointive officers of the City shall furnish bonds to be approved by the governing board in such sum as may be determined by resolution or ordinance conditioned for the faithful performance of their duties and to account and pay over and deliver all moneys or property coming into their hands by virtue of their office, excepting that the bond of the Finance Officer shall be in the amount and as provided by section 45.1106 SD Code of 1939 and acts amendatory thereto.

Section 1.4.8 Oath of Office

The oath of office shall be in the following form:

“I, _____, having been elected to the office of a Council Member of the City of Mount Vernon, South Dakota, do solemnly swear that I will support the Constitution of the United States and the Constitution of the State of South Dakota and that I will faithfully and impartially to the best of my knowledge and ability perform all of the duties of my said office as provided by law.”

Subscribed and sworn to before me this _____ day of _____, 20____.

Notary Public

Section 1.4.9 Meetings

Regular meetings of the governing body shall be held in the City Hall on the first Monday after the first Wednesday of each month at 7:00 p.m. Special meetings may be called at any time by

the Mayor to consider such matters as may be mentioned in the call for the meeting. Public notice will be posted 24 hours prior to meetings at bulletin board by Post Office.

Section 1.4.10 Special Meeting Notice

Upon call for a special meeting, the Municipal Finance Officer shall notify those City Council members present within the municipality via oral or written communication. Nothing in this Section shall prohibit the adoption of a more stringent or formal notification process. Notice will be posted within 24 hours at Post Office, Web Site and Tom Young Community Center door. In case of an emergency meeting, announcement will be on local radio stations.

Section 1.4.11 Meeting Rules and Format

The rules and order of business for City Council meetings shall be determined by the City Council from time to time.

Section 1.4.12 Parliamentary Procedure

Robert's Rules of Order, as periodically revised, shall be the parliamentary authority governing the conduct of City Council meetings.

TITLE I – ADMINISTRATION
CHAPTER 5
WARDS AND PRECINCTS

Section 1.5.1 Boundaries

The City of Mount Vernon shall include all territory embraced within the original city site of Mount Vernon, together with all subsequent additions taken into the city since that time, less territory legally exclude therefrom, if any, according to the recorded plats thereof recorded in the office of the Register of Deeds, Davison County, South Dakota.

Section 1.5.2 Wards

The City of Mount Vernon is divided into three wards, designated respectively as the First, Second and Third Wards.

First Ward - All portions of the City lying East of Main Street and South of 4th Avenue

Second Ward - All portions of the City lying North of 4th Avenue

Third Ward – All portions of the City lying West of Main Street and South of 4th Avenue

Section 1.5.3 Voting Precincts

There shall be but one voting precinct within the City of Mount Vernon, South Dakota, comprised of all three wards, which shall be known as the voting precinct of the City of Mount Vernon, County of Davison, State of South Dakota.

TITLE I – ADMINISTRATION
CHAPTER 6
APPOINTED OFFICIALS

Section 1.6.1 Attorney

The City Council shall appoint a City Attorney each year prior to the first day of May.

TITLE I – ADMINISTRATION
CHAPTER 7
MUNICIPAL EMPLOYEES

Section 1.7.1 Appointment of Officers

At the first regular meeting in January of each year, there shall be appointed by the governing body a City Attorney, a Municipal Finance Officer, and such other officers as may be provided by ordinance, to hold office until the appointment and qualifications of successors. All such appointments shall be made by the Mayor with the approval of the Council.

Section 1.7.2 Municipal Finance Officer

The City Council shall cause for the employ of a Municipal Finance Office. The duties, of which, shall be negotiated by the City Council and conducted in accordance with South Dakota Codified Law. The position shall be compensated at a rate to be determined by the City Council, serve at the discretion of the City Council, and may be removed without cause.

Section 1.7.3 City Maintenance Superintendent

The City Council shall cause for the employ of a Maintenance Position. The duties of which shall be negotiated by the Council and conducted in accordance with applicable labor laws. The position shall be compensated at a rate to be determined by the Board, serve at the discretion of the Board, and may be removed without cause.

Section 1.7.4 Water Superintendent

The City Council shall cause for the employ of a Maintenance Position. The duties of which shall be negotiated by the Council and conducted in accordance with applicable labor laws. The position shall be compensated at a rate to be determined by the Board, serve at the discretion of the Board, and may be removed without cause.

Section 1.7.5 Law Enforcement

The City Council shall provide for law enforcement. Police protection and patrol will be contracted through the Davison County Sheriff's Office.

Section 1.7.6 Fire Department

Fire protection shall be provided by the Mount Vernon Fire District, their successors, or whomever the City Council shall contract with.

TITLE I – ADMINISTRATION
CHAPTER 8
PARK BOARD

Section 1.8.1 Supervision of Parks

City parks shall be under the supervision of the park and recreation board. The purpose of the park and recreation board shall be to establish, improve, care for, regulate and manage a system of public parks and parkways, and to operate a system of public recreation, playgrounds and children's parks in and for the city. The park and recreation board shall be governed by the following rules and regulations:

Section 1.8.2 Composition

The park and recreation board shall be composed of seven members, each of whom shall be a resident and freeholder of the community. Park Board shall be composed of: 1 member from School board, 1 member from City Council, 1 member from the American Legion, 1 member from the Baseball Association, 1 citizen at large, 1 member of the Mt. Vernon Amateur Baseball team and the Mayor.

Section 1.8.3 Appointment

The members of the park and recreation board shall be appointed by the mayor with the approval of the common council of the city, at its first regular meeting in May of each year.

Section 1.8.4 Terms

Each member shall be appointed for one year, and may be re-appointed to consecutive terms. Such appointees shall hold office until their successors are appointed and qualified.

Section 1.8.5 Vacancies

Any vacancy on the park and recreation board shall be filled for the unexpired term of the member vacating such board in the same manner as is required for a regular appointment and shall also qualify for such position as is provided in this section.

Section 1.8.6 Qualification of Members

Each member of the board, before entering upon his or her official duties, shall take, the usual oath of office required for appointive officers of the city.

Section 1.8.7 Officers

At the first regular meeting of the park and recreation board in May of each year, the board shall elect from its members a president, vice-president, and a secretary each of whom shall serve until

the first meeting of the board in May of the following year. The vice-president shall act in the absence or disability of the president. In case of death or retirement of an officer, a successor shall be elected immediately.

Section 1.8.8 Meetings

The park and recreation board shall hold regular meetings at least three times yearly, once in May once in July and once in September and as many special meetings as it deems proper.

Section 1.8.9 Quorum

Four members of the park and recreation board shall constitute a quorum for the transaction of business.

Section 1.8.10 Affirmative Action

An affirmative vote of at least four members of the park and recreation board shall be necessary to authorize any action of the board.

Section 1.8.11 Records--Reports

The secretary of the park and recreation board shall keep a record of its proceedings and make such reports as may be required by the board. In the absence or inability to act, the board may appoint a secretary pro tem to perform his or her duties. The records of the board kept by its secretary or copies of any such records, when duly certified by the secretary, shall be competent evidence of the proceedings of the board.

Section 1.8.12 Powers and Duties Generally—Limitations

The park and recreation board shall have all of the powers and duties and be subject to limitations and enjoy those privileges and immunity as provided by state law. Whenever the prior approval of the common council of the city is required, before the board can act, such prior approval shall first be obtained.

Section 1.8.13 Budgeted Funds

Budgeted amounts for park and recreation purposes shall be combined in one account, pursuant to SDCL, 1967, 9-38-90.3, as from time to time amended. Per SDCL 9-38-42 The park board on or before the fifteenth day of July of each year shall make an estimate of the moneys necessary for maintaining, constructing, and improving, for the ensuing fiscal year, parks, which are under its control. The estimate shall specify the amount required for each park district and the amount required for general park purposes and shall be certified by the secretary of the board to the Municipal Finance Officer on or before the first day of August of each year. Per SDCL 9-38-6. All fees received under this section and any other money received for use of the board including tax revenues which may be appropriated for park purposes, shall be kept in a special park fund and shall be paid upon requisition by the president and secretary of the board and warrant drawn and executed as other warrants.

Section 1.8.14 Payment of Funds

The Municipal Finance Officer shall pay money received for use by the park and recreation board upon requisition of the president and secretary of the board and pay warrants drawn and executed as other warrants. (Prior code § 2-101)

