CITY OF MOUNT VERNON
ORDINANCE BOOK

Adopted June 14, 2016

NOTICE OF ADOPTION

OF AN ORDINANCE IN

REVISION OF THE ORDINANCES OF THE

CITY OF MOUNT VERNON, SOUTH DAKOTA

Ordinance No. 2016A

An Ordinance No. 2016A, Mount Vernon City Ordinances for the City of Mount Vernon, South Dakota.

Whereas, since the City of Mount Vernon has been incorporated, the City of Mount Vernon has adopted Mount Vernon City Ordinances, and

Whereas, these City ordinances have been reorganized, updated, and cataloged into one City Ordinance book for easy reference, and

Whereas, the Mayor, City Council, City Attorney, staff and officials from Planning & Development District III, of Yankton, have spent considerable time and energy preparing one single reference document for Mount Vernon City Ordinances,

BE IT ORDAINED by the City Council of Mount Vernon, South Dakota: That this Ordinance No. 2016A is in Revision of the Ordinances of the City of Mount Vernon, South Dakota, is

Hereby Read, Approved and Adopted as follows:

First Reading: May 9, 2016

Second Reading: June 6, 2016

Approved and Adopted: June 6, 2016

Notice of Adoption Published: June 14, 2016

Effective:

_____

Mayor, Tom Koch

Attested By:_____

SEAL

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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.

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

Section 1.1.1a Definitions Letters A-G

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.

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 Feb 2018)

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.

Section 1.1.1b Definitions Letters H-M

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.

Section 1.1.1c Definitions Letters N-S

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.

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. 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 or any foul, 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 substance.

14. Rodents – Accumulation of junk, old iron, automobiles or parts thereof, or anything whatever in which rodents may live, breed, or accumulate.

15. 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.

16. 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.

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.

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 – The word “person” as used herein shall include the singular and the plural and shall also mean and include any person, firm, partnership, corporation, association, club, co-partnership or society or any other organization, 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 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 of damage inflicted upon the individuals may be unequal.

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 nonputresible 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 it 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.

Section 1.1.1d Definitions Letters T-Z

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.

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.

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 two (2) years, with staggered terms.

Section 1.4.2 Officials

The City Council of Mount Vernon shall consist of six (6) members and a mayor, each of whom shall be legally qualified electors thereof, and such members shall hold office for two (2) 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. (Amended December 2021)

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:

Mayor .....To 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 Regular Meetings

The regular meetings of the Mt. Vernon City Council shall be held on the first Monday after the first Wednesday of each month, unless changed by the city council. If the meeting date falls on a holiday a new meeting date will be set by motion. 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 the bulletin board by Post Office. (Amended August 2022)

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. (Amended August 2022)

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.

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)

TITLE II – FINANCIAL MANAGEMENT

CHAPTER 1

CONTRACTS AND CLAIMS

Section 2.1.1 Contracts by Member of the Council

No officer or member of the Council shall enter into any contract, make any purchase, or create any indebtedness against the City in excess of $500.00 without first having submitted the matter of incurring such indebtedness or making such contract to the Council or having received authority of such Council therefore.

Section 2.1.2 Sale of Personal Property

Whenever the City deems it for the best interest of the City, that personal property belonging to the city be sold, which said property has been abandoned or is about to be abandoned for public use, said property shall be sold to the highest bidder upon such terms as may be determined by the City Council. Notice of sale shall be given by publication once a week for three successive weeks in the official newspaper of the City, which said notice shall contain a description of the personal property to be sold and the time and place where bids will be received by the Council for the said sale; and the Council may at such time sell said personal property to the highest and best bidder therefore or may in its discretion reject all bids.

Section 2.1.3 Claims

All claims against the City of Mount Vernon shall be in writing and upon forms provided by the Municipal Finance Officer and in such as required by statute of the State of South Dakota. Prior to passage or approval by the Council, claims shall bear the approval of the Councilmen or person in charge of the department for which such services or supplies are furnished.

Section 2.1.4 Funds

The Finance Officer shall keep full true and just accounts of all financial affairs of the city and shall keep such accounts and furnish in such forms and in such manner from time to time as is required by the Division of Audits and Accounts of the State of South Dakota.

Section 2.1.5 Supplies

The Finance Officer shall purchase all supplies, shall have charge thereof, and shall make all sales therefrom; provided no purchase involving an expenditure of more than fifty dollars shall be made without the consent of the Mayor or proper committee of the City Council being first obtained. Every order for material or supplies shall be made in writing and a duplicate thereof shall be filed with the Finance Officer. All materials and supplies shall when received be checked over by the officer or agent receiving the same, and a bill thereof, showing the name of the creditor and each article with the price thereof shall immediately be filed with the Finance Officer, and shall bear the endorsement of such officer or agent showing in what respect, if any, the material or articles failed to correspond with the material or article ordered.

CHAPTER 2

SALES AND USE TAXES

Section 2.2.1 Purpose

The purpose of this ordinance is to provide additional needed revenue for the Municipality of Mount Vernon, Davison County, South Dakota, by imposing a municipal retail sales and use tax pursuant to the powers granted to the municipality by the State of South Dakota, through SDCL 10-52 entitled, Uniform Municipal Non Ad Valorem Tax Law, and acts amendatory thereto.

Section 2.2.2 Sales Tax Date

There is hereby imposed as a municipal retail occupational sales and service tax upon the privilege of engaging in business a tax measured by two (2) percent on the gross receipts of all persons engaged in business within the jurisdiction of the City of Mount Vernon, Davison County, South Dakota, who are subject to the South Dakota Retail Occupational Sales and Service Tax, SDCL 10-45 and acts amendatory thereto.

Section 2.2.3 Use Tax

In addition, there is hereby imposed an excise tax on the privilege of use, storage, and consumption within the jurisdiction of the municipality of tangible personal property or services purchased. The tax should be levied at the same rate as the municipal sales and service tax upon all transactions or use, storage, and consumption which are subject to the South Dakota Use Tax Act, SDCL 10-46, and acts amended thereto.

Section 2.2.4 Collection

Such tax is levied pursuant to authorization granted by SDCL 10-52 and acts amendatory thereto and shall be collected by the South Dakota Department of Revenue and Regulation in accordance with the same rules and regulations applicable to the State Sales Tax and under such additional rules and regulations as the Secretary of Revenue and Regulation of the State of South Dakota shall lawfully prescribe.

Section 2.2.5 Interpretation

It is declared to be the intention of this ordinance and the taxes levied hereunder that the same shall be interpreted and construed in the same manner as all sections of the South Dakota Retail Occupational Sales and Service Act, SDCL 10-45 and acts amendatory thereto and the South Dakota Use Tax, SDCL 10-46 and acts amendatory hereto, and that this shall be considered a similar tax except for the rate thereof to that tax.

TITLE III – BUILDING AND FIRE REGULATIONS

CHAPTER 1

BUILDING CODE

Section 3.1.1 Adoption of Building Code

There is hereby adopted by the City of Mount Vernon, South Dakota, for the purpose of establishing rules and regulations for the construction, alteration, removal, demolition, equipment, use and occupancy, location and maintenance of buildings and structures, including permits and penalties, that certain building code known as the National Building Code; Abbreviated Edition; recommended by the National Board of Fire Underwriters, being particularly the _____ Edition thereof and the whole thereof, save and except such portions are hereinafter deleted, modified or amended, of which not less that three (3) copies have been and now are filed in the Office of the Finance Officer of the City of Mount Vernon; and the same are herein, and from the date of which this ordinance shall take effect, the provisions thereof shall be controlling in the construction of all buildings and other structures within the corporate limits of the City of Mount Vernon.

Section 3.1.2 Exceptions to Code

Metal Awnings – Metal awnings shall not be considered for the purposes of this code as being a party of the building, but shall be considered as personal property.

Section 3.1.3 Establishment of Office of Building Official

A. The office of building official is hereby created and the executive official in charge shall be known as the building official.
B. The building official shall be appointed by the City Council. He shall be an official or employee of the City, or member of the Council, who shall assume the duties of building official in addition to his other duties. His appointment shall continue during good behavior and satisfactory service. He shall not be removed from office except for cause after full opportunity has been given him to be heard on specific charges.
C. During temporary absence or disability of the building official, the appointing authority shall designate an acting building official.

Section 3.1.4 Duties of Building Official

It shall be the duty of the building official to enforce all laws relating to the construction, alteration, removal, and demolition of all buildings and structures.

Section 3.1.5 Application for Permits

Application for all permits required by the building code shall be first submitted to the building official, who shall endorse thereon his approval or disapproval thereof and shall submit such application to the City Council for final action, and their action in approving or disapproving any such building application shall be final.

Section 3.1.6 Right of Entry

The building official, in the discharge of his official duties, and upon proper identification, shall have authority to enter any building, structure, or premises at any reasonable time.

Section 3.1.7 Fire Limits Established

The fire limits of the City of Mount Vernon are hereby established as follows: all of the plat of the Original City, now City of Mount Vernon, plus any additions thereto, recorded in the office of the Register of Deeds of Davison County, South Dakota.

Section 3.1.8 Saving Clause

Nothing in this chapter or in the code hereby adopted shall be construed to affect any suit or proceeding now pending any court, or any rights acquired, or liability incurred, nor any cause or causes of action accrued or existing under any act or ordinance repealed hereby. Nor shall any right or remedy of any character be lost, impaired or affected by this chapter.

Section 3.1.9 Validity

The invalidity of any section or provision of this chapter or of the code hereby adopted shall not invalidate other sections or provisions thereof.

Section 3.1.10 Inconsistent Ordinances Repealed

Ordinance or parts thereof in force at the time that this Ordinance shall take effect and inconsistent herewith, are hereby repealed.

CHAPTER 2

MOBILE HOMES

Section 3.2.1 General

No person shall park, keep, erect or maintain any mobile home or manufactured home within the City of Mount Vernon except in accordance with the provisions of this Chapter.

Section 3.2.2 Anchoring Requirements

All mobile homes or manufactured homes shall be anchored to the ground, or a permanent foundation, in accordance with manufacturer's specifications. In the absence of manufacturer's specifications, said mobile homes or manufactured homes shall be anchored to the ground, or a permanent foundation, according to a plan approved by the Mount Vernon City Council.

Section 3.2.3 Footing or Foundation Requirements

All mobile homes or manufactured homes shall be installed on concrete footing pads or on a foundation in conformance with manufacturer's installation specifications. In the event that concrete footing pads are used, said pads shall be no smaller than two feet by two feet by four inches in depth. The number of said concrete footing pads shall be appropriate to the size of the mobile home or manufactured home. All mobile homes or manufactured homes shall have the wheels removed and tongue removed (if possible) and each such home shall have foundation siding/skirting enclosing the entire perimeter of the home.

Section 3.2.4 Public Water and Sewer

All mobile homes or manufactured homes shall be hooked up to public water and sewer lines.

Section 3.2.5 Age of Home

All mobile homes or manufactured homes shall have been constructed or manufactured within ten (10) years of the date of installation of said home in the City of Mount Vernon. Mobile homes or manufactured homes constructed or manufactured more than ten years ago may be moved into the City of Mount Vernon only with the express consent and vote of majority of the members of the Mount Vernon City Council.

CHAPTER 3

FIRE REGULATIONS

Section 3.3.1 Adoption of National Code

There is hereby adopted by the City of Mount Vernon for the purpose of prescribing regulations governing conditions hazardous to life and property from fire or explosion, that certain code known as the Fire Prevention Code, Abbreviated Edition, recommended by the National Board of Fire Underwriters, being particularly the _____ edition thereof and the whole thereof save and except such portions as are hereinafter deleted, modified or amended of which code not less than three (3) copies have been and now are filed in the Office of the Finance Officer of the City of Mount Vernon and the same are hereby adopted and incorporated as fully as if set out at length herein, and from the date on which this Ordinance shall take effect, the provisions thereof shall be controlling within the limits of the City of Mount Vernon.

Section 3.3.2 Enforcement

The code hereby adopted shall be enforced by the City Council or representative.

Section 3.3.3 Definition

Wherever the word "Municipality" is used in the code hereby adopted, it shall be held to mean the City of Mount Vernon.

Section 3.3.4 Establishment of Limits of Districts in which Storage of Flammable Liquids in Outside Aboveground Tanks and Bulk Storage of Liquefied Petroleum Cases is to be Restricted

The limits referred to in Section 804a of the Code hereby adopted in which storage of flammable liquids in outside aboveground tanks is prohibited, and the limits referred to in Section _____ of the code hereby adopted in which bulk storage of liquefied petroleum gas is restricted, are hereby established as follows: the fire limits as established by Title 3 of this Ordinance.

Section 3.3.5 Modifications

The City Council or representative shall have the power to modify any of the provisions of the code hereby adopted upon application in writing by the owner or lessee or his duly authorized agent, when there are practical difficulties in the way of carrying out the strict letter of the code; provided that the spirit of the code shall be observed, public safety secured, and substantial justice done. The particulars of such modification when granted or allowed and the decision of the Chief of the Fire Department thereon shall be entered upon the records of the department and a signed copy shall be furnished by the applicant.

Section 3.3.6 Appeals

Whenever the City Council or representative shall disapprove an application or refuse to grant a license or permit applied for, or when it is claimed that the provisions of the code do not apply or that the true intent and meaning of the code have been misconstrued or wrongly interpreted, the applicant may appeal from the

decision of the Chief of the Fire Department to the City Council within thirty days from the date of the decision of the appeal.

Section 3.3.7 Burning Prohibited

No persons or business shall burn grass, leaves, tree branches, compost, garbage or rubbish, within the corporate limits of the City. It shall be unlawful for any person or business to violate any provision of this Ordinance, and any person or business who violates the same shall be guilty of a Class II misdemeanor and upon conviction thereof shall be subject to a fine not exceeding Five Hundred Dollars ($500) for each such offense.

TITLE IV – MUNICIPAL UTILITIES AND SERVICES

CHAPTER 1

WATER

Section 4.1.1 Duties of Superintendent

Under the supervision of the Mayor and City Council, the City Superintendent of Waterworks shall have the charge and management of the waterworks. He shall report to the Mayor whenever required, and to the City Council at each regular meeting thereof, the condition of his department of the public service, and shall make such suggestions for the improvement thereof as he may deem advisable. He shall perform such other duties as the Mayor and City Council may require.

Section 4.1.2 Application for Services

Any person, corporation or firm desiring the use of water from the waterworks system of this city shall make application thereof to the Municipal Finance Officer; such application shall be in blank form, to be furnished by the City Council. It shall be signed by the applicant, and shall contain, among other things, which may be required: Name, residential address, mailing address. It shall further contain a description of the premises to which the same is to be taken, the name of the owner of such premises, and if the applicant were not the owner then the written consent of the owner shall accompany such application. Upon receipt of such application, the applicant shall present same to the Municipal Finance Officer, and upon payment to said Finance Officer of the approximate water rent for the period of three months, shall receive a receipt from the Finance Officer of the payment of such sum. This receipt and the application shall then be presented to the City Council, who shall enter the same upon his books, and issue to the applicant a permit to use the water from the waterworks system for the purpose specified in said application. Said permit shall be conditioned upon the applicant complying with all the Ordinances, rules and regulations of the City of Mount Vernon relating to the waterworks system. Any assignment or transfer of said permit shall not be valid unless it shall have been approved by the Finance Officer, and entered upon his books.

Section 4.1.3 Expense of Taps

All taps to water mains and renewal of service pipes in said City shall be under the direction of the City Council, and the expense of making such taps is to be paid by the property owners, and shall be charged for from the curb stop and the amount of such charge shall be fixed by resolution as may be heretofore or hereafter agreed upon by the City Council.

Section 4.1.4 Water Rates

All users of water from the Municipal Plant shall pay to the City of Mount Vernon, for water used by them, rates as determined by the City Council as deemed necessary.

Section 4.1.5 Water Meters

All persons using City water shall be provided at the expense of the City, with water meters designated by the City Council; such meters shall be properly attached to correctly measure all water used.

Section 4.1.6 Inspection of Meters

In case the water meter fails to register the amount used for any reason it fails to properly tally, the waterworks committee of the City Council or other officer in charge of the waterworks system shall estimate the amount used and its decision shall be final.

Section 4.1.7 City Not Liable

All persons using water from the waterworks system for any purpose whatever shall do so at their own risk, and the City of Mount Vernon will not, nor will the Mayor, City Council, Superintendent or other officer in charge of the waterworks system, in any case, be liable or responsible for damages growing out of the overflow or stoppage of water, or any insufficient supply of the same.

Section 4.1.8 Use of Water During Fires

During the time of fires, the use of water for lawn purposes is prohibited, and any person violating this section is guilty of a misdemeanor.

Section 4.1.9 Turning on Water

Any person who shall turn on the supply of water to a service pipe from which the same has been turned off by the City on account of non-payment of water rates, or for any other reason without having first obtained a permit to do so, or who shall have turned on such water without having first obtained a permit from the proper city officials as in this ordinance provided, shall be subject to a penalty identified within Title I.

Any person who shall turn on the water in any hydrant, or from any part of the waterworks plant except at public drinking fountains, and except in the case of fire, without permission of the person in charge of the system, shall be deemed guilty of a misdemeanor; and any person who shall climb on the water tower or on the ladder thereon, without the permission of the person in charge of the waterworks system, shall be guilty of a misdemeanor, and upon conviction thereof, in either case, subject to the penalties identified in Title I. (Amended Sep 2020)

Section 4.1.10 Property of City

All service pipe connections, and boxes leading from the mains to the curb shall be, and remain the property of the City of Mount Vernon.

Section 4.1.11 Payment of Water Services

Water shall be supplied only upon written order of the owner of a real estate to which it is piped along with a deposit in the amount set by the City Council, and the City shall have a lien upon the property to which water shall be taken from the municipal plant, for all water rents due, and in no case shall water be turned on at any place or property at which water shall have been used and remained unpaid for, except by permission of the City Council.

The minimum rate and excess shall be payable monthly and any payment not made on or before said times shall be delinquent; and it shall be the duty of the Superintendent or other person in charge of the Municipal plant to shut off the water from all users so in default pursuant to 4.1.13. Every connection turned off under the provisions of this section shall not be turned on again except upon payment of the amount in arrears.

The City will hold the amount in arrears as the sole responsibility of the owner of the real estate regardless of whether a landlord/tenant relationship exists.

Section 4.1.12 Restrictions, Sprinkling, Air Conditioning

All water used for air conditioning or cooling systems, lawn or garden sprinkling, watering of trees or shrubs, the washing of cars, or other use other than domestic or necessary commercial use, may be restricted at any time by the Mayor of the City of Mt. Vernon should the scarcity of water or any other emergency of any kind so require. If the Mayor of Mt. Vernon is unable to act or unwilling to act for any reason a majority of City Council Members may declare, without a formal City Council meeting, a water emergency should the scarcity of water or any emergency of any kind so require. Such restrictions whether declared and imposed by the Mayor of Mt. Vernon or a majority of City Council members must be ratified by a vote of the City Council at the next scheduled City Council meeting to remain in effect during the then current calendar month. Notice of any water emergency must be given to the public by publication of such restrictions and the extent thereof in the Mitchell Daily Republic Newspaper and if possible by radio or TV announcement at least twenty-four (24) hours before the effective date of such restriction; and it shall unlawful for any person, firm, entity or corporation, to use city water in the manner or at the time restricted by such declaration of the Mayor of Mt. Vernon or a majority of City Council member acting informally or through formal resolution. The term sprinkling shall include the use in any manner of water for lawn or garden purposes where such water is distributed by the use of any hose or conduit.

Section 4.1.13 Delinquent Water Accounts

Payment on all water accounts is due by the 20th of the month following the date of billing. Payments received after the 20th shall be considered late and assessed a late fee, the amount of which shall be fixed by resolution of the governing body. Late payment on past due accounts shall be received by the last day of such month or the service may be disconnected. The customer shall be notified by regular mail of the disconnection seven (7) days in advance. If the customer is a tenant who is not the owner, notice of the disconnection may also be provided to the owner of the real property by regular mail. To avoid disconnection, the past due amount must be paid in full prior to the disconnection. Customers or property owners shall be charged a minimum of one hundred dollars ($100) for hookup to renew service after disconnection. (Amended May 2018) (Amended February 2021)

TITLE IV – MUNICIPAL UTILITIES AND SERVICES

CHAPTER 2

SEWER

Section 4.2.1 Duties of Superintendent

Under the supervision of the Mayor and City Council, the City Superintendent shall have the charge and management of the sewer system. He shall report to the Mayor whenever required, and to the City Council at each regular meeting thereof, the condition of his department of the public service, and shall make such suggestions for the improvement thereof as he may deem advisable. He shall perform such other duties as the Mayor and City Council may require.

Section 4.2.2 Application for Services

Any person, corporation or firm desiring the use of the sewer system of this city shall make application thereof to the Municipal Finance Officer; such application shall be in blank form, to be furnished by the City Council. It shall be signed by the applicant, and shall contain, among other things, which may be required, the purpose for which the sewer is desired. It shall further contain a description of the premises to which the same is to be taken, the name of the owner of such premises, and if the applicant were not the owner then the written consent of the owner shall accompany such application. Upon receipt of such application, the applicant shall present same to the Municipal Finance Officer, and upon payment to said Finance Officer of the approximate fee for the period of three months, shall receive a receipt from the Finance Officer of the payment of such sum. This receipt and the application shall then be presented to the City Council, who shall enter the same upon his books, and issue to the applicant a permit to use the sewer system for the purpose specified in said application. Said permit shall be conditioned upon the applicant complying with all the Ordinances, rules and regulations of the City of Mount Vernon relating to the sewer system. Any assignment or transfer of said permit shall not be valid unless it shall have been approved by the Finance Officer, and entered upon his books.

Section 4.2.3 Connections

All connections of private drains or sewers with the public sewers of the City of Mount Vernon or the construction or modification of appurtenances to sewers or sewer connections shall be made in accordance with the rules and of the State Plumbing Code.

Section 4.2.4 Party Making Connection Held Responsible

The lot owner who connects with the public sewers shall be held responsible for any damage he may cause to the sewer or to the public streets. He shall restore the street to the satisfaction of the city inspector and make good any settlement of the ground caused by the excavation made under and by virtue of any permit issued under the provisions of this chapter.

Section 4.2.5 Rules and Regulations

A. Trenches in public streets or alleys shall be excavated as to impede public travel as little as possible.
B. Warning lights shall be kept around all unfinished work at night, and sufficient barricades against accidents shall be placed around excavations at all times.
C. Street asphalt must be saw cut and asphalt replaced at owner’s expense.

D. The refilling of all trenches in streets or alleys shall be well and thoroughly done in uniform layer of not exceeding nine inches and tamped with a mechanical compacter, so as to replace all excavated material and leave the surface in as good condition as found before the commencement of the work.
E. Commercial and industrial users must state types of discharges into sanitary system, with Council having right of approval or disapproval.
F. No storm water connections will be permitted in the system of sewers.
G. Entrance into manholes or the opening of same except by the City employees or agents is strictly prohibited.

Section 4.2.6 Certain Connections Prohibited

No connection from any cesspool or privy vault shall be made with any sewer.

Section 4.2.7 Certain Acts Prohibited

No butcher offal or garbage, dead animals or obstruction of any kind whatever, shall be placed, thrown or deposited in any receiving basin or sewer in the City of Mount Vernon, and any person, company, or corporation violating this provision shall be liable to a fine not less than one hundred dollars ($100) and not more than five hundred dollars ($500) for each offense.

Section 4.2.8 Penalty for Disturbing Property

Whoever willfully and unlawfully disturbs, digs up or injures any public drain, sewer, manhole or catch basin, or appurtenance thereto shall be subject to a Class 2 misdemeanor, five hundred dollars ($500).

Section 4.2.9 Certain Connections May Be Ordered

Whenever in the discretion of the City Council or the Board of Health of the City of Mount Vernon the sanitary conditions require it, the owners of property shall make private drain connections with any public sewer now constructed or which may hereafter be constructed. Said Council shall direct the Finance Officer to give ten days notice in writing to the owners of such property that such owners will be required to make such connections with such public sewers, under the provisions of this chapter. And all persons who fail to comply with the requirements of such notice within twenty days after said notice is served upon him or them shall be subject to a Class 2 misdemeanor, five hundred dollars ($500).

Section 4.2.10 All Sewers Under Control of City Council and Sewer Committee

All sewers now or hereafter constructed shall be under the exclusive supervision and control of the City Council and the Committee on Sewers; it shall be unlawful for any person to do anything in any manner affecting the said sewer or any part thereof and any device or appliance or appurtenances used or connected in any way with the said sewer without first obtaining the special permit hereinbefore provided for, shall be punished by a fine of not less than one hundred ($100) dollars nor more than five hundred dollars($500).

Section 4.2.11 Sump Pump Discharge

Between April 1 and October 31 of the calendar year, or should an emergency of any kind so require, by declaration of the Mayor of the City of Mount Vernon, no person shall discharge or cause to be discharged any storm water, surface water, spring water, ground water, subsurface drainage, building foundation drainage and/or basement drainage into sanitary sewer system by means of connecting a sump pump discharge pipe or outlet to pump or drain into sewer system.

Any person who discharges or causes to be discharged any storm water, surface water, spring water, ground water, subsurface drainage (building foundation drainage and/or basement drainage) into the sanitary sewer system by connecting a sump pump discharge pipe or drain to pump or drain into the sanitary sewer system shall, upon conviction, be guilty of a summary offense, punishable of a fine of not more than one hundred dollars ($100.00) per violation, per day. (Amended July 2020.)

TITLE IV – MUNICIPAL UTILITIES AND SERVICES

CHAPTER 3

SOLID WASTE DISPOSAL

Section 4.3.1 Service and Fees

The City of Mount Vernon, South Dakota, shall provide solid waste collection service to all residential households within the Town's corporate limits, and the monthly charge for said services shall be as follows

1. The City shall have the power at any time, by passage by a majority vote of the council to lower or raise the charges paid to the city of Mt. Vernon for the collection of garbage.

Section 4.3.2 Service Required

Any resident who has a water or sewer hookup within the City limits is required to have and pay the municipal garbage collection service.

Section 4.3.3 Disposal

All garbage shall be secured in container provided by collection service and made available at their pickup area.

Section 4.3.4 Payment

All fees for municipal solid waste collections are due as of the first of each month and must be paid not later than the fifteenth (15th) of the month for which said amount is due. If not paid by the fifteenth (15th) of that month said amount is delinquent.

Section 4.3.5 Containers Accessible

Whenever the premises in which garbage and rubbish accumulates are adjacent to a street or alley, the garbage and rubbish containers for such premises shall be kept in a location convenient and accessible to such street, the garbage and rubbish containers shall be kept on the premises in such a location that they will be readily accessible to the nearest street without being unsightly.

Section 4.3.6 General Restrictions

A. No person shall place, throw or deposit, or cause, suffer, or permit to be placed, thrown, or deposited any garbage or rubbish as herein defined, in any street, alley, or public ground in the City, except in containers approved by this Chapter.
B. No person shall move any article over any street or alley within the City unless such article is entirely supported on wheels, except when such operation is specifically authorized by the City Superintendent.
C. No person shall place, dump, or deposit or cause, suffer, or permit to be placed, dumped or deposited, any garbage or rubbish as within the City or the restricted use dump site herein provided,

Section 4.3.7 Accumulation Prohibited

It shall be unlawful for any person or business to allow garbage and rubbish to accumulate and collect in the City of Mount Vernon beyond a period of one week, and any person or business who violates this provision or any of the provisions of this Ordinance shall be guilty of a misdemeanor and upon conviction thereof shall be subject to a fine not exceeding Five Hundred Dollars ($500). Patrons are required to use refuse containers that have been provided by collection service.

TITLE IV – MUNICIPAL UTILITIES AND SERVICES

CHAPTER 4

RESTRICTED USE SITE

Section 4.4.1 Intent

The City shall provide for a Restricted Use Site as permitted by the South Dakota Department of Environment and Natural Resources.

Section 4.4.2 Location

The Restricted Use Site shall be located upon Irregular Tract 3 in the Southeast (SE) one quarter (1/4) of Section 2 Cityship 101 North Range 60 West all within Davison County, South Dakota

Section 4.4.3 Acceptable Materials

A detailed list of materials accepted at the Restricted Use Site is on file with the Municipal Finance Officer. Only materials specifically identified in the permit issued by the South Dakota Department of Environment and Natural Resources are permitted to be disposed of at the site.

Section 4.4.4 Modification

The City Council reserves the right to alter the materials accepted by Resolution and in accordance with the Permit to Operate as issued by the South Dakota Department of Environment and Natural Resources.

CHAPTER 5

CABLE TELEVISION FRANCHISE

The City Council is hereby empowered and authorized to issue franchises.

Section 4.5.1 Franchise Granted

An ordinance granting a franchise to Sanborn Telephone Cooperative, its successors, and assigns to erect, own, operate, and maintain a community antenna television system in the City of Mount Vernon, South Dakota; setting forth conditions accompanying the grant of franchise, and providing for City regulation and use of the community antenna television system.

Be it ordained by the City Council of the City of Mount Vernon, South Dakota: whereas, Sanborn Telephone Cooperative has petitioned for the nonexclusive right to construct and operate a community antenna television system in the City of Mount Vernon, South Dakota.

Now therefore, the City of Mount Vernon, South Dakota, hereby grants to Sanborn Telephone Cooperative the rights under this Cable Television Franchise Ordinance.

Section 4.5.2 Grantee, Qualifications and Nonexclusive Authority

WHEREAS, The City has approved of the legal, character, financial, technical and other qualifications of the Grantee and the adequacy and feasibility of the Grantee's construction arrangements as part of a full public proceeding affording due process, including notice to all interested persons and members of the public, there is hereby granted by the City to the Grantee a nonexclusive franchise, right and privilege to construct, erect, operate, modify and maintain, in, upon, along, across, above and over and under the highways, streets, alleys, sidewalks, public ways and public places now laid out or dedicated and all extensions thereof, and additions thereto, in the City, poles, wires, cables, underground conduits, manholes and other television conductors and fixtures necessary for the maintenance and operation in the City of a Cable Television System for the purpose of distributing television and radio signals, and other electronic impulses in order to furnish television and radio programs, and various communications and other electronic services to the public. The right so granted includes the right to use and occupy said streets, alleys, public ways, and public places and all manner of easements for the purposes here set forth.

Section 4.5.3 Duration and Acceptance of Franchise

The Franchise granted the Grantee herein shall terminate 15 years from date of grant, subject to renewal for periods of reasonable duration on the same terms and conditions as contained herein, or on such different or additional terms and conditions as may be lawfully specified by the City and as are consistent with the requirements of Rule 76.31 or other applicable rules of the Federal Communications Commission. No renewal hereof shall be granted unless authorized by the City following a public hearing. Grantee shall be awarded a franchise renewal provided its application shows that its CATV service during the preceding franchise period has reflected material compliance with the terms of this Franchise Ordinance and a good-faith effort to serve the needs and interests of the service area.

Section 4.5.4 Compliance

A. The Grantee shall, at all times, operate and maintain its Cable Television System in full compliance with the rules, regulations and standards of the FCC and any applicable rules, regulations, and standards of the State of South Dakota.

B. The Grantee shall, at all times, during the life of this Franchise, be subject to all lawful exercise of the police power by the City and to any such reasonable regulations as the City shall hereafter provide.

Section 4.5.5 Territorial Area Involved

This Franchise relates to the present territorial limits of the City and to any area henceforth added thereto during the term of this Franchise. During the term of this Franchise Ordinance, Grantee shall offer CATV service upon request at its then established normal installation and monthly rates to any permanent dwelling or other building within the ten territorial limits of the City, subject to application of established credit and other business policies of Grantee.

Section 4.5.6 Liability and Indemnification

Grantee shall at all times keep in effect the following types of insurance coverage:

A. Workers Compensation upon its employees engages in any manner in the installation or servicing of its plant and equipment within the City of Mount Vernon.
B. Property Damage Liability Insurance to the extent of Fifty Thousand Dollars ($50,000) as to any person and One Hundred Thousand Dollars ($100,000) as to any one accident, and personal injury liability insurance to the extent of One Hundred Thousand Dollars ($100,000) as to any one person and Three Hundred Thousand Dollars ($300,000) as to any one accident.
C. Grantee shall indemnify, protect, and save harmless the City from and against losses and physical damage to property and bodily injury or death to persons, including payments made under any Workers Compensation law which may be caused by the erection, maintenance, use or removal of any of their attachments, poles, or other undertakings, within the City, or by any action or grantee, its agents or employees. Grantee shall carry insurance in the above described amounts to protect the parties hereto from and against all claims, demands, actions, suits, judgments, costs, expenses, and liabilities which may arise or result, directly or indirectly, from or by reason of such loss, injury or damage. Grantee shall also carry such insurance as it deems necessary to protect it from all claims under the Workers Compensation laws in effect that may be applicable to Grantee. The City shall give the Grantee prompt written notice of any such claims, demands, actions, suits, judgments, costs, expenses or liabilities. All insurance required shall be and remain in full force and effect for the entire life of the rights granted hereunder.

Section 4.5.7 Operation Maintenance of System

A. The Grantee shall provide for regular billing of accounts and be so operated that complaints and requests for repairs of adjustments may be received at any time.
B. The Grantee shall render safe and efficient service, make repairs promptly, and interrupt service only for good cause and for the shortest time possible. Such interruptions, insofar as possible, shall be preceded by notice and shall occur during periods of minimum use of the system.
C. The Grantee shall provide for safe, adequate, and prompt service for its facilities.

Section 4.5.8 Service to School and City

The Grantee shall provide service to the elementary and secondary school location within the City (one terminal junction) for educational purposes upon request by the City or the school system and no cost to the City or to the school system. This shall mean only an energized cable to such buildings. The cost of any internal wiring shall be borne by the institution. Grantee shall also provide the City, for connections to a building to be selected by the City Council of the City, without charge, and one junction terminal to said building at a location therein to be selected by the City.

Section 4.5.9 Emergency Use of Facilities

In the case of any emergency or disaster, the Grantee shall, upon request of the City Council, make available its facilities to the City for emergency use during the emergency or disaster.

Section 4.5.10 Safety Requirements

The Grantee shall at all times employ ordinary care and shall install and maintain in use commonly accepted methods and devices for preventing failures and accidents which are likely to cause damages, injuries, or nuisances to the public.

Section 4.5.11 Other Business Activities

The Grantee hereunder shall not engage in the business of selling, repairing or installing extension services, radio receivers or accessories for such receiver within the City of Mount Vernon during the term of the Franchise.

Section 4.5.12 New Developments

It shall be the policy of the City liberally to amend this Franchise, upon application of the Grantee, when necessary to enable the Grantee to take advantage of any developments in the field of transmission of television and radio signals which will afford it an opportunity more effectively, efficiently or economically to serve its customers. Provided, however, that this section shall not be construed to require the City to make any amendment or to prohibit it from unilaterally changing its policy stated herein.

Section 4.5.13 Limitations of Rights Granted

A. All transmission and distribution structures, lines and equipment erected by the Grantee within the City shall be so located as to cause minimum interference with the proper use of streets, alleys, and other public ways and places, and to cause minimum interference with the rights and reasonable convenience of property owners who join any of the said streets, alleys, or other public ways and places, and said poles or fixtures shall be removed by Grantee whenever, in the opinion of the City Council the same restrict or obstruct the operation or location of any future streets or public places in the City.
B. All transmission and distribution structures, lines and equipment erected by the Grantee within the City shall be located, erected and maintained so as not to endanger or interfere with the lives of persons, or to interfere with any installations of the City or of a public utility serving the City or to interfere with new improvements the City may deem proper to make.
C. In the maintenance and operation of its television transmission and distribution system in the streets, alleys, and other public places, and in the course of any new construction or addition to its facilities, Grantee shall proceed so as to cause the lease possible inconvenience to the general public; any

opening or obstruction in the streets or other public places made by Grantee in the course of its operations shall be guarded and protected at all times by the placement of adequate barriers, fences, or boarding, the bounds of which, during periods of dusk and darkness, shall be clearly designated by warning lights.

D. In case of disturbance of any street, sidewalk, alley, public way or paved area, the Grantee shall, at its own coast and expense and in a manner approved by the City Council, replace and restore such street, sidewalk, alley, public way, or paved area in as good a condition as before the work involving such disturbance was done.

E. If at any time during the period of this Franchise the City shall lawfully elect to alter or change the grade of any street, sidewalk, alley, or other public way, the Grantee, upon reasonable notice by the City, shall remove, relay, and relocate its poles, wires, cables underground conduits, manholes and other fixtures as its own expense.

F. All installations of equipment shall be of permanent nature, durable and installed in accordance with good engineering practices, and of sufficient height to comply with all existing City regulations, ordinance, and state laws so as not to interfere in any manner with the right of the public or individual property owner, and any equipment installed in a public way or place shall not interfere with the usual travel on such public way or usual use of such public way or usual use of such public place by the public and during the construction, repair, or removal thereof, shall not obstruct or impede traffic.

G. The Grantee shall, on the request of any person, temporarily raise or lower its wires to permit the moving of buildings. The expense of such temporary removal or raising or lowering of wires shall be paid by the person requesting the same, and the Grantee shall have the authority to require such pavement in advance. The Grantee shall be given not less than forty-eight (48) hours in advance notice to arrange for such temporary wire changes.

H. The Grantee shall have the authority to trim trees overhanging upon the streets, alleys, sidewalks and public ways and places of the City so as to prevent the branches of such trees from coming in contact with the wires and cables of the Grantee, except that at the option of the City, such trimming may be done by it or under its supervision and direction at the expense of the Grantee.

I. In all sections of the City where the cables, wires or other like facilities of public utilities are placed underground, the Grantee shall in the future place its wires, cables or other like facilities underground to the maximum extent that existing technology reasonably permits the Grantee to do so.

J. Grantee shall, at its own expense, protect, support, temporarily disconnect, relocate on the same street, alley or public place, or remove from the street, alley or public place, any property of the Grantee when required by the City by reason of traffic conditions, public safety, street vacation, freeway and street construction, change or establishments of street grade, installation of sewers, drains, water pipes, power lines, signal lines, and tracks or any other types of structures or improvements by governmental agencies when acting in a governmental or proprietary capacity, or other structure of public improvement; provided, however, that Grantee shall in all such cases have the privileges to abandon any property of Grantee in place as hereinafter provided.

K. In the event that the use of any part of the system is discontinued for any reason for a continuous period of twelve (12) months, or in the event such systems or property have been installed in any street or public place without complying with the requirements of this ordinance, or the rights granted hereunder have been terminated, cancelled or have expired, Grantee shall promptly remove from the streets, or public places all such property and poles of such system other than any which the City may permit to be abandoned in place. In the event of such removal, Grantee shall promptly remove from the streets, or public places all such property and poles of such system other than any which the City may permit to be abandoned in place. In the even of such removal, Grantee shall promptly restore the street or other area from which such property has been removed to a condition satisfactory to the City.

L. Any property of Grantee to be abandoned in place shall be abandoned in such a manner as the City may prescribe. Upon permanent abandonment of the property of Grantee in place, it shall submit to the City an instrument to be approved by the City, transferring to the City the ownership of such property.

Section 4.5.14 Removal of Facilities Upon Request

Upon termination of service to any subscriber, the Grantee shall promptly remove all its facilities and equipment from the premises of such subscriber upon his request.

Section 4.5.15 Transfer of Franchise

The Grantee shall not assign or transfer any rights granted under this Ordinance to any person, company or corporation without the prior approval of the City Council, which approval shall not be unreasonably withheld; provided the Grantee shall have the right to assign its rights under this Ordinance to an affiliated company without further approval of the City Council.

Section 4.5.16 Erection, Removal, and Common Use of Poles

A. No poles or other wire-holding structures shall be erected by the Grantee without prior approval of the City Engineer with regard to locations, height, type or any other pertinent aspect. However, no locations of any pole or wire-holding structure of the Grantee shall be a vested interest and such poles or structures shall be removed or modified by the Grantee at its own expense whenever the City Council determines that the public convenience would be enhanced thereby.
B. There is hereby granted to the extent that the City is authorized to so do, the right and authority to Grantee to lease, rent, or in any other manner obtain the use of towers, poles, lines, cables, and other equipment, and facilities from any and all holders of public licenses and franchises within the corporate limits of the City, including telephone and electric service franchises, to use such towers, poles, lines, cables and other equipment and facilities, subject to all existing and future ordinances and regulations of the City. It is the stated intention of the City that all other holders of public licenses cooperate with Grantee to allow Grantee joint usage of its poles and pole-line facilities whenever possible or wherever such usage does not interfere with the normal operation of said poles and pole lines so that the number of new or additional poles constructed by Grantee within the City may be minimized.
C. Grantee shall grant to the City, free of expense, joint use of any and all poles owned by it for any proper municipal purpose acceptable to Grantee, insofar as it may be done without interfering with the free use and enjoyment of Grantee's own wires and fixtures, and the City shall hold Grantee harmless from any and all claims, actions, causes of action, or damages caused by the placing of the City's wires or appurtenances upon the poles of Grantee. Proper regard shall be given to all existing safety rules covering construction and maintenance in effect at the time of construction. If, in accommodating the City's joint use of their poles, Grantee is required to change or replace poles or install new poles, the City shall compensate Grantee for such additional expense.

Section 4.5.17 Rates

A. Grantee shall at all times maintain on file with the Municipal Finance Officer a schedule setting forth all rates and charges to be made to subscribers for CATV service, including installation charges.
B. The rates and charges for services to subscribers shall be initially set by Grantee, subject to any applicable rules and regulations of federal and state agencies. Before putting into effect any changes

in the rates and charges to subscribers for basic CATV service, Grantee shall file in writing with the Municipal Finance Officer of the City of Mount Vernon the new proposed rate change at least thirty (30) days in advance of the proposed effective date for such initial rates or rate change. If the City Council takes no action to set the rate change for hearing, said proposed rate changes may become effective upon the expiration of the thirty (30) day notice.

C. If the City Council sets the rate change for hearing, said proposed rate changes will not become effective until the City Council has taken action by means of a resolution. Any changed rates and charges shall be set in accordance with lawful rate setting procedures in amounts calculated to yield revenues at least sufficient to enable Grantee to pay and discharge all expenses of operation, including taxes and fees, when due, and on indebtedness plus and amount sufficient to enable Grantee to earn a reasonable return on its investment in cable television facilities and related properties.

D. This provision does not limit the right of Grantee to pass along to the subscriber's state and local sales tax or any specific copyright fees.

Section 4.5.18 Complaint Procedures

Complaints regarding the quality of service, equipment malfunctions and similar matters shall first be directed to Grantee's office. Should Grantee fail to satisfy a complaint, it may then be directed to the Municipal Finance Office for investigation. In response to a complaint, Grantee shall be afforded a reasonable opportunity to present written statements of its position, the Municipal Finance Officer shall attempt to resolve the complaints but, if this cannot be achieved, he shall submit a recommendation to the City Council, recommending that: (1) the complaint be dismissed, or (2) corrective action be taken by Grantee. Appeal from the City Council's action may be made to the appropriate judicial or administrative forum.

Section 4.5.19 Compliance with FCC Franchise Standards

Pursuant to applicable FCC standards, the following recitations and provisions are set forth:

A. Grantee's legal, character, financial, technical and other qualifications, and the adequacy and feasibility of its construction arrangements, have been approved by the City Council of the City after consideration in a full public proceeding, affording due process to all interested parties.

B. The initial franchise period shall be fifteen (15) years in duration, and renewal franchise periods shall also be fifteen (15) years in duration.

C. The City Council has specified guidelines in charging rates. No changes in rates charged to subscribers shall be made except as they shall be deemed approved by the City Council as provided herein.

Section 4.5.20 Construction Schedules and Standards

A. Within sixty (60) days after the effective date of this Ordinance, the Grantee shall file with the appropriate governmental authorities all initial papers, applications, contracts and other documents necessary to obtain any and all necessary waivers, consents and licenses and to permit the commencement of construction and operation of the Cable Television System and shall thereafter make diligent efforts to obtain the proper execution, delivery of such documents and any amendments thereto. In the event that all necessary waivers, consents and licenses are not obtained within one year after the effective date of this Ordinance, this Franchise Ordinance may be repealed at the option of the City by the adoption of an appropriate repealed ordinance.

B. Within sixty (60) day's after all necessary waivers, consents and licenses have been obtained; the Grantee shall commence the construction of the Cable Television System and pursue such with diligence.

C. The Grantee shall commence operation on or before December 1, 1983, or this Franchise shall be subject to repeal as prescribed in subparagraph (1) above herein.

D. Delays in the performance of Grantee's obligations under this ordinance which are caused by strikes, equipment shortages, and state of war, acts of God or other circumstances beyond the control of Grantee, shall not be construed to be violations of the provisions of this ordinance, and reasonable extensions of the time shall be granted therefore.

E. All construction practices shall be in accordance with all applicable sections of the Occupational Safety and Health Act of 1970 and any amendments thereto as well as all applicable state and local codes. All installation of electronic equipment shall be of a permanent nature, durable and installed in accordance with all applicable codes, including the provisions of the electrical code. All of the Grantee's plant and equipment shall be installed, constructed, repaired, maintained and operated in accordance with good engineering practices. The Grantee's shall at all times employ ordinary care and shall install and maintain in use commonly accepted methods and devices preventing failures and accidents which are likely to cause damage, injury or nuisance to the public.

Section 4.5.21 Grantee Rules

A. The Grantee shall have the authority to promulgate such rules, regulations, terms and conditions covering the conduct of this business as shall be reasonably necessary to enable the Grantee to exercise its rights and perform its obligations under this Ordinance.

B. All such rules, regulations, terms and conditions promulgated under the subsection (1) above shall not be in conflict with the provisions hereof, or applicable federal or state law or rules promulgated by the City in the exercise of its regulatory authority granted hereunder.

C. One copy of all such rules, regulations, terms and conditions promulgated under subsection (1) above, together with any amendments, additions or deletions thereof, shall be kept currently on file with the Municipal Finance Officer and another copy thereof shall be maintained for public inspection during normal business hours at Grantee's office in the City; no such rules, regulations, terms, conditions or amendments, additions or deletions thereto shall take effect unless and until so filed and maintained.

Section 4.5.22 Termination of Franchise

The City reserves the right to terminate any franchise granted hereunder and rescind all rights and privileges associated therewith in the event of:

A. Noncompliance by the Grantee with any provision of this Ordinance, Amendment hereto, or of any supplemental written agreement entered into by and between the City and the Grantee.

B. The Grantee becomes insolvent, enters into receivership or liquidation, files an application for bankruptcy or for composition of creditors, is unable to pay its debts as they mature or is in financial difficulty of sufficient consequence so as to jeopardize the continued operation of the network.

C. Violation by the Grantee of any FCC or applicable state order ruling or the order of any other governmental body having jurisdiction over the Grantee, unless the Grantee is lawfully contesting the legality or applicability of such rule or order.

Upon the occurrences of any of the above listed events, the City Council may, after hearing, upon thirty (30) days written notice to the Grantee citing the reasons alleged to constitute cause for revocation, set a reasonable time in which the Grantee must remedy the cause. If, during the thirty- (30) day period, the cause

shall be cured to the satisfaction of the City Council, the City Council may declare the notice to be null and void. If the Grantee fails to remedy the cause within the time specified after hearing, the City Council may revoke the franchise. In any event, before a franchise may be terminated, the Grantee shall be provided with an opportunity to be heard before the City Council.

Section 4.5.23 Unauthorized Cable Tapping

It shall be unlawful for any person or persons to obtain any Cable Television services from any cable television company, or any firm or private person by installing, rearranging, or tampering with any facilities or equipment of said Cable Television Company unless the same is done with the knowledge of and with the permission of the Cable Television Company. Any person or persons found guilty of a violation of any of the provisions of this Section shall be deemed guilty of a misdemeanor.

Section 4.5.24 Separability

A. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions hereof.
B. Should any provision of this Franchise be inconsistent or at variance with any rule, regulation or policy, in whole or in part, of the Federal Communications Commission or any other agency having jurisdiction, such provision shall be invalid, but the remaining provisions hereof shall not be affected thereby.

TITLE V – LICENSES

CHAPTER 1

GENERAL PROVISIONS

Section 5.1.1 License Required

It shall be unlawful for any person, persons, firm or corporation to engage in any trade, business or occupation within the corporate limits of the City of Mount Vernon for which a license is provided for in this title, without first having obtained such license as hereinafter provided; provided that the provisions of this chapter shall not apply to any public officer, who may in pursuance of legal process sell at public auction, any property of any kind whatsoever, nor shall the provisions of this chapter include or apply to persons engaged in the sale of farm products only.

Section 5.1.2 Obtaining

Any person, persons, firm or corporation wishing to obtain a license to engage in any trade, business or occupation, as herein provided; shall pay to the City Treasurer the amount provided by this Title for the license applied for, who shall issue a receipt therefore, and shall make written application to the City Council, stating the names of the person, post office address, business, calling or vocation in which such person desires to engage, the length of time for which said license is wanted, and the particular place at which said license is to be used, and upon the presentation of said application to the City Council, said City Council shall act upon said application, and if they shall deem the applicant a suitable and proper person to have such license, shall cause the Finance Officer to issue same, which license shall be countersigned by the Finance Officer, and attested by the corporation seal, and shall authorize said person to carry on the business, calling or vocation named in said application; but if said application be refused, same shall be endorsed upon the receipt by the Finance Officer, and upon presentation of such receipt so endorsed to the City Treasurer, he shall refund said money so paid by said application and take up said receipt which receipt when taken up shall be the Treasurer's voucher for the money so refunded.

Section 5.1.3 License, Issuance of

Before any license shall issue, there shall also be filed with the Municipal Finance Officer, an instrument in writing, signed by the applicant under oath, nominating and appointing the Municipal Finance Officer his true and lawful agent, with full power and authority to acknowledge service of notice of process for and on behalf of said applicant, and service of summons in any action brought upon said bond shall be deemed made when served upon said Municipal Finance Officer.

Except as otherwise provided, all licenses shall be issued by the Finance Officer, if the issuance of the license be approved by the licensing authority and the applicant shall have complied with all requirements for issuance of this license. Unless otherwise provided, all licenses shall be signed by the Finance Officer and shall have affixed thereto the official seal of the city.

Section 5.1.4 Records

The Municipal Finance Officer shall keep a record of all licenses issued by said City Council stating when and to whom issued, for what purposes and for what length of time issued, and the amount of money paid for said license, and the place where the said business is to be carried on.

Section 5.1.5 Expiration

All annual licenses granted under the provisions of this chapter shall expire on the 31st day of December next following the granting thereof, except as in this chapter otherwise provided, and shall not be granted for any sum less than the annual rate, and there shall be no rebate made on the terminating of said calling, vocation or kind of business for which said license was issued.

Licenses other than annual licenses shall expire on the date specified in such license.

Section 5.1.6 Penalty

Unless otherwise specified, any person, persons, firm or corporation who shall violate any of the provisions of this Title, or who shall engage in any of the callings, vocations, or kinds of business mentioned in this Title, without first having received a license therefore, as specified in this Title, shall upon conviction thereof, be fined not more than One Hundred Dollars ($100.00) or be imprisoned in the County Jail for a period not more than thirty (30) days, or be punished by both such fine and imprisonment. (Amended September 2021)

Section 5.1.7 Revocation

The Council shall have power to cancel any license issued by the City, for failure of the licensee to comply with any ordinance or regulation of the City or State law respecting such license or the manner of exercise thereof or for other good cause, after hearing upon notice to the licenses. Notice of hearing before the Council for the revocation of any license shall be given by mailing to said licenses, be registered mail a notice of said hearing upon said licensee at least one week prior to the time set for said hearing.

The City Council shall have power at any time to suspend or revoke any license granted under the provision of this Title whenever said board shall be satisfied upon written complaint that any such calling, vocation or kind of business for which said license has been issued, has been made or conducted in an indecent, indecorous, improper or illegal manner, and in case of such revocation, the City Council may refund to the holder of such license such proportionate amount of money paid therefore as said Council shall deem just.

Any person or persons violating any of the provisions of this chapter or any owner, proprietor, manager or other person in control of or conducting any public dance who refuses, fails or neglects to prevent vulgar or indecent dancing as herein prescribed or in any manner violates any of the provisions of this chapter, shall upon conviction thereof be punished by a fine of not more than One Hundred ($100) Dollars or by imprisonment for a period not more than thirty (30) days, or by both such fines and imprisonment in the discretion of the Court for each violation committed. Upon conviction of the owner, proprietor, manager or other person in control of or conducting any public dance hall under this chapter for the violation thereof, the license issued for the offending dance hall shall be forthwith revoked.

A. Licenses issued under the provisions of this chapter may be revoked by the council of the City of Mount Vernon after notice and hearing for any of the following causes:
    1. Fraud, misrepresentation, or false statement contained in the application for license.
    2. Fraud, misrepresentation of false statement made in the course of carrying on his business under the license.
    3. Any violation of this chapter.
    4. Conviction of any crime or misdemeanor involving moral turpitude.

5. Conducting the business of peddling, soliciting or canvassing in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety, or general welfare of the public.

B. Notice of the hearing for revocation of a license shall be given in writing, setting forth specifically the grounds of complaint and the time and place of hearing. Such notice shall be mailed postage prepaid, to the licensee at his last known address at least five days prior to the date set for hearing.

The permits and licenses issued pursuant to this chapter may be revoked by the Council after notice of hearing for any of the following causes:

A. Any fraud, misrepresentation or false statement contained in the application for license.
B. Any fraud, misrepresentation or false statement made in connection with the selling of goods, wares or merchandise.
C. Any violation of this chapter.
D. Conviction of the license of any felony or of a misdemeanor involving moral turpitude.
E. Conducting the business licensed under this chapter in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety or general welfare of the public. Notice of hearing for revocation of a license shall be given in writing, setting forth specifically the grounds of the complaint and the time and place of hearing. Such notice shall be mailed, postage prepaid, to the licensee, at his last known address, at least five days prior to the date set for the hearing.

Section 5.1.8 Appeal or Review

Any person aggrieved by the action of the Council in the denial of an application for permit or license as provided in Section 6.0503 or in the decision with reference to the revocation of a license as provided by

Section 6.0513 of this chapter, shall have the right of having the Council review said decision by filing with the Municipal Finance Officer within fourteen days after notice of the action complained of has been mailed to such person's last known address, a written statement setting forth fully the grounds for such review. Service of such notice shall be made on the Municipal Finance Officer. The Council shall set a time and place for a full and complete hearing in the same manner as provided in Section 6.0513 for notice of hearing on revocation, and the decision and order of the City Council on such matter shall be final and conclusive.

Section 5.1.9 Suspension of License

Upon complaint being made to the Council on any of the grounds for revocation set forth in Section 6.0513 and upon their determination that the health, welfare and safety of the citizens of the City of Mount Vernon requires it, they may order immediate suspension of the license, and licensee shall not engage in the business authorized by said license, pending hearing and decision by the Council as provided in Section 6.0513.

Section 5.1.10 Transfer

No license issued under the provisions of this chapter shall be used at any time by any person other than the one to whom it was issued.

Section 5.1.11 Service of Process

Before any license has herein provided shall be issued, for engaging in businesses an itinerant or transient merchant, such applicant shall also file with the Municipal Finance Officer an instrument nominating and appointing the Municipal Finance Officer as true and lawful against with full power and authority to acknowledge service of notice or process for and on behalf of said applicant in respect to any matters connected with or arising out of the business transaction under said license, and the bond as heretofore required. Immediately upon service of process upon said Finance Officer as herein provided, the said Municipal Finance Officer shall send to the licensee at his last known address by registered mail a copy of said process. Said instrument shall also contain recitals to the effect that said applicant for said license consents and agrees that service of any notice of process may be made upon said agent, and when so made shall be taken and held to be as valid as if personally serviced upon the person or persons applying for the said license under this chapter, according to the law of this or any other sate, and waiving all claim or right of error by reason of such acknowledgement of service or manner of service.

Section 5.1.12 Appeal

Any person aggrieved by the decision of the Council in regard to the denial of application for license as provided in Section 6.6.3 of this chapter shall have the right to appeal to the Council of the City of Mount Vernon. Such appeals shall be taken by filing with the Council, a written statement showing the grounds for the appeal, within ten days after notice of the decision of the Council. The Council shall set a time and place for a hearing on such appeal and notice of such hearing shall be given to such person in the same manner as provided in Section 6.6.8 of this chapter for notice of hearing on revocation. The order of the Commission on such appeal shall be final.

TITLE V – LICENSES

CHAPTER 3

DANCES

Section 5.3.1 License

It shall be unlawful to any person to operate a public dance hall or conduct a public dance as provided herein without first having procured from the City Council a license so to do and the fee for such shall be Twenty-five ($25) Dollars for each dance.

Section 5.3.2 Venues

No license for a public dance hall or dance shall be issued until the City Council shall be satisfied that the room, place or hall to be used for such public dance hall complies with and conforms to all ordinances and health and fire regulations of the City of Mount Vernon and all laws of the State of South Dakota, and that it is properly ventilated and is a safe and proper place for such purpose.

Section 5.3.3 Age Limits

It shall be unlawful for any person, firm or corporation engaged in conducting or operating a public dance hall in the City of Mount Vernon to suffer, permit or allow any person under the age of sixteen years unaccompanied by his or her father, mother, or legally appointed guardian to enter or remain in any public dance hall. It shall be unlawful for any person under the age of sixteen years, unaccompanied by his or her father, mother or legally appointed guardian to enter or remain in any public dance hall; provided, that this section shall not apply to social centers operated under the Control of the Department of Education or to dances held under the supervision of the Department of Parks, Playgrounds & Public Building.

Section 5.3.4 Hours

It shall be unlawful to continue after the hour of one o'clock AM any public dance; provided, however, that if the following day be Sunday, the closing time shall be one o'clock AM.

Section 5.3.5 Police Supervision

Public dances conducted in any public hall licensed hereunder shall at all times be subject to the police supervision of the police of the City of Mount Vernon who are authorized to remove from such public dance hall any person who is intoxicated or who has intoxicating liquors in his or her possession, or who is conducting himself or herself in an improper or disorderly manner, or who is under the age of sixteen years.

TITLE V – LICENSES

CHAPTER 4

ANIMALS

Section 5.4.1 Purpose

The purpose of this Chapter is to describe the conditions and requirements allowing citizens to keep animals within the City of Mount Vernon, and to describe the City's responsibilities to its citizens regarding the humane and appropriate keeping of animals within the City.

Section 5.4.2 Violations are Class 2 Misdemeanor

Pursuant to the laws of South Dakota, violations of the provisions of this Chapter shall be enforced in accordance with this Chapter and the laws of the State of South Dakota. Fines shall be assessed pursuant to Section 5.4.10 of this Chapter. (Amended September 2026)

Section 5.4.3 Unlawful to allow any animal to run at large - impoundment.

It shall be unlawful for any owner or other person having custody thereof, to permit any animal to run at large at any time within the limits of the city and any law enforcement or Mt. Vernon City Official is hereby authorized to impound any such animal found running at large in the city. An animal within the automobile of its owner or person in charge thereof shall be deemed upon the owner's property.

It shall be unlawful for any owner or other person having custody thereof, to permit an animal to defecate on public or private property other than his own. If such animal does defecate upon public or private property, the owner or other person having custody thereof, must immediately and thoroughly clean the fecal material from such property.

Section 5.4.4 Fees paid upon release for impoundment and keeping of animals.

When the owner or claimant of any impounded animal shall desire to reclaim such animal, such animal may be released upon payment of fine and boarding costs to Mt. Vernon City Official, with the sum of each offense determined by the City Council. The owner will also be required to show current proof of vaccinations. No previous offense occurring more than two years prior to the date of the offense being charged shall be used to determine that the offense being charged is a second or third subsequent offense. (Amended May 2019)

Section 5.4.5 Limit in number of dogs and cats.

It shall be unlawful for any person or persons, or household, in the limits of the City of Mt. Vernon to own or possess more than four dogs and four adult cats. It is the intent of this Ordinance to set a limit to the number of dogs and cats that may be legally owned by one family, household, or co-habitants of any kind. This Ordinance does not apply to litters of dog puppies or kittens from the time of their birth until they are eight weeks old.

Section 5.4.6 Unlawful to allow any animal to disturb the peace.

The owner of any animal shall not allow the animal to disturb the peace and quiet of the city or any person therein.
A Mt. Vernon City Official or law enforcement may remove and impound any animal that is disturbing the peace of the City. When the owner of the animal cannot be located, a notice advising the owner of the impoundment must be left on the premises.

Section 5.4.7 Unlawful to maltreat, abuse or neglect any animal or fowl.

No person shall willfully or negligently maltreat or abuse or neglect in a cruel or inhuman manner any animal or fowl. Such behavior shall be deemed unlawful. A Mt. Vernon City Official or any law enforcement may remove and impound any abused or neglected animal when the owner cannot be located or when the owner fails to correct such abuse or neglect after notice.

Section 5.4.8 Unlawful to keep certain animals in City of Mt. Vernon.

No person shall keep any animal that poses a threat, nuisance, health hazard or annoyance to the city or any person therein. Upon complaint regarding such animal, it shall be at the discretion of the Mt. Vernon City Council to grant approval to the animal's owner to keep such animal. Prohibited Animals shall include Livestock, native species, and exotic pets are prohibited within the City of Mount Vernon unless approval is granted by the City Council. Common animals hereby identified as prohibited shall include but is not limited to: cattle, sheep, swine, goats, horses, alligators, crocodiles, caymans, raccoons, skunks, foxes, bears, sea mammals, poisonous snakes, hybrids, members of the feline species other than domestic cat (felis domesticus), members of the canine species other than domestic dog (canis familiaris), domestic fowl of the order Galliformes (chickens, turkeys, grouse, pheasants, pigeons), and the order Anseriformes (ducks and geese) or any other animal that would require a standard of care and control greater than that required for customary household pets.

Section 5.4.9 Unlawful to violate provisions of this article or interfere with officer enforcing the same.

No person shall violate any of the provisions of this chapter or evade or attempt to evade the provisions hereof, or shall refuse to comply with the same or shall in any manner interfere with a Mt. Vernon City Official, any law enforcement or any person engaged in carrying out the provisions of this chapter and in the discharge of the duties imposed thereby.

Section 5.4.10 Penalties

Any person who is found in violation of any ordinance of this Chapter shall be penalized and fined as follows. Other penalties, such as imprisonment, court costs, etc. shall be set forth by the Judge in the matter if adjudicated. The aggravation system shall be as follows with a first, second, third and forth violation being a Petty Offense and any additional violation will be a Class 2 Misdemeanor pursuant to the laws of South Dakota.

In the event of multiple offenses, the period for obtaining such aggravations shall be sixty (60) days since the last infraction. With each infraction, a new sixty (60) day period would begin. In the event that an offender has had three (3) first offense (warnings) within the previous two (2) years of the third warning, punishment on any new offense following the third warning shall be considered a second offense per the terms of this Chapter.

First Offense – Warning

Any warning issued by law enforcement shall be provided to the City of Mount Vernon. A person need not be adjudicated guilty but rather issued a warning to begin such aggravation system and any subsequent ticket issued pursuant to the terms of this Chapter shall be considered a second offense.

Second Offense - $200 fine.

Third and Fourth Offense - $350 fine.

Fifth and Subsequent Offenses – $500 fine and a Class 2 Misdemeanor with a required court appearance.

The Davison County Sheriff's Department shall be the appropriate persons to enforce this ordinance.

(Amended September 2026)

TITLE V – LICENSES

CHAPTER 5

PEDDLERS, SOLICITORS, CANVASSERS

Section 5.5.1 License

It shall be unlawful for any person to engage in the business of peddler, solicitor or canvasser, within the corporate limits of the City of Mount Vernon without first obtaining a license therefore as provided herein.

The Mayor of the City of Mount Vernon shall issue any license issued under the provisions of this chapter, and shall have discretion whether or not to grant the license after considering the showing on applicant's behalf, and after making the investigation they deem necessary.

Section 5.5.2 Exceptions

This chapter shall not include any person retailing goods, wares or merchandise which can be shown to be his or her manufacture or production, or farm produce raised within the State of South Dakota by such person.

Section 5.5.3 Application

After payment of the requisite license fee to the Municipal Finance Officer, any person desiring to obtain a license under the provisions of this chapter shall make and file with the Municipal Finance Officer a sworn application in writing (in duplicate) on a form furnished by the Municipal Finance Officer, which shall give the following information: throughout the ordinances.

A. Name and description of applicant
B. Address (legal and local)
C. A brief description of the nature of the business and the goods to be sold, services to be rendered; if goods, wares and merchandise are to be sold, whether of the seller's own manufacture, and in the case of products of farm or orchard, whether grown or produced by the applicant.
D. If employed, the name and address of the employer, together with the credentials establishing the exact relationship.
E. The length of time for which the right to do business is desired.
F. If a vehicle is to be used, a description of the same, together with the license number or other means of identification.
G. Names of other towns and cities in the State of South Dakota where applicant has had a similar license in the past year.
H. A statement as to whether or not the applicant has been convicted of any crime, misdemeanor, or violation of any municipal ordinance, the nature of the offense, the punishment or penalty assessed, and the name of the Court, and the city or city.

Section 5.5.4 Investigating and Issuance

Before issuing a license under this chapter to any person applying therefore, the licensing authority shall refer the application to the Chief of Police who shall cause to be made such investigation of the applicant's moral character and business responsibility as he deems necessary for the protection of the public good, including the inquiry of the Federal Bureau of Investigation and the Investigation Division of the Office of the Attorney General of the State of South Dakota, except that in the event applicant has received a like license from the City of Mount Vernon within one year last past, the licensing authority may waive this requirement. The Chief of Police shall cause the investigation herein provided for to be made within a reasonable time and shall certify to the licensing authority whether or not the moral character and business responsibility of the applicant is satisfactory.

Section 5.5.5 Licensing Fees

The license fee shall consist of basic fee of $3.00 to defray the cost to the city of processing the application and investigatory expense; and in thereto, a license fee of $5.00 per day, $25.00 per week, or assistant. $50.00 per month shall be paid by the applicant, for himself, and a like fee for each additional employee

Section 5.5.6 Bond

Before any such license shall issue, every applicant not a resident of the City of Mount Vernon or who, being a resident of the City of Mount Vernon, represents a firm whose principal place of business is located outside the State of South Dakota, shall file with the Municipal Finance Officer a surety bond; running to the City in the amount of $1,000.00 with surety acceptable to and approved by the Council, conditioned that the said applicant shall comply fully with all the provisions of the ordinances of the City of Mount Vernon and the statutes of the State of South Dakota regulating and concerning the business of peddler, solicitor or canvasser and guaranteeing to any citizen of Mount Vernon that all money paid as a down payment will be accounted for and applied according to the representations made, and further guaranteeing to any citizen of the City of Mount Vernon, doing business with such licensee that the property purchased will be delivered according to the representation of said license, that all merchandise sold and delivered shall be as represented and that he will refund any money or deposit on any merchandise which is not as represented. Action on such bond may be brought in the name of the City to the use or benefit of the aggrieved person.

Section 5.5.7 Renewal

In event any license desires to continue the business authorized under the license after the expiration date of such license, a new application shall be filed and the same procedure followed as for the initial license.

Section 5.5.8 Use of Street

No peddler shall have any exclusive right to any location in the public streets, nor shall any peddler be permitted a stationary location upon the public streets, alleys, or public grounds of the City of Mount Vernon, nor shall he be permitted to operate in any congested area where his operations might impede or inconvenience the public. For the purpose of this section, the judgment of a police officer, exercised in good faith, shall be deemed conclusive as to whether the area is congested or the public impeded or inconvenienced.

Section 5.5.9 Exhibition of Licenses

Any person licensed under this chapter is required to exhibit his license at the request of any citizen.

Section 5.5.10 Duty of Police to Enforce

It shall be the duty of any police officer of the City of Mount Vernon to require any person seen peddling, soliciting or canvassing, and who is not known by such officer to be duly licensed, to produce his peddler's license and to enforce the provisions of this chapter against any person found to be violating same.

Section 5.5.11 Records

The Sheriff or Council member shall report to the Municipal Finance Officer all convictions for violation of this chapter and the Municipal Finance Officer shall maintain a record for each license issued and record the reports of violation thereof.

TITLE V – LICENSES

CHAPTER 6

TRANSIENT MERCHANTS

Section 5.6.1 License

It shall be unlawful for any person, firm or corporation to engage in business in the City of Mount Vernon as a transient retail merchant or an itinerant merchant as defined in Section 6.0602 of this ordinance without first having obtained a license therefore in compliance with the provisions of this chapter.

Section 5.6.2 Application

Applicants for license under this chapter whether a person, firm or corporation shall file a written, sworn application signed by the applicant if an individual, or by a partner if a partnership, or by an officer if a corporation, with the Municipal Finance Officer showing:

A. The name or names of the applicant for license
B. The names or names of the person or persons having the management or supervision of applicant's business during the time it is proposed that it will be carried on in the City of Mount Vernon and the permanent address and addresses of such person or persons, the capacity in which such person or persons will act; that is, whether proprietor, agent or otherwise.
C. The place or places in the City of Mount Vernon where it is proposed to carry on applicant's business and the length of time it is proposed that said business shall be conducted.
D. A statement of the nature and character and quality of the goods, wares and merchandise to be sold or offered for sale by applicant, whether the same are proposed to be sold from stock in possession or by sample, at auction, by direct sale, or by taking orders for future delivery, where the goods or property proposed to be sold are manufactures or produced and where such goods or products are located at the time said application is filed.
E. At least three references as to the integrity of the applicant.

Section 5.6.3 Investigation and Issuance

Upon receipt of such application, the Municipal Finance Officer shall refer such application to the Sheriff for the City of Mount Vernon who shall cause such investigation of such person or persons' business responsibility or moral character to be made as he deems necessary to the protection of the public good. The Sheriff shall, as soon as such investigation can be made, return such application to the Municipal Finance Officer with his recommendations as to whether or not such application should be granted and, in the event of his recommendations that such application be refused, his reasons therefore. Upon the receipt of such application to the Council at their next regular meeting at which time the Council shall act upon such application and, at their discretion, either approve or disapprove the same.

Section 5.6.4 Fees

The fee required to be paid by such transient merchant or itinerant merchant as herein defined for the procuring of such license shall be $25 per day, $50 per week or $100 per month and such license fee shall be paid to the Municipal Finance Officer at the time of making the application and the license issued shall state the time for which said license is granted and the expiration date.

Section 5.6.5 Bond

Before any license as provided in this chapter shall be issued for engaging in a transient or itinerant business, as defined by Section 5.6.2 of this chapter, in the City of Mount Vernon, such applicant may be required to file with the Municipal Finance Officer a bond running to the City of Mount Vernon up to the sum of Ten Thousand Dollars ($10,000.00) executed by the applicant as principal and two sureties upon which service or process will be made in the State of South Dakota, said bond to be approved by the Council of the City of Mount Vernon and conditioned that the said applicant shall comply fully with all ordinances of the City of Mount Vernon and statutes of the State of South Dakota regulating and concerning the sale of goods, wares and merchandise and will pay all judgments rendered against said applicant for any violation of said ordinance or statutes or any of them, together with all judgments and costs that may be received against him by any person or persons for damage growing out of any misrepresentation or description practiced on any person transacting such business with such applicant, his agent, servants or employees. Amendment adopted July 4, 2006

TITLE V – LICENSES

CHAPTER 7

HOUSE MOVERS

Section 5.7.1 License

It shall be unlawful for anyone to pursue the business of a house mover unless he shall have previously obtained a license so to do as hereinafter provided.

Section 5.7.2 Application

Any person desiring a license as a house mover shall make application to the City Council, said application to be accompanied by a permit of twenty-five ($25) dollars and a bond running to the City in the sum of Ten Thousand Dollars ($10,000.00) with sureties to be approved by the City Council, conditioned that the applicant will in pursuing the business of house mover, conform to all the regulations relating thereto, which are or may be established by the City Council; that he will promptly repair and make good any and all damage or injury to any pavement, sidewalks, crosswalks, hydrants, street or any public building or part thereof and that he will identify and keep harmless said City against all liability or damages which may arise in favor of any person by reason of any negligence or misconduct on his part of or on the part of his agents or employees in connection with the moving of any building on any public street.

Section 5.7.3 Permits

Any such licensed house mover intending to move any building shall make application for permit so to do as provided by Chapter 8.4 of this Ordinance provided, however, that a licensed house mover shall not be required to make the One Hundred Dollar ($100.00) deposit provided for in said Chapter 8.4.

TITLE V – LICENSES

CHAPTER 8

CANNABIS

Section 5.8.1 Purpose and Intent

The City Council of the City of _Mount Vernon enacts the following licensing ordinances in order to ensure that cannabis establishments within the municipal boundaries of the City operate in a manner which complies with state laws and regulations, protects the health, safety, and welfare of the general public, prevents potential conflicts and issues arising from ownership and employees, recognizes certain safety and security considerations, and minimizes risk of unauthorized use or access of cannabis by the general public.

Section 5.8.2 Definitions

Unless an alternative definition is explicitly stated in this section, this chapter utilizes the definitions for cannabis-related terms which are defined by SDCL 34-20G-1. Cannabis (or Marijuana): all parts of any plant of the genus cannabis, whether growing or not, in its natural and unaltered state, except for drying or curing and crushing or crumbling. The term includes an altered state of marijuana absorbed into the human body. The term does not include fiber produced from the mature stalks of such plant, or oil or cake made from the seeds of such plant. The term does not include the plant Cannabis sativa L. and any part of that plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than three-tenths of one percent on a dry weight basis. Cannabis Cultivation Facility: in addition to the definition in SDCL 34-20G-1, this term is further defined as a legally licensed entity that acquires, possesses, cultivates, delivers, transfers, transports, supplies, or sells cannabis and related supplies to a cannabis establishment. Cannabis Dispensary: in addition to the definition in SDCL 34-20G-1, this term is further defined as a legally licensed entity that acquires, possesses, stores, delivers, transfers, transports, sells, supplies, or dispenses cannabis, cannabis products, paraphernalia, or related supplies and educational materials. Cannabis Establishment: cannabis cultivation facility, a cannabis testing facility, a cannabis product manufacturing facility, or a cannabis dispensary. Cannabis Product Manufacturing Facility: in addition to the definition in SDCL 34-20G-1, this term is further defined as a legally licensed entity that acquires, possesses, manufactures, delivers, transfers, transports, supplies, or sells cannabis products to a cannabis dispensary. Cannabis Products: 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 Testing Facility: in addition to the definition in SDCL 34-20G-1, this term is further defined as a legally licensed entity legally authorized to analyze the safety and potency of cannabis. Department: the South Dakota Department of Health.

Section 5.8.3 License Required

No cannabis establishment may be located or operate in the city without the appropriate valid and current cannabis establishment license issued by the city pursuant to this article. A violation of this provision is subject to the general penalty provision in Section 5.8.16. Each day of the violation constitutes a separate offense. No cannabis establishment may be located or operate in the city without the appropriate valid and current cannabis establishment registration certificate issued by the Department pursuant to rules promulgated under SDCL 34-20G. A violation of this provision is subject to the general penalty provision in 5.8.16. Each day of the violation constitutes a separate offense.

Section 5.8.4 License Application

An application for a cannabis establishment license must be made on a form provided by the city. No other application form will be considered. The applicant must submit the following: 1.Application fee of _$6,500. The City

will reimburse $6,000 for applicants who fail to obtain a registration certificate from the South Dakota Department of Health. 2.An application that will include, but is not limited to, the following: i. The legal name of the prospective cannabis establishment; ii. The physical address of the prospective cannabis establishment, as well as any location requirements pursuant SDCL 34-20G and the administrative rules promulgated thereunder. iii. The name, address, and birth date of each principal officer, owner, and board member of the proposed cannabis establishment. iv. A sworn statement that no principal officer, owner, or board member has been convicted of a violent felony offense in the previous ten (10) years in any jurisdiction. v. Any additional information requested by the city.

Section 5.8.5 Issuance of License

(a) The city will issue a license unless: 1. The applicant has made a false statement on the application or submits false records or documentation; or 2. Any owners, principal officer, or board member of the applicant is under the age of twenty-one (21) years; or 3. Any owner, principal officer, or board member of the applicant has been convicted of a violent felony offense in the previous ten (10) years in any jurisdiction; 4. The proposed location does not meet all location requirements under SDCL 34-20G and the administrative rules promulgated thereunder; 5. The license is to be used for a business prohibited by state or local law, statute, rule, ordinance, or regulation; or 6. Any owner, principal officer, or board member of the applicant has had a cannabis establishment license revoked by the city or a registration certificate revoked by the state; or 7. An applicant, or an owner, principal officer, or board member thereof, is overdue in payment to the city of taxes, fees, fines, or penalties assessed against or imposed upon the applicant in relation to any cannabis establishment; or 8. The applicant will not be operating the business for which the license would be issued. (b) In the case of an application for a cannabis dispensary license, the city will reject the application if the limit on the number of cannabis dispensaries has been reached. (c) The license must be posted in a conspicuous place at or near the entrance to the cannabis establishment so that it may be easily read at any time.

Section 5.8.6 City Neutrality as to Applicants

(a) Upon request from the Department as to the City's preference of applicants, the City will neither support nor oppose any registration certificate application under consideration by the Department. Likewise, if inquiry is made by the Department, the City will abstain from endorsing any application as beneficial to the community.

Section 5.8.7 Number of Cannabis Establishments

(a) No more than _1_ cannabis dispensary per 2000 residents shall be allowed to operate in the City at any time. (b) The City of Mount Vernon will not issue nor allow licenses for cannabis product manufacturing facilities, cannabis cultivation facilities, or cannabis testing facilities.

Section 5.8.8 Expiration of License and Renewal

(a) Each license is subject to expiration as defined in section 5.1.5 and may be renewed only by making application as provided in Section 5.8.4. Application for renewal must be submitted at least thirty (30) days before the expiration date. The license holder must continue to meet the license requirements to be eligible for a renewal. (b) The renewal fee is _$6,500. The City will reimburse $6,000 for applicants who fail to obtain a renewal of their registration certificate from the Department. (c) Failure to renew a license in accordance with this section may result in additional fees. Upon expiration of the license, the city may order closure of the cannabis establishment. (d) If a license holder has not operated an establishment for which it holds a license in the preceding twelve (12) months, the license will not be renewed.

Section 5.8.9 Suspension

(a) A license may be suspended if the license holder or an employee or agent of the license holder: 1. Violates or is otherwise not in compliance with any section of this article. 2. Consumes or smokes or allows any person to consume or smoke cannabis on the premises of the cannabis establishment. 3. Knowingly dispenses or provides cannabis or cannabis products to an individual or business to whom it is unlawful to provide cannabis or cannabis products. (b) A license may be suspended if the license holder has its Department-issued registration certificate suspended, revoked,

or not renewed by the Department or if the registration certificate is expired. (c) A license may be suspended if the license holder creates or allows to be created a public nuisance at the cannabis establishment.

Section 5.8.10 Revocation

(a) A license may be revoked if the license is suspended under Section 5.8.10 and the cause for the suspension is not remedied. (b) A license may be revoked if the license is subject to suspension under Section 5.8.10 because of a violation outlined in that section and the license has been previously suspended in the preceding 24 months. (c) A license is subject to revocation if a license holder or employee of a license holder: 1. Gave false or misleading information in the material submitted during the application process; 2. Knowingly allowed possession, use, or sale of non-cannabis controlled substances on the premises; 3. Operated the cannabis establishment or the business of the cannabis establishment for which a license is required under this article while the license was suspended; 4. Repeated violations of Section 5.8.11; 5. Operated a function of a cannabis establishment for which the license holder was not licensed (e.g., a licensed cannabis cultivation facility conducting cannabis testing functions without a cannabis testing establishment license); 6. A license holder, or an owner, principal officer, or board member thereof, is delinquent in payment to the city, county, or state for any taxes or fees related to the cannabis establishment;7. A license holder, or an owner, principal officers, or board member thereof, has been convicted of, or continues to employ an employee who has been convicted of, a disqualifying felony offense as defined by SDCL 34-20G; or 8. The license holder has its Department-issued registration certificate suspended, revoked, or not renewed or the registration certificate is expired. 9. The license holder allows a public nuisance to continue after notice from the City.

Section 5.8.11 Suspension and Revocation Process

(a) The license holder will receive a notice of intent to suspend or notice of intent to revoke informing the license holder of the violation and the city's intention to suspend or revoke the license. The notice will be hand delivered to the license holder or an employee or agent of the license holder or sent by certified mail, return receipt requested to the physical address of the cannabis establishment. (b) If the license holder disputes the suspension or revocation, the license holder has ten (10) days from the postmark date on the notice or the date the notice was hand delivered to request a hearing before a hearing panel, which will consist of the Mayor, Finance Officer, and Council President. (c) A suspension will be for thirty (30) days and begins ten (10) days after the postmark date on the notice or the date the notice is hand delivered unless the license holder exercises its rights to process and appeal, in which case the suspension takes effect upon the final determination of suspension.(d) A revocation will be for one (1) year and begins ten (10) days after the postmark date on the notice or the date the notice is hand delivered unless the license holder appeals the revocation, in which case the revocation takes effect upon the final determination of revocation. (e) The license holder who has had the license revoked may not be issued any cannabis establishment license for one year from the date the revocation became effective.

Section 5.8.12 Appeal

An applicant or license holder who has been denied a license or renewal of a license or who has had a license suspended or revoked under this article may appeal to the City Council by submitting a written appeal within ten (10) days of the postmark on the notice of denial, nonrenewal, suspension, or revocation. The written appeal must be submitted to City Hall, PO Box 52, Mount Vernon, South Dakota, 57363. The appeal will be considered by the City Council at a regularly scheduled meeting within one month of the receipt of the appeal.

Section 5.8.13 Licenses not Transferable

No cannabis establishment license holder may transfer the license to any other person or entity either with or without consideration, nor may a license holder operate a cannabis establishment at any place other than the address designated in the application.

Section 5.8.14 Hours of Operation for Dispensaries

A cannabis dispensary may operate between the hours of _8 a.m._ and _10 p.m._ any day of the week.

Section 5.8.15 Liability for Violations

Notwithstanding anything to the contrary, for the purposes of this article, an act by an employee or agent of a cannabis establishment that constitutes grounds for suspension or revocation will be imputed to the cannabis establishment license holder for purposes of finding a violation of this article, or for purposes of license denial, suspension, or revocation, only if an officer, director or general partner or a person who managed, supervised or controlled the operation of the cannabis establishment, knowingly allowed such act to occur on the premises.

Section 5.8.16 Penalties

Any person who operates or causes to be operated a cannabis establishment without a valid license or in violation of this article is subject to a suit for injunction as well as prosecution for ordinance violations. Such violations are punishable by a fine of five hundred dollars ($500.00). Each day a cannabis establishment so operates is a separate offense or violation. Severability. The provisions of this ordinance are severable. If any provision of this ordinance or the application thereof to any person or circumstance is held to be invalid, such invalidity shall not affect other provisions or applications of this ordinance which can be given effect without the invalid provision or application. (Added September 2021)

TITLE VI – OFFENSES

CHAPTER 1

OFFENSE AGAINST PUBLIC WELFARE

Section 6.1.1 Intoxication

No person shall become drunk, intoxicated or under the influence of intoxicating liquor in any private house or public or private place to the annoyance of any person. No person shall be or remain in a state of intoxication, drunkenness or under the influence of intoxicating liquor in any public place.

Section 6.1.2 Disorderly Conduct

No person shall conduct himself in any unseemly manner or way or in any manner tending to degrade and unsuited to the promotion of the morals, health or comfort or the inhabitants of the City.

Section 6.1.3 Disturbing the Peace

No person shall disturb the peace of the City or of any person by violent, tumultuous or offensive conduct, or by loud or unusual noises or by profane, obscene, indecent, violent, or threatening language, or by assaulting, striking or attempting to assault or strike another person, or inviting or defying another person to fight or quarrel, or by willfully and maliciously destroying or attempting to destroy or injure any property belonging to another, or by engaging in a fight with another.

Section 6.1.4 Vagrancy

It shall be unlawful for any vagrant to be or remain within the limits of the City. A vagrant is an idle person, having no legitimate means of support, who does not seek or desire lawful employment, and who subsists through charity of others or by unlawful means. Whenever it shall, in a prosecution under this section, be shown that any person who is able to work:

A. Wanders about in idleness or lives in idleness without property sufficient for his support; or
B. Leads an idle, immoral or profligate life and does not work; or
C. Loafs, loiters or idles in the City, upon a public highway, or about any public place without any regular employment and without sufficient property for his support; or
D. Trades or barters stolen property; or
E. Unlawfully sells or barters any spirituous, vineous malt or other intoxicating liquors; or
F. Attends or operates any gambling device or apparatus; or
G. Engages in practicing any trick or device to procure money or other things of value; or
H. Engages in any unlawful calling; or
I. If an able-bodied married man, neglects or refuses, without lawful excuse, to provide support for his family; or
J. Begs in any public place or from house to house, or induces children or others to do so; or
K. Falsely represents himself as a collector of alms for a charitable institution of purpose, it shall constitute a prima facie presumption that such person is a vagrant as defined in this section.

Section 6.1.5 Indecency

No person shall appear in any public place in a state of nudity, in indecent dress or in dress intended to deceive others as to his or her sex, no make any indecent exposure of his or her person.

No person shall sell, distribute, give away, or exhibit to public view any indecent or lewd book or obscene magazine, post card, drawing or representation.

No person shall exhibit, show or perform any indecent, immoral or lewd show, act, play, motion picture or other representation in any theater or place of public resort.

Section 6.1.6 Insulting Individuals

No person shall make an impudent, insulting or licentious advance or salutation to any female person upon any street or in any public place.

Section 6.1.7 Profanity

No person shall use any profane, vulgar or obscene language upon any street or other public place.

Section 6.1.8 Obscene Written and Printed Matter

No person shall exhibit, publish, pass, sell or offer for sale, or have in his possession with such intent, any obscene, lewd, or lascivious books, pamphlets, papers, magazines, writings, advertising, films or other immoral, lewd, or indecent representations or publications.

All such obscene matter is declared to be a nuisance and any police officer is authorized to seize any such obscene matter found in the possession of any person arrested for a violation thereof, and upon conviction of a violation of this section, the court shall order as a part of the judgment in addition to the other penalties prescribed, that the officer having the custody of such obscene matter shall destroy the same.

Section 6.1.9 False Emergency Alarms Prohibited

No person shall knowingly make or give any false alarm of fire or other emergency, by calling or causing to be called the Fire Department, the Police Officers or any authorized emergency vehicle.

Section 6.1.10 Displaying License Unlawfully

No person shall carry or display any city license or permit which has been terminated or revoked or which has not been lawfully procured and issued.

Section 6.1.11 Discharge of Firearms or Air Rifles

It shall be unlawful for any person except a public officer or specifically appointed officer in the discharge of his duty, to discharge or fire any gun, air rifle, sling shot or other dangerous weapon within the limits of the City of Mount Vernon. CL 22.24-1.02 Class One Misdemeanor with a $500 fine

TITLE VI – OFFENSES

CHAPTER 4

OFFENSES AS TO PUBLIC RIGHTS OF WAY OR PROPERTY

Section 6.4.1 Gathering on Streets Limited

No person shall call or cause the gatherings of any crowd of people or address or exhibit any show or performance to such crowd, in any alley, street, or other public ground of the city, without written permission of the City Council.

Section 6.4.2 Crowds Obstructing Streets

It shall be unlawful for persons to gather in crowds or groups or for any person to stand on any public street or sidewalk in such a manner as to obstruct free passage thereon, or to annoy other persons passing along the same, and any policeman is authorized to disperse any crowd or group or to cause the removal of any person violating the provisions of this section and to summarily arrest any person in case of refusal to obey any reasonable direction given by such officer for the purpose of clearing the way or preventing annoyance to any passerby on any public street or sidewalk. (CL 60-10-11, Class 2 Misdemeanor)

Section 6.4.3 Hindering or Molesting Passersby

No person shall upon any street or at the entrance of any building on any such street, alley or sidewalk, wrongfully hinder, impede or molest any passerby, or use any rude, obscene, vulgar, indecent or threatening language to any passerby, or by any indecent act, gesture, or noise molest, annoy, or insult or put in fear any person passing or attempting to pass on such street, alley or sidewalk or through the entrance to such building.

Section 6.4.4 Certain Advertising Methods Prohibited

No person shall put up, erect, hang, post or suffer to remain so placed, any sign, poster, notice or other advertising matter, upon any telephone, telegraph, or electric light pole in the city.

Section 6.4.5 Goods on Sidewalk

No person shall place any goods, or merchandise for sale or exhibition upon any sidewalk, except that for the purpose of loading or unloading, such articles may be placed upon the outer side of the sidewalk for such time as may be necessary to load or unload the same, but in no instance shall any such articles be left upon the sidewalk in the night time or in such a way as to obstruct the sidewalk.

Section 6.4.6 Injuring Signs

No person shall deface, remove, change, mar or in any way interfere with or obliterate either wholly or in part any sign, signboard, or card placed, posted, extended or erected by the City.

Section 6.4.7 Traffic Signs. Injuring or Placing Unauthorized Prohibited

No person shall deface, injure, move, obstruct or interfere with any official traffic sign or signal, or street sign, or parking meter. No person shall place, maintain, or display upon or in view of any street any unofficial sign, signal or device which purports to be or is an imitation of or resembles an official traffic sign or signal, or which attempts to direct the movement of traffic. Every such prohibited sign, signal, or device is hereby declared to be a public nuisance, and the Sheriff's Department and/or Chief of Police is hereby empowered to remove the same or cause the same to be removed without notice.

Section 6.4.8 Destroying Trees and Plants

No person shall willfully injure, destroy or deface any tree, shrub, plant or grass in any parking lot or park.

No person shall willfully injure or destroy any cultivated fruits or vegetables, ornamental trees, shrubs, hedges, vines or flowers, nor injure or carry off any of the products thereof which are the property of another.

Section 6.4.9 Interference with Electric Light Posts and Apparatus

No person shall interfere, break or jar any electric light, telephone, telegraph or fire alarm system, post or pole or apparatus in any manner, or climb any telegraph, telephone, electric light, or fire alarm pole without being properly authorized to do so.

Section 6.4.10 Unauthorized Connection with Gas, Water, or Electrical Pipe or Wire

No person shall, without lawful authority, connect or cause to be connected with any main service pipe, wire or other conductor of any gas, water or electrical energy, any pipe, wire or other device for the purpose of obtaining gas, water or electrical current therefrom; nor shall with intent to defraud, connect, or cause to be connected with any meter installed for the purpose of registering the amount of gas, water or electricity supplied to any customer, any pipe, wire, or other device or disconnect, change or in any manner so interfere with any such meter or any pipe, wire, or appliance connected therewith, that such meter will not measure or register the full amount of gas, water, or electricity supplied to any customer.

Section 6.4.11 Interference with City Engineer, Instruments, Stakes

No person shall interfere with the City Engineer, or engineer employed by the City, while engaged in his official duties in any manner or by driving any vehicle of any kind against the person, surveying instruments or apparatus of said Engineer or any of his assistants, or by moving or displacing any stake, monument, or benchmark fixed or located by him or his assistants.

Section 6.4.12 Interference with City Property

No person shall climb or in any manner interfere with any building, water tower, bridge, or structure belonging to the city, without being authorized so to do by the city; and no person shall in any manner injure or deface any such structure.

Section 6.4.13 Destroying Property

No person shall willfully damage, deface, break, destroy or interfere with the property of the city or of another person.

Section 6.4.14 Fences

No person, firm or corporation shall hereafter construct, erect, or maintain or cause to be constructed, erected, or maintained in the City of Mount Vernon, any fence of any character or material, exceeding seven feet in height, above the sidewalk or the surface of any lot or parcel of land, provided, that any such fence so constructed, erected, or maintained, shall not exceed six feet in height when the same is within forty feet of the street line; and provided further that no fence or any part thereof shall be constructed of barbed wire. (Amended July 2020)

Section 6.4.15 Discarded Refrigerators

No person shall permit or allow a discarded refrigerator or one not in use, to remain in any place accessible to children, unless the latch or locking mechanism on the door or doors have been removed or locked or bolted so that it cannot be opened by use of the hands and any person who shall violate this section shall be punishable by a fine not to exceed $50.00 or up to ten days in jail, or both such fine and imprisonment.

Section 6.4.16 Cisterns, Wells

No person, whether owner or person in possession, shall maintain or permit any cistern, well, or like excavation, accessible to children, to remain in an open or unprotected condition, and any violation shall be punishable by a fine not to exceed $250.00 or up to ten days in jail, or both such fine and imprisonment.

Section 6.4.17 Swimming pools

For any swimming pool 24 inches in depth and greater, having a surface area of 150 square feet or more, the minimum height of the safety barrier shall be not less than four feet. The safety barrier shall be erected either around the swimming pool or around the premises on which the pool is located and must enclose the area entirely.

The sides of above ground pools are acceptable as enclosures, provided that the sides extend not less than four feet above the ground from outside of the pool at all points. Further, the access steps, ladders, or decks must be capable of being rendered inaccessible by being moved or raised to four feet or more above the ground outside the pool.

Pool covers shall be acceptable as a safety barrier if the pool cover provides a secure barrier against water entry, and if said cover is in compliance with the “Standard Performance Specifications for Safety Covers,” as developed by the American Society for Testing Materials, which is hereby adopted by reference. (Amended Oct 2020)

Section 6.4.18 Grass and Vegetation

No owner or occupant shall allow or permit grass, weeds, shrubs, bushes, trees or vegetation to grow, or to grow and die, into a state such that it constitutes a fire hazard, a harborage for insects, vermin or pests, or to otherwise be a hazard to public health, safety or welfare. All grass and other vegetation having reached a height of 8 inches are declared a nuisance and no owner of any lot, place or area within the city, or the agent of the owner of occupant of the lot, place or area, shall permit on the lot, place or area, or upon any sidewalk abutting the same, any grass and other vegetation having reached a height of 8 inches, or other noxious matter to grow, lie or be located thereon.

The City Maintenance Supervisor is hereby authorized and empowered to notify in writing, or by public notice, each owner, occupant, or person in charge of any such lot, place or area, to cut, destroy or remove any such weeds, grass or harmful or unhealthful growths or other noxious matter found growing, lying, or located on such property or upon the sidewalk abutting same. Such notice shall be served to said owner, agent, or occupant at his last known address, on the door of the property in violation, or by publication in the official newspaper, and shall notify said owner, agent, or occupant to cut, destroy, or remove any such weeds, grass or harmful or unhealthful matter within 72 hours after the service of such notice.

Upon failure, neglect or refusal of any owner, agent or occupant so notified to comply with said notice within 72 hours thereof, the City Maintenance Supervisor is hereby authorized and empowered to enter the property and provide for the cutting, destroying, or removal of such weeds, grass or harmful, unhealthful growths or other noxious matter and to defray the cost of the destruction and the administrative costs by special assessment against the property as provided in the chapter. The fees to cover these costs will be determined by the City Council. (Added December 2020)

Section 6.4.19 Penalties

Any person violating above mentioned will be fined $250 per offense.

TITLE VI – OFFENSES
CHAPTER 5
MINORS

Section 6.5.1 Minors, Loitering Prohibited

It shall be unlawful for any minor person under the age of sixteen years to loiter idle, wander, stroll, or play, ride or be in any motor vehicle in or upon the public streets, highways, roads, alleys, parks, public buildings, places of amusement and entertainment, vacant lots, or other unsupervised places, or to be or remain in any dance hall, restaurant, cafe, theater, or other public place between the hours of 11 p.m. and 5 a.m. of the following day, official city time. Provided, however, that the provisions of this section do not apply to a minor accompanied by his or her parents, guardian or other adult person having the care and custody or where the minor is upon an emergency errand or legitimate business, directed by his or her parent or guardian or other adult person having the care or custody of the minor; and provided further, that this section does not in any way apply to any minor after he or she shall have reached his or her seventeenth birthday.

Section 6.5.2 Minors, Responsibility of Parents

It shall be unlawful for the parent, guardian or other adult person having the care and custody of a minor under the age of sixteen to knowingly permit such minor to loiter, idle, wander, stroll or play, or ride or be in any motor vehicle upon the public streets, highways, road, alleys, playgrounds, or other public grounds, public places or public buildings, places of amusement, vacant lots, or other unsupervised places, or to be or remain in any dance hall, restaurant, cafe, theater, or other public place between the hours of 11 p.m. and 5 a.m. of the following day, official city time; provided, however, that the provisions of this section do not apply when the minor is accompanied by his or her parent, guardian or other adult person having the care and custody of the minor, or when the minor is upon an emergency errand or legitimate business directed by his or her parent, guardian or other adult person having the care and custody of the minor.

Section 6.5.3 Responsibility of Others

It shall be unlawful for any person, firm or corporation operating the places of amusement and entertainment, restaurants, cafes, theaters or other public places to permit minors to enter or remain in such places or amusement and entertainment, restaurant, cafe, theater, or other public places during the hours prohibited under this chapter, or owner or operator of any motor vehicle to permit or allow any minor to be in or ride in such motor vehicle during the hours prohibited by the chapter; provided, however, that the provisions of this section do not apply when the minor is accompanied by his or her parents, guardian, or other adult person having the care and custody of the minor.

Section 6.5.4 Penalties

Any minor violating the provisions of this chapter shall be taken into custody by the Chief of Police and/or Sheriff's Department for the fist offense shall be immediately delivered into the custody of the parent, guardian, or other legal custodian of such minor; upon a subsequent violation, said minor shall be taken by such officer before the City State's Attorney and charged with the violation of this chapter; or may be brought before the County Court of Davison County and dealt with in accordance with the Juvenile Court Law and Procedure. Any parent, guardian or person having the care and custody of a minor or any other person violating the provisions of Sections 7.0702 and 7.0703 shall be fined in a sum not exceeding Two Hundred Fifty Dollars ($250.00) or confined in jail not more than thirty (30) days or punished by both such fine and imprisonment for each offense.

TITLE VI – OFFENSES

CHAPTER 6

ALCOHOLIC BEVERAGES

Section 6.6.1 License Required

No person shall sell, offer for sale, keep for sale, exchange, distill, manufacture, produce, bottle, blend or otherwise concoct within the city or within one mile of its territorial limits, any alcoholic beverages as defined by statute without having a license therefore as required by Title 5 of the South Dakota Code of 1939 as amended or as authorized by such title as amended.

Section 6.6.2 Package with Broken Seal

It shall be unlawful for any person to have in his possession in a public place within the city any intoxicating liquor, except that contained in a sealed original package with United States Government and State of South Dakota stamp tax unbroken; provided, however, that this shall not apply to an "on-sale" dealer.

Section 6.6.3 Sale or Gift to Minors

No person shall sell or give any intoxicating liquor to any person under the age of twenty-one years; nor shall any person sell or give any non-alcoholic beer or wine to any person under the age of eighteen years.

Section 6.6.4 Consumption, Sale, or Service

It shall be unlawful for any person or business to consume, sell or service any alcoholic beverages upon any public street or sidewalk within the corporate limits of the City or in any vehicle upon any public street in the city.

TITLE VI – OFFENSES

CHAPTER 7

NUISANCES

PURPOSE: The purpose of this chapter is to protect the community from unsightly, hazardous or blighting conditions that contribute to the deterioration of neighborhoods, and to provide for the abatement of such conditions.

Section 6.7.1: DEFINITIONS:
Words and phrases used in this chapter shall be defined as follows:
AGRICULTURAL PURPOSES: The lawful use of land for the purpose of crop production or the raising of livestock.
ALLEY: A narrow highway intended chiefly to give access to the rear of buildings and parcels of land.
BOARD: The City Council will be the Board.
CITY: The City of Mount Vernon, a municipal corporation.
CONSTRUCTION MATERIAL: All construction and demolition material or supplies accumulated on premises while constructing, altering, repairing, or demolishing any building or structure and includes, but is not limited to, earth, vegetation, or rock during such construction, alteration or repair.
DANGEROUS TO HUMAN HEALTH: Whatever renders the ground, the water, the air or food a hazard or an injury to human health.
DOMESTIC WASTE: Includes:

A. Refuse, debris, junk, or effluent belonging to, or associated with, a house or household;
B. Accumulations of leaves, grass cuttings, or garden remains that are not kept in a compost container;
C. Refrigerators, freezers, stoves or other appliances or any part of them, if the appliance is not being used for the purpose for which it was manufactured;
D. Furnaces, furnace parts, pipes, unused metal, wire, fittings or tanks of any kind when not in use;
E. Inoperative vehicles, vehicle parts or accessories;
F. Old or decayed lumber, paper, ashes, glass, cardboard, plastics, sewage, or dilapidated furniture, clothing or fencing;
G. Construction materials that are not being actively used in a construction project.

EXTERIOR PROPERTY AREA: The lot excluding any buildings or structure.
GRAFFITI: An inscription, symbol, or drawing by means of paint, chalk, ink or other substance, or by chisel, hammer or other device, that disfigures or defaces a property or object, but does not include a sign, public notice, or traffic control mark authorized by the city or by state or federal legislation.
HIGHWAY: Includes a street, avenue, alley, parkway, driveway, square, place, bridge, viaduct or trestle, any part of which is intended for or used by the general public for passage of persons and vehicles, and includes a sidewalk.
INDUSTRIAL WASTE: Includes:

A. Refuse, debris, junk or effluent belonging to, associated with, or resulting from, any industry, trade or business;
B. The following materials or things, if they are not being actively used by the industry, trade or business:
    1. Agricultural, animal or vegetable products.
    2. Mineral, metal, or chemical products.
    3. Inoperative vehicles, vehicle parts, appliances, mechanical equipment, mechanical parts, or accessories to any of them.
    4. Lumber or wood products, piping, tubing, conduit, cable, fittings or accessories to any of them.

5. Containers of any size or type.
6. Bones, feathers, hides, ashes or sewage.
7. Construction materials that are not being actively used in a construction project.

INOPERATIVE VEHICLE: A vehicle located on private land having missing, damaged or deteriorated parts or in a rusted, wrecked or other condition that may prevent its mechanical function, including any vehicle that does not display a vehicle permit number plate with evidence of current validation of the permit affixed to it, issued by any state, tribal or national government; and not located within a structure erected in accordance with any law respecting the erection of structures enforced within the city and which vehicle does not form part of a business enterprise lawfully operated on that land.

OCCUPANT: Includes a person that is in possession of or residing on the premises, and includes:

A. The agent of any such person; and
B. A person controlling a property during construction.

OFFICER: Any employee or agent of the city whose duties include the enforcement of this chapter.

ORDER: An order issued pursuant to this chapter and includes a confirmation or amendment made to any order made following an appeal.

OWNER: Includes any person who:

A. Is registered owner as shown on the records maintained by the register of deeds of Davison County;
B. Is shown by the records of the director of equalization of Davison County;
C. Has purchased or otherwise acquired the property and has not yet become the registered owner thereof;
D. Is a trustee, an executor, an administrator, a personal representative, a guardian or a mortgagee in possession, or the person having the care and control of any land or building in case of the absence or disability of the person having title thereto.

PERSON: Includes a corporation, partnership, LLC, government body or other party, and the personal or other legal representative of a person.

PREMISES OR PROPERTY: Include:

A. Buildings or structures, or part thereof;
B. The land appurtenant thereto;
C. All mobile homes, mobile buildings, mobile structures or outbuildings;
D. Fences, scaffolding and similar erections; and
E. Vacant land.

STRUCTURE: Anything erected or constructed, the use of which requires temporary or permanent location on, or support of, the soil, or attached to something having a permanent location on the ground or soil, but not including pavement, curbs, walks, or open air surfaced areas.

UNSIGHTLY: Property characterized by visual evidence of any one or more of the following:

A. Accumulation of waste, unless the waste is contained within a closed waste receptacle, or a closed building or structure, such that the waste is not visible from another parcel or a public place;
B. Fences characterized by holes, breaks, rot, crumbling, peeling or rusting;
C. Landscaping that is dead, characterized by uncontrolled growth or lack of maintenance, or is damaged;
D. A lowering in quality of the condition or appearance of a building or structure or parts thereof characterized by holes, breaks, rot, crumbling, cracking, peeling, rusting, or missing portions of a

building or structure, or other evidence of physical decay or neglect or excessive use or lack of maintenance;
E. The accumulation of graffiti;
F. The infestation of vermin, insects or other pests;
G. That is dangerous to human health; or
H. Any other similar conditions of disrepair and deterioration regardless of the condition of the other properties in the neighborhood.

VEHICLE: Includes a motor vehicle, trailer, boat, motorized snow vehicle, farm tractor, self-propelled implement of husbandry, mechanical equipment and any vehicle drawn, propelled or driven by any kind of power, including muscular power.

WASTE: Includes:
A. Domestic waste;
B. Industrial waste; and
C. Any other unused or unusable material that by reason of its state, condition or excessive accumulation:
1. Appears to have been cast aside, discarded or abandoned;
2. Appears to be worthless, useless or of no particular value; or
3. Appears to be used up, expended or worn out, in whole or part.

YARD: The open space of a property between any building and the adjacent lot lines, not occupied by a building or structure, extending across the width of the lot and open from the ground to the sky.

NUISANCES GENERALLY:

Section 6.7.2 : UNSIGHTLY PROPERTY PROHIBITED:

A. No owner or occupant of premises shall cause or allow the premises of which he or she is the owner or occupant to become unsightly.
B. Exterior property areas shall be maintained in a neat, tidy, and safe condition, and, without restricting the generality of the foregoing, such maintenance shall include the removal of:
1. Waste;
2. Vermin, insects, and other pests and of conditions which may encourage infestation by pests;
3. Dilapidated, collapsed, or unfinished buildings, structures or fences, which are currently not under construction;
4. Accumulated graffiti; or
5. Decayed, dead, or diseased trees, bushes or hedges.

Section 6.7.3 OUTDOOR FURNITURE RESTRICTIONS:

A. No person shall keep, store, or maintain any upholstered furniture not manufactured for outdoor use, including, without limitation, upholstered chairs, upholstered couches, and mattresses, in any exterior property areas located adjacent to a highway.

B. The following shall constitute specific defenses to any alleged violation of this section:
1. Such furniture was placed in an outside location in order to allow it to be moved during a move of an occupant or removed as part of a waste removal or recycling program on a day scheduled for such moving or removal;
2. Such furniture was located in an exterior property area in such a manner that it could not be seen from the ground level from another parcel or public place and that it was not visible to a person

without taking extraordinary steps, such as climbing a ladder or peering over a screening fence, in order to achieve a point of vantage;

3. Such furniture was temporarily placed in an outside location in order that it be offered for sale at a yard sale or garage sale provided each of the following conditions exist:
   a. The furniture was located in an outside location only for a period of the yard sale or garage sale;
   b. The person attempting to sell the furniture, or that person's agent, was outside during the period of the yard sale or garage sale in order to monitor the sale;
   c. A sign was placed on or near the furniture indicating that it was for sale;
   d. The furniture was located in an outside location for no longer than two (2) days in any one month period.

Section 6.7.4 COMPOST:

A compost pile is permitted on residential property, provided that the compost pile is not unsightly to neighbors and the discretion of the City Council.

Section 6.7.5 FIREWOOD:

A. For the purposes of this section, unless apparent from the context, certain words and phrases used in this section shall be defined as follows: CORD OF WOOD: A unit of quantity for cut fuel wood, equal to one hundred twenty eight (128) cubic feet in a stack measuring four feet by four feet by eight feet (4' x 4' x 8'). FIREWOOD: Neatly stacked burnable wood cut into lengths of approximately one to two feet (2') that require no further cutting of the wood prior to placing it in a wood burner or fireplace.
B. No person shall store firewood on residentially zoned property, except for use on the premises and in conformance with the following:
   1. No more than three (3) cords of firewood shall be stored at any time, without the written approval of the fire department.
   2. The firewood must be cut and neatly stacked and may not be stacked closer than five feet (5') to any property line and not higher than six feet (6') from grade.
   a. Exception: Firewood may be cut and neatly stacked on or near the lot line or against a fence, provided that it is no higher than the fence and that it is located a minimum of six feet (6') from any structure on adjacent property.
   3. All brush, debris and refuse from processing of firewood shall be promptly removed from the premises.

Section 6.7.6 GRAFFITI:

No owner or occupant shall place graffiti, or cause graffiti to be placed, or allow graffiti to remain on the exterior or exposed surface of any wall, fence, building, or structure located on property and adjacent to a highway or other public place.

Section 6.7.7 GRASS AND VEGETATION:

No owner or occupant shall allow or permit grass, weeds, shrubs, bushes, trees or vegetation to grow, or to grow and die, into a state such that it constitutes a fire hazard, a harborage for insects, vermin or pests, or to otherwise be a hazard to public health, safety or welfare.

All grass and other vegetation having reached a height of 8 inches are declared a nuisance and no owner of any lot, place or area within the city, or the agent of the owner of occupant of the lot, place or area, shall permit on the lot, place or area, or upon any sidewalk abutting the same, any grass and other vegetation having reached a height of 8 inches, or other noxious matter to grow, lie or be located thereon.

The City Maintenance Supervisor is hereby authorized and empowered to notify in writing, or by public notice, each owner, occupant, or person in charge of any such lot, place or area, to cut, destroy or remove any such weeds, grass or harmful or unhealthful growths or other noxious matter found growing, lying, or located on such property or upon the sidewalk abutting same. Such notice shall be served to said owner, agent, or occupant at his last known address, on the door of the property in violation, or by publication in the official newspaper, and shall notify said owner, agent, or occupant to cut, destroy, or remove any such weeds, grass or harmful or unhealthful matter within 72 hours after the service of such notice.

Upon failure, neglect or refusal of any owner, agent or occupant so notified to comply with said notice within 72 hours thereof, the City Maintenance Supervisor is hereby authorized and empowered to enter the property and provide for the cutting, destroying, or removal of such weeds, grass or harmful, unhealthful growths or other noxious matter and to defray the cost of the destruction and the administrative costs by special assessment against the property as provided in the chapter. The fees to cover these costs will be determined by the City Council. (Amended Dec 2020)

Section 6.7.8 STAGNANT WATER:

A. All bodies of water (except storm management ponds), excavations, ditches and other depressions on premises shall be kept free of stagnant water.
B. Containers, tires or materials located on exterior property areas shall be kept in such a condition that water cannot accumulate and stagnate in or on the containers or materials.

Section 6.7.9 GARBAGE AND REFUSE:

Waste receptacles located on exterior property areas shall be provided with covers so that the materials within shall not be exposed to view or to rodents or other pests. Such receptacles shall be kept covered except when the containers are being filled or emptied. Garbage should be placed in sealed bags within the receptacle and receptacle should be no greater than 96 gallons. (Amended November 2023)

Section 6.7.10 EXCEPTIONS: -- Reserved for future use.

Section 6.7.11 CONSTRUCTION OF VISUAL BARRIERS:

Any condition upon property otherwise deemed a under the provisions of this chapter shall not be relieved or excused from being a nuisance for the reason that such nuisance condition is screened from public view by means of a fence, wall or other visual barrier.

Section 6.7.12 INSPECTIONS:

An officer shall have the right to enter upon the property of any person at reasonable times and in a reasonable manner for purposes of inspecting the property and declaring whether the property is unsightly or otherwise not in compliance with the provisions of this chapter.

A. An officer making an inspection may, without limiting the generality of the foregoing:
    1. Make photographs or videotapes;
    2. Examine documents; and

3. Require the productions of documents and property for the purposes of examination or making copies.

B. When entering onto property pursuant to this chapter, the officer may:
   1. Enter with any equipment, machinery, apparatus, vehicle or materials that the officer considers necessary for the purpose of the entry;
   2. Take any person or thing that the officer considers necessary to assist in the inspection.

C. Before entering onto any property, the officer shall notify the owner or occupant, if the owner or occupant is present at the time of the entry, of the purpose of the entry.

D. While an officer/inspector is conducting an inspection pursuant to this section, no person shall:
   1. Fail to comply with any reasonable request of the officer;
   2. Knowingly make any false or misleading statement to the officer;
   3. Unless authorized by the officer, remove, alter, or interfere in any way with anything seized, detained, or removed by the officer; or
   4. Obstruct or interfere with the officer or a person assisting the officer.

E. If, in the opinion of the officer, there is a violation of this chapter, the City Council may issue to the owner or occupant a written order which states that the property is in violation of this chapter.

Section 6.7.13: WRITTEN ORDER:

A. Contents: An order issued shall:
   1. Specify the municipal address or legal description of the property;
   2. Give reasonable particulars of the activity or thing the owner or occupant is required to do, or is required to cease doing or change the way in which it is done, in order to remedy the violation;
   3. State the time within which the violation is to be remedied, except that in such cases where the officer determines that the nuisance constitutes a health or safety hazard, the notice may require abatement of the nuisance to be immediate;
   4. State that it is an offense to fail to comply with the order;
   5. State that if compliance with the order is not affected as specified, the city may take the actions or measures specified to remedy the violation at the expense of the owner or occupant, and if such person does not pay the costs, the costs shall be charged against the property concerned as a debt due to the city and recovered as taxes or assessments due and owing in respect to that property;
   6. State that if the city remedies the violation, any material being removed to effect compliance with the order can be destroyed or, if in the opinion of the officer, it has sufficient commercial value, sold and the proceeds used to offset the costs of the removal and sale, and
   7. State that an appeal lies from the issuance of the order if an appeal is lodged in writing within fourteen (14) days.

B. Construction of Fence: An order under this section may, without limiting the generality of the foregoing, direct that the owner construct a fence, wall, screen or similar structure to prevent unsightly premises from being viewed from any highway or other public place.

C. Service Of Order:
   1. An order issued pursuant to this chapter must be served on the owner or occupant of the property.
   2. Service may be affected by the order being:
      a. Delivered personally to the person who is intended to be served,
      b. Left with a person apparently over the age of eighteen (18) years at the dwelling place or place of business of the person who is intended to be served, or
      c. Sent by first class, registered or certified mail to the last known address of the person who is intended to be served as shown on the assessment roles.
   3. If an order is served by mail, the service shall be deemed to have been made on the fifth day after the day of mailing of the order.

4. If, in the opinion of the officer, service under subsection C2 of this section cannot reasonably be effected, the officer may place the order on the front door of the property or in a receptacle for messages, if any, on the property described in the order, or post the order in a conspicuous place on the property, and such delivery or posting of the order shall be deemed to be sufficient service of the notice on the owner as of the day of delivery or posting.

D. Extension of Time: The City Council may, in writing, extend the time for compliance with an order issued pursuant to this chapter, provided there is, in the opinion of the City Council, evidence of intent to comply with any such order, and reasonable cause exists to prevent compliance as required in the order.

E. Enforcement: Where the owner or occupant of property upon whom an order has been served does not comply with the requirement of such order and fails to appeal as provided for in this chapter or has exhausted his or her right of appeal, the officer shall immediately notify council, who may authorize an City Council, by resolution, to enter the property to carry out any and all work as stated in the order and bring the property into compliance with the requirements of this chapter. A resolution passed by council shall be in effect for six (6) months from the date of passing and authorize the officer to reenter at any time to remedy a recurring condition.
(Amended Jan 2021)

Section 6.7.14 EMERGENCY ACTION WITHOUT NOTICE:

When the City Council believes that there is an immediate danger to any person or persons he or she may take emergency action to abate the nuisance immediately without the necessity to give notice as set forth in this chapter.

Section 6.7.15 APPEALS:

A. Nuisance Appeal Board: Will be a quorum of the City Council of the City of Mount Vernon at a regular or special meeting.

B. Appeal Process:
   1. A person wishing to appeal an order must submit notice of the appeal in writing to the city finance officer within fourteen (14) days of the date on which the order was served.
   2. Each notice of appeal shall:
      a. State with reasonable exactness the grounds of the appeal;
      b. State the appellant's name, address, telephone number and the interest of the appellant in the property;
      c. Be dated and signed by the appellant or an agent on his or her behalf and, if signed by an agent, shall state the name, address and telephone number of the agent.
   3. Following the receipt of a notice of appeal, the city finance officer shall, in writing, notify the appellant of the date, time and place at which the board will consider the matter. If the appellant is not the person registered as the owner of the land as shown on a current certificate of title, the city finance officer must also send a copy of the written notice to that owner.
   4. The appellant may appear before the board in person or by representative.
   5. The board shall consider each appeal having regard to the circumstances and merits of the case and the applicable provisions of this chapter.
   6. When hearing an appeal, the board:
      a. Shall not be bound by the technical rules of evidence; and
      b. Shall afford to every person concerned the opportunity to be heard, submit evidence, and to hear the evidence of others.
   7. The board may confirm, vary, or revoke the order or may substitute its decision in place of the order which was issued.

8. The board may extend the time within which anything required to be done by the order is to be performed.
9. The board may direct that anything to be done that an officer may direct to be done, either in addition to, or in substitution for, the direction in the order appealed from.
10. Following the appeal, the city finance officer shall forthwith serve a copy of the board's decision on the appellant.

C. Effect Of Appeal, Prosecution:
1. The person to whom an order is directed shall comply with the directions set out in the order, as may be confirmed, varied or amended by any decision of the appeal board.
2. When an order is appealed, the order appealed from is stayed pending a final decision on the merits of the appeal.
3. Prosecution of a person under this chapter does not exempt the person from the remediation requirements as set forth in section 5-3-10, "Failure To Comply; Remediation", of this chapter.

Section 6.7.16 FAILURE TO COMPLY; REMEDIATION:

A. Subject to any appeal or stay of an order, the city may direct that the act or thing required to be done by an order be carried out under the direction of an officer:
1. In default of its being done by the person directed or required to do it within the time specified;
2. If the act or thing required is not done as specified in the order; or
3. If, after reasonable inquiry, the whereabouts of the owner or occupant of the property that is the subject of the order cannot be determined.

B. If an order is carried out by the city under subsection A of this section, all costs and expenses reasonably related to carrying out the order are a debt due to the city and may be recovered from the owner or occupant of the property.

C. Waste and other material removed to effect compliance with an order may be disposed of by the city where the officer is of the opinion that the material removed is of insignificant or no value. If any of the material being removed appears, in the opinion of the officer, to have commercial value, he or she may cause it to be sold and the net proceeds applied to the city's costs and expenses related to the carrying out of the order.

D. The costs and expenses of the city, to include attorney fees expended in the prosecution of the nuisance, shall be paid by the owner or occupant of the property within thirty (30) days from the date of a written statement of account from the city.

E. The amount of any costs not paid to the city within the thirty (30) day period for the removal and disposition of the nuisance, or for correcting the nuisance, to include any attorney fees expended in the prosecution of the nuisance, shall be assessed, levied and collected as a special assessment payable in one sum or by up to five (5) equal annual installments as the council may provide, against the premises from which it was removed, in the manner provided by law for levy and collection of other special assessments.

F. The cost of the work done pursuant to this section is separate and independent from any fines or penalties that may be imposed for a violation of this chapter.

Section 6.7.17 OFFENSES; PENALTY

A. Every person is guilty of an offense under this chapter who:
1. Violated any of the provisions of this chapter;
2. Suffers or permits any act or thing to be done in contravention or in violation of any of the provisions of this chapter;
3. Neglects to do or refrains from doing anything required to be done by the provisions of this chapter;
4. Does any act which violates any provision of this chapter;

5. Fails to comply with any order, direction or notice given under this chapter; or
6. Willfully interferes with, resists, or obstructs any person authorized to carry out any duty pursuant to the provisions of this chapter; and a violation of this subsection A shall be subject to the general penalty provisions as contained in section 1-4-1 of this code.

B. Each day that a violation is permitted to exist shall constitute a separate offense.

C. A conviction for an offense for failing to comply with an order does not relieve the person convicted from complying with the order, and the judge may in addition to any fine and or jail sentence imposed, order the person to do any act or work, within a specified time, to comply with the order with respect to which the person was convicted.

D. The imposition of a penalty under this chapter shall not be a bar to further prosecution under this chapter and shall not be construed so as to exclude any other remedies or sanctions, either criminal or civil, elsewhere provided in this code.

Section 6.7.18 LIABILITY:

The city, an officer or any other person who carries out any duties or performs work on behalf of the city in administering or enforcing this chapter is not liable for any damages caused by the inspection, the duties or work, or the sale of disposing of anything to carry out the requirements (Adopted April 2012)

TITLE VI - OFFENSES
CHAPTER 8
SALE AND STORAGE OF VEHICLES

Section 6.8.1 Storage of wrecked, junked or discarded vehicle

It shall be unlawful for any person in charge or in control of any property within the City of Mount Vernon to allow any partially dismantled, inoperative, wrecked, junked or discarded vehicle, including any part thereof or therefrom, to remain on any private property for any period longer than seventy-two (72) hours unless within an enclosed building. (Amended Nov 2021)

Section 6.8.2 Sale of Vehicles

Only two vehicles shall be permitted for sale at a time per parcel. The sale of vehicles on vacant parcels is prohibited.

Section 6.8.3 Exceptions

The provisions of 6.8.1 shall not apply to inoperative vehicles displayed for ornamental purposes. The provisions of 6.8.2 shall not apply to those properties for which a conditional use permit has been granted by the City of Mount Vernon. (Amended Apr 2018) (Amended Nov 2021)

Section 6.8.4 Enforcement

The Davison County Sheriff's Department shall be the appropriate persons to enforce this ordinance.

Section 6.8.5 Penalties

Any person who is convicted of violating this ordinance shall be guilty of a civil infraction and shall pay a fine of;
First Offense - Warning,
Second Offense - $100 plus the costs of prosecution,
Third or More Continuing Violations - $250 plus the costs of prosecution.
Each day that a violation exists shall constitute a separate offense.

(Adopted Feb 2018)

TITLE VII – STREETS, SIDEWALKS, AND PUBLIC PLACES
CHAPTER 1
SIDEWALKS

Section 7.1.1 Approval required

Before any sidewalk or curbing is constructed within the limits of the streets and alleys in the City of Mount Vernon by any contractor or person for the owner or owners of abutting property, said contractor or person must first receive approval from the City Council.

Section 7.1.2 Specifications

The construction of all sidewalks and curbing whether to be done by direct contact with the City of Mount Vernon or by contract with the abutting property owners, shall be done strictly in accordance with the Council and on file in the office of the Municipal Finance Officer. The Council shall have full power to condemn work and material not in accordance with the requirements of said specifications.

Section 7.1.3 Width of Sidewalks

Except as otherwise provided, all sidewalks on all side streets shall not be less than four (4) or more than eight (8) feet in width and shall conform to the width, grade and curb lines of the adjoining sidewalks.

Section 7.1.4 Supervision of Sidewalk and Curbing Construction

The building and construction of all sidewalks and curbing within the limits of the streets and alleys of the City of Mount Vernon and its duly appointed officers and agents and all such sidewalks shall be constructed on the grades as determined by the said city.

Section 7.1.5 Grades and Curb Lines

Grades and curb lines as hereto-fore established by the City of Mount Vernon, as established by previous ordinances or as shown on map prepared by the City Engineer and now in file in the Office of the Finance Officer are herby adopted as the official grades and curb lines of the City of Mount Vernon and all sidewalks hereafter constructed shall be in accordance with such established grades and curb lines.

Section 7.1.6 Street and Alley Improvements

Whenever the City Council shall cause to be opened, widened, extended, graded, graveled, surfaced with oil or other bituminous material, paved, repaved, street lighting equipment to be erected in, curbed, guttered, drained or otherwise improved, on any street, alley or public way, it may provide for the cost thereof to be paid by special assessment against the abutting property, according to law. All such special assessments shall be imposed in strict conformance with the applicable laws of the State of South Dakota.

Section 7.1.7 Sidewalk Improvements

Whenever the City Council shall cause to be constructed, reconstructed or repaired any sidewalk, it may provide for the cost thereof to be paid by special assessment against abutting property, according to law. . All such special assessments shall be imposed in strict conformance with the applicable laws of the State of South Dakota.

CHAPTER 2

SNOW REMOVAL

Section 7.2.1 Snow Removal on Streets

After any significant snowfall, vehicles and equipment must be removed beyond the right of way prior to snow removal.

Section 7.2.2 Duty of Owner or Occupant

It shall be the duty of the owner or occupant or person in possession or in charge of any lot, parcel, or plot of ground fronting or abutting upon any sidewalk, to keep such sidewalk free and clear from snow and ice at all times. When it is impossible to take snow and ice from such sidewalk by reason of its being frozen to the sidewalk, the owner or occupant or person in charge of such lot shall sprinkle or spread some suitable material upon the same to prevent the walk from becoming slippery and dangerous to travel.

Section 7.2.3 City Shall Remove

If the owner or person in possession or in charge of any of said lots, parcels, plots of ground, fails or refuses to remove the snow or ice from such sidewalk within twelve hours of the falling of said snow or the forming of said ice, the City shall remove or cause to be removed said snow or ice each time it is necessary and assess the cost thereof against the fronting or abutting property.

Section 7.2.4 Cost Assessed

The officer in charge of streets shall cause an account to be kept against each lot for the removal of snow from the sidewalks each year and same shall be certified to the County Auditor on or before the 15th day of May each year. The Auditor shall prepare an estimate of the assessment against such lot for the removal of snow for the preceding winter and fall and submit the same to the Council for its approval on or before the 1st day of June each year, and shall publish in the official newspaper a notice to property owners of the time and place when and where the Council will meet for the purpose of approving such estimate. Such notice shall be published at least one week prior to the date set for said meeting.

Upon the day so named, the Council shall meet; and if they find said estimate correct, shall approve the same, with or without modification or amendments as they may deem proper, and file said assessment with the Municipal Finance Officer. From the date of such approval and filing, the same shall be a special lien against the various pieces of property described in said assessment and shall be collected in like manner as special assessments are now collected for public improvements.

Section 7.2.5 Recovery by City

In lieu of spreading the cost of such snow removal as a special assessment against said property in the discretion of the Council, said amount may be recovered in a civil action against the owner or occupant of said property.

Section 7.2.6 Penalty

Any person whose duty it shall be to remove snow as set forth in Section 8.2.1, and who fails to remove such snow within the time therein set forth, shall be subject to the penalties detailed herein guilty of a misdemeanor; and upon conviction thereof shall be fined not exceeding One Hundred Dollars ($100.00) in addition to the other penalties prescribed in this chapter; and in addition thereto, shall be liable to the municipality for any damage caused by the neglect to keep such sidewalk clear and free of snow and ice as provided in this chapter.

CHAPTER 3

USE OF STREETS

Section 7.3.1 Obstructing the Streets

No person shall place, leave or keep on any public street, road, alley, sidewalk or other public ground in the City of Mount Vernon, any wagon, automobile, cart, truck, sleigh or other vehicle, except when the same shall be in actual use; nor shall any person place, leave 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 said street, road, alley, sidewalk or public ground, except as hereinafter provided.

Section 7.3.2 Materials Storage

The Council are authorized to grant permission in writing to any person to deposit and keep lumber, stone, brick or other materials for building, on any public street, sidewalk, road or alley adjacent to the building to be erected or repaired, but such permission shall not excuse the obstruction or occupancy with such materials of more than one-third of the width of any driving surface of any street or road.

Section 7.3.3 Cleaning Streets or the Sidewalk of Rubbish

Every person to whom permission may be granted, as in the last section provided, to place and keep building material in the street, road or alley, shall cause all such material and the rubbish resulting therefrom, to be removed from such sidewalk, street, road or alley at the expiration of the time limited in the permit, unless the time shall for good cause be extended by the Council; and any person depositing and keeping any building material on such sidewalk or in such street, road or alley under a permit from the Council, shall during every night while the material shall there remain, that such material may be easily seen by persons passing along such sidewalk, street, road or alley.

Section 7.3.4 Excavation Near Street

It shall be unlawful for any person, owner or occupant of any lot or parcel of land within the City of Mount Vernon, to make or cause to be made any excavation on said lot or parcel of land, except the same be securely guarded and lit at night so as to prevent the injury of any person or persons or animals passing upon or along said sidewalks, street, alleys or public grounds or traveled path or roadway.

Section 7.3.5 Building in Streets

No person shall erect or maintain any building in such a position that the same shall stand in whole or in part upon any public street, road, alley or sidewalk in said city, or so constructed that any part of the building proper shall project into or over such street, road, alley, or sidewalk; provided that jut windows, cornices, and other projections from the building above the first story, may extend over an adjoining street, road, alley or sidewalk, not exceeding eighteen inches (18”); and no person shall construct any step, area, or other apparatus to any building extending over or upon the sidewalk, nor shall any person erect in any public street or road any flight of stairs or step leading to any floor of any building.

Section 7.3.6 Eave Pipes

No person shall place or maintain any pipe leading from the eaves of any building or any part of any building in said city in such a position that the water discharged from the roof of said building will flow upon or over any public sidewalk in the said City.

Section 7.3.7 Garbage in Streets

It shall be unlawful for any person, firm or corporation to throw, or deposit any ashes, offal's dirt, garbage, decaying vegetables, fish, meat, manure, filthy water, slops of any other offensive or putrid matter or thing into or upon any street, avenue, lane, alley or public ground within the corporate limits of the City of Mount Vernon or into any stream of water within the limits of the said City or forming the boundaries thereof.

Section 7.3.8 Animals and Vehicles on Sidewalks

No person shall park, drive or operate, or cause to be driven or operated, any motor vehicle upon any sidewalk in said City of Mount Vernon, except that the same may be driven across any sidewalk in entering or leaving the premises of any person if there shall be constructed a driveway across said sidewalk at said premises.

CHAPTER 4

MOVING BUILDINGS ON STREETS

Section 7.4.1 Permission to Move Building Required

It shall be unlawful for anyone to move any building into, along or across any public street, alley or highway within the city of Mount Vernon, without having obtained permission to do so in compliance with the provisions of this chapter

Section 7.4.2 Application Must State

Anyone desiring to move any building into, along or across any public street, alley, or highway within the City of Mount Vernon, shall first apply in writing for permission so to do, to the Municipal Finance Officer or their designee, fully stating the name of the applicant, the name of the owner of the building, the description of the lot on which such building is standing and the lot to which it is to be moved, the street along which it is proposed to move such building, the time when such removal will take place and the size of the building; which application shall be accompanied with the sum of at least Two Hundred Fifty Dollars ($250) to be deposited with the Finance Officer as a pledge or guarantee fund to protect the City against loss or damage to crossing, sidewalks, or other public or private property, or expense for protecting such property against the injuries that may be caused by the removal of such building; said deposit or the balance thereof, after deducting the amount of damages or expenses, if any, caused by such removal, to be returned to the person depositing same upon an official report of the condition of the streets, sidewalks, crossings, or other public or private property after such removal, made by the Supervisor of Streets.

Section 7.4.3 Guarantee Fund

Whenever the Municipal Finance Officer or their designee shall decide from any examination of the application and from such other information as he may obtain, that the sum of One Hundred Dollars ($100) is not sufficient as a guarantee fund for ample protection of the city against the possible damages and expenses that may be caused by the removal of such building, he is hereby authorized and it shall be his duty to require the deposit of a larger sum than One Hundred Dollars ($100), but not to exceed Five Hundred Dollars ($500).

Section 7.4.4 Permit, Contents

On the receipt of the application and the guarantee fund as hereinbefore provided, the Municipal Finance Officer or their designee may personally investigate the representations of the applicant and if such investigation is satisfactory, he shall deposit said guarantee fund with the Municipal Finance Officer to be by him held subject to the order of the Supervisor of Streets, who shall thereupon issue to the said applicant a permit in writing for the removal of such building along or across the streets, highways or alleys to be designated by the Supervisor of Streets, said removal to be finished prior to the time stated in such permit.

Section 7.4.5 Refunding Guarantee Fund

Before refunding said guarantee fund or any part thereof, it shall be the duty of the Municipal Finance Officer or their designee to examine the scene, and pay out of said fund or set aside for such purpose the amount claimed or ascertained as the damages for injuries to the public or private property, including the

expenses of protection to overhead lines as aforesaid, caused or occasioned by the removal of such building as aforesaid.

Section 7.4.6 Applicant Must Serve Notice to Owners of Wires, Etc.

If the permit includes streets, alleys or highways on which are located, or across or along which are strung overhead wires, it shall be the duty of such applicant to notify in writing the resident manager or managing agent or officer of such public service corporation or owner of said line or wires at least twenty-four hours before the commencement of such work, of his intent to so move such building under or across such line or wire and of the approximate time for such crossing of line or wire by such building.

CHAPTER 5

EXCAVATION IN PUBLIC PLACES

Section 7.5.1 Permit Required

No person shall make or cause to be made any excavation in or under any street, parking, sidewalk, alley, or public ground, or remove any earth, soil, paving, gravel, or material therefrom without having first obtained a permit therefore as hereinafter provided.

Section 7.5.2 Application and Bonds

Application for such permit shall be made to the Municipal Finance Officer, who shall secure the approval of the Municipal Finance Officer or their designee before issuing any such permit. Such application shall be accompanied by a fee of twenty-five dollars ($25), which amount shall be considered compensation to the City for the granting of such permit and the necessary investigation prior thereto. In addition to the hereinbefore described fee, the applicant shall deposit with the Municipal Finance Officer not less than Two hundred fifty Dollars ($250) or such larger sum as deemed necessary by the Municipal Finance Officer or their designee to insure the replacement and refilling of any such excavation. In lieu of such deposit, a bond for the same purpose in the amount of One Thousand Dollars ($1000) to be approved by the Council may be given covering all excavations for the year for which such bond is given. Before any such permit is issued, the person requiring the same shall state in his application therefore where such excavation is to be made, the extent thereof, in front of what lot or lots, for what purpose said excavation is to be made, and whether or not such person has a bond on file with the Municipal Finance Officer for making such excavation. If such applicant has not filed such bond, then before a permit shall be issued, such applicant shall furnish a bond or make the deposit as above provided with the Municipal Finance Officer or their designee as a guarantee for the proper refilling of and guarding of such trenched and excavations while in the course of excavating or refilling and the maintenance of the same in good condition for one year thereafter.

Section 7.5.3 Deposit Forfeited

If at any time within one year after the issuance of the permit referred to in this chapter the Municipal Finance Officer or their designee shall find that the work for which the bond deposit was made does not stand a satisfactory test or has not been properly refilled, he shall notify the depositor in writing that the work must be put in satisfactory condition within three days, and if the depositor fails to comply with the terms of said notice, then the Supervisor of Streets shall have authority to cause such work to be put in proper and satisfactory condition and charge the expense thereof to the sum deposited. The balance unexpended at the expiration of one year from date of such permit shall upon order of the City Council be returned by the Municipal Finance Officer to the depositor.

In cases where a deposit is put up for all work done by any person as provided in this chapter, the Municipal Finance Officer or their designee Supervisor of Streets shall have power to cause the repairing or refilling of any excavations made by such person if he fails to do so upon three days written notice, and the expense thereof shall be charged to his deposit, and such depositor shall immediately replenish such deposit to the original amount.

Section 7.5.4 Supervision of Excavations

The Municipal Finance Officer or their designee shall supervise all excavations made for any purpose in the streets, alleys, or public grounds, and he shall require that all excavations be backfilled in the manner specified.

Section 7.5.5 Guarding Excavations

Any person receiving a permit to make excavations in or upon any street, alley, sidewalk or public ground shall, during the progress and continuance of the work, erect and maintain around the same both day and night suitable guards, fences, flares and signals so as to prevent injury to persons, animals, or vehicles on account of such excavations. Such flares shall be kept lighted from sundown to sunrise.

Section 7.5.6 Refilling Excavations

Any person making such excavation shall, when the same shall be completed, promptly and without delay, refill the same as herein provided. In refilling any excavation, the earth shall be thoroughly settled as the refilling progresses by using water to compact the earth; or the earth shall be thoroughly temped in successive layers of approximately six inches, in such a manner that all the earth shall be replaced in the excavation leaving the surface in its original condition. In making connection to fire hydrants for flushing excavations, all rules and regulations of the State of South Dakota and Municipality relating thereto shall be observed.

In all cases where excavations are made in the paved district, the earth shall be replaced in the manner above specified, and the pavement shall be to the satisfaction of the City Council.

Section 7.5.7 Cutting Pavement

Where it is necessary to cut the street pavement in making any street excavation, street pavement must be replaced by the contractor or owner by means of mechanical compaction.

Section 7.5.8 Excavations Near Street

It shall be unlawful for any person, owner or occupant of any lot to make of cause to be made any excavation on said lot adjacent to any street, alley, public ground or traveled road, or roadway, except the same be securely guarded so as to prevent the injury of any person or animal passing upon or along the same.

TITLE VIII – TRAFFIC

CHAPTER 1

OPERATION OF VEHICLES

Section 8.1.1 Push Carts, Bicycles or Animals

Any person propelling any cart or riding a bicycle or an animal upon a public Right of Way and every person driving any animal, shall be subject to the provisions of this title applicable to the operator of any vehicle, except those provisions of this title with reference to the equipment of vehicles and except those provisions which by their very nature can have no application.

Section 8.1.2 Drivers Must Keep to the Right Side of Streets

All persons operating, using or driving any vehicle or vehicles upon any of the streets of the City of Mount Vernon, shall keep to the right-hand side of the center of the street, except as herein provided, and no vehicle shall be turned around on any street except in the square formed by the intersections thereof with another street.

Section 8.1.3 Overtaking

The operator of any vehicle overtaking another vehicle proceeding in the same direction shall pass at a safe distance to the left thereof, but only when such left side is clearly visible and is free from oncoming traffic for a sufficient distance ahead to permit such overtaking and passing to be made in safety and shall not cut in front of the overtaken vehicle until safely clear of the same.

Section 8.1.4 Following Too Closely

The operator of a motor vehicle shall not follow another vehicle more closely than is reasonable and prudent, having due regard to the speed of such vehicles and the traffic upon and condition of the highway.

Section 8.1.5 Vehicles shall not be driven on Sidewalk

The operator of a vehicle shall not drive upon any sidewalk except at a permanent or temporary driveway.

Section 8.1.6 Brakes, Lights and Horn

Every motor vehicle operated or driven upon the public highways of this city shall be provided with adequate brakes in good working order sufficient to control such motor vehicle at all times when the same is in use, and a suitable and adequate bell, horn or other device for signaling and shall, during the period of one-half hour after sunset and one-half hour before sunrise, display lighted lamps as required in Section 44.0353 of the 1939 Code of the State of South Dakota, as amended.

Section 8.1.7 License Plates

No person shall operate or drive a motor vehicle within the City of Mount Vernon without having conspicuously displayed thereon number plate or plates as required by the statutes of the State of South Dakota securely fastened, and shall be kept free from mud, dirt or other obstruction so that said number plate or plates shall be clearly legible by other persons upon said highway.

Section 8.1.8 Drivers Permit Required

No person shall drive or operate upon any of the streets or highways within the City of Mount Vernon any motor vehicle without first having secured and having in his possession a permit so to do issued by the State of South Dakota under the provisions of law.

Section 8.1.9 Reckless Driving

Any person who drives any vehicle upon a highway 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, shall be guilty of reckless driving.

Section 8.1.10 Driving While Intoxicated

It shall be unlawful for any person to drive or operate, or attempt to drive or operate any motor vehicle upon any of the public streets, alleys, or public grounds of the City of Mount Vernon, while such person is in an intoxicated or drunken condition, or under the influence of intoxicating substance.

Section 8.1.11 Turning Movements and Required Signals

A. At any intersection where there is displayed an official traffic sign displaying the words "No U-Turn" it shall be unlawful for the operator of any vehicle to turn such vehicle at the intersection in a complete circle or so as to proceed in the opposite direction.
B. No person shall turn a vehicle at an intersection unless the vehicle is in proper position upon the roadway, or turn a vehicle to enter a private road or driveway or otherwise turn a vehicle from a direct course or move right or left upon a roadway unless and until such movement can be made with reasonable safety. No person shall so turn any vehicle without giving an appropriate signal in the manner herein provided in the event any other traffic may be affected by such movements.
C. A signal of intention to turn right or left when required shall be given continuously during no less than the last 100 feet traveled by the vehicle before turning.
D. No person shall stop or suddenly decrease the speed of a vehicle without first giving an appropriate signal in the manner provided herein to the driver of any vehicle immediately to the rear when there is opportunity to give such signal.

Section 8.1.12 Signals by Hand and Arm or Signal Device

Any stop or turn signal when required herein shall be given either by hand or signal device, but when a vehicle is so constructed or loaded that a hand and arm signal would not be visible both to the front and rear of such vehicle then said signals must be given by such a lamp or lamps or signal device.

Section 8.1.13 Method of Giving Hand and Arm Signals

All signals herein required given by hand and arm shall be given from the left side of the vehicle in the following manner and such signals shall indicate as follows:

A. Left turn – Hand and arm extended horizontally
B. Right turn – Hand and arm extended upward
C. Stop or decrease speed – Hand and arm extended downward

Section 8.1.14 Right-of-Way

Subject to the exceptions stated in the next succeeding section, the right-of-way rule as between vehicles at intersections is hereby declared as follows:

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

Section 8.1.15 Exceptions to Right-of-Way Rule

The operator of a vehicle entering a public street shall yield the right of way to authorized emergency vehicles when the latter are operated upon official business and the operators therefore sound audible signal by bell, siren or exhaust whistle. This provision shall not relieve the operator of an emergency vehicle from the duty to drive with due regard for the safety of all persons using the street, nor shall it protect the operator of any such vehicle from the consequences of an arbitrary exercise of such right-of-way.

Section 8.1.16 Racing Prohibited

It shall be unlawful for the operator or driver of any vehicle to race with any other vehicle on said streets or thoroughfares of the City of Mount Vernon or to engage in any contest of speed with any other vehicle, or the driver thereof, on said streets and thoroughfares.

Section 8.1.17 Mufflers

No person shall drive a motor vehicle on a highway within the City of Mount Vernon unless such motor vehicle is equipped with a muffler in good working order and in constant operation to prevent excessive or unusual noise and annoying smoke. The use of Smitty or Hollywood mufflers or other devices of like character which make loud noises or explosions are hereby declared unlawful and it shall be unlawful to use a muffler cut-out on any motor vehicle.

Section 8.1.18 Emerging from Alley or Private Property

The operator of a vehicle emerging from an alley, driveway or garage shall stop such vehicle immediately prior to driving onto a sidewalk or unto the sidewalk area extending across any alleyway.

Section 8.1.19 Stop at Intersections

The Chief of Police, with the approval of the Mayor is hereby authorized to place and maintain or cause to be placed and maintained at the intersection of any street or alley with any other street or alley where in his direction traffic conditions justify such auction, appropriate signs bearing the word “Stop” which said signs shall be located in such a manner and be of such a size as to be clearly legible from a distance of one hundred feet along said street or alley intersecting such stop street and shall illuminate at night or be placed so as to be illuminated by street lights or the headlights of approaching motor vehicles and the operator of any other conveyance traversing such street upon which such “Stop” sign has been erected shall bring such vehicle to a full stop at a place within fifteen feet of the nearest line of the intersection of said streets or street and all.

Section 8.1.20 Restrictions as to Speed

Any person driving a vehicle on a street or highway shall drive the same at a careful and prudent speed not greater than is reasonable and proper, having due regard to the traffic, surface and width of the street or highway and to any other conditions existing, and no person shall drive any vehicle upon a highway or street at such a speed as to endanger the life limb or property of any person.

Section 8.1.21 Speed Limitations

It shall be unlawful to exceed any of the following limitations:

A. Twenty-five miles an hour in any business district as defined in Section 9.0101 or on any Federal Highway
B. Fifteen miles an hour when passing schools or school grounds during recess or while children are going to or leaving school during opening or closing hours
C. Fifteen miles an hour when approaching within fifty feet and in traversing an intersection of highway when the drivers view is obstructed. A drivers view shall be deemed to be obstructed when at any time during the last fifty feet of his approach to such intersection, he does not have a clear and uninterrupted view of such intersection, and of the traffic upon all of the highways entering such intersection, for a distance of two hundred (200) feet from such intersection
D. Fifteen miles an hour under all other conditions
E. Appropriate signs indicating the maximum speed permissible shall be placed at reasonable intervals in each of the said restrictive zones.

Section 8.1.22 Exhibition Driving

No person shall drive a vehicle within the City of Mount Vernon in such a manner that creates or causes unnecessary engine noise, tire squeal, skid or slide upon acceleration or stopping, or that stimulated a temporary race, or that causes the vehicle to unnecessarily turn abruptly or sway.

TITLE VIII – TRAFFIC

CHAPTER 2

PARKING

Section 8.2.1 Stopping, Parking Prohibited in Certain Places

It shall be unlawful for the operator of a vehicle to stop, stand, or park such vehicle on any of the following places except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer.

A. Within an intersection
B. On a crosswalk
C. Within fifteen (15) feet of the inside boundary line of the sidewalk or if no sidewalk is in place, within twenty-five (25) feet of the intersection roadway, except that this provision shall not apply to alleys
D. Within fifteen (15) feet of a fire hydrant
E. In front of a private driveway
F. On a sidewalk
G. Alongside or opposite any set excavation or obstruction when such stopping, standing, or parking would obstruct traffic

Section 8.2.2 Parking Parallel and Diagonal

No vehicle shall be parked on any street except such vehicle be parked parallel to the curb headed in the direction of traffic with the curb side wheels of the vehicle within twelve inches of the curb and not closer than four feet to any other vehicle front or rear except on those streets designated or marked for angle or diagonal parking a vehicle shall be parked at an angle to the curb indicated by marks or signs with the front wheel touching the curb and the right rear wheel approximately six feet from such curb, at approximately a forty-five degree angle; provided, however that on streets adjacent to any school building or church, diagonal parking may be permitted during such times as public meetings or church services are being conducted in said building.

Section 8.2.3 Double Parking

It shall be unlawful for the operator of any vehicle to stop, stand, or park such vehicle on the roadway side of any other vehicle stopped or parked at the edge of the curb of a street except while temporarily engaged in the loading and unloading of passengers or materials.

Section 8.2.4 Parking Trucks

It shall be unlawful to park any truck or motor vehicle measuring more than seventeen feet overall from front to rear or more than seven feet in width upon Main Street, an in determining the length or width of any such truck or vehicle the contents thereof or any trailer attached thereto is deemed part of said vehicle.

Section 8.2.5 Restricted Parking Signs

The Chief of Police, with the approval of the Council is hereby authorized to limit or prohibit parking in such places and at such times as in his and their discretion is necessary by reason of traffic or other local

conditions and to place at such restricted or limited spaces appropriate signs indicating such restrictions or limitations and it shall be unlawful for any vehicle to park in such restricted or limited area contrary to the regulations as indicated by said signs.

Section 8.2.6 Twenty-four Hour Parking

It shall be unlawful for any person to park or the owner of a vehicle to permit to be parked, any vehicle for a longer period than twenty-four hours at one time, on Main Street or on any intersecting street one block in each direction from Main Street.

TITLE VIII – TRAFFIC
CHAPTER 3
RECREATIONAL VEHICLES

Section 8.3.1 Speeding and Reckless Driving

No person shall operate a recreational vehicle within the corporate limits of the City in the following manner:

1. At a speed that is greater than is reasonable or prudent under the circumstances
2. In any reckless way so as to endanger the person or property of another

Section 8.3.2 Use Restrictions

No recreational vehicle shall be operated within the corporate limits of the City in the following places:

1. On Main Street except to cross Main Street and then only after stopping and yielding the right of way to all approaching traffic and crossing as closely as possible to an intersection
2. On sidewalks or pedestrian walkways
3. On private property without permission of the owner or occupant
4. On public grounds, park property, or playgrounds
5. Within the corporate limits of the City, unless the operator shall have a valid driver's license on his person
6. Within the corporate limits of the City without having such recreational vehicle registered and licensed as provided by the South Dakota State Law

Section 8.3.3 Required Equipment

All recreational vehicles operated within the City shall have the following equipment:

1. Any recreational vehicle operated in the City, during hours of darkness, shall display a lighted headlamp and tail lamp in accordance with the laws of the State of South Dakota at least equivalent to that required for motorcycles
2. A muffler in good working order and in constant operation to prevent excessive or unusual noise and annoying smoke
3. Adequate brakes in good working condition

Section 8.3.4 Operator Regulations

Any person operating a recreational vehicle within the corporate limits of the City, shall be subject to all other provisions of the City's code applicable to the operation of any other type of motor vehicle, to include driving under the influence of intoxicating liquor or drugs, except those provisions which by their very nature can have no application.

TITLE IX – FLOOD CONTROL

CHAPTER 1

ADOPTION OF NATIONAL CODE

Section 9.1.1 Statutory Authorization

The city/town of Mount Vernon 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, established in the aforesaid act, provides that areas of the town having a special flood hazard be identified by the Federal Emergency Management Agency and that floodplain management measures be applied in such flood hazard areas. The National Flood Insurance Program was broadened and modified with the passage of the Flood Disaster Protection Act of 1973 and other legislative measures. It was further modified by the National Flood Insurance Reform Act of 1994. The National Flood Insurance Program is administered by the Federal Emergency Management Agency, a component of the U.S. Department of Homeland Security.

Section 9.1.2 Findings of Fact

The flood hazard areas of Mount Vernon are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, and extraordinary public expenditures for flood protection and relief, all of which adversely affect the public health, safety, and general welfare.

These flood losses are created by the cumulative effect of obstructions in floodplains which cause an increase in flood heights and velocities, and by 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.

Section 9.1.3 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 in specific areas by provisions designed to:

A. Protect human life and health;
B. Minimize expenditure of public money for costly flood control projects;
C. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
D. Minimize prolonged business interruptions;
E. Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains;
F. Help maintain a stable tax base by providing for the sound use and development of flood-prone areas in such a manner as to minimize future flood blight areas; and
G. Insure that potential buyers are notified that property is in a flood area.

Section 9.1.4 Methods of Reducing Flood Losses

A. In order to accomplish its purposes, this ordinance uses the following methods:
B. Restrict or prohibit uses that are dangerous to health, safety or property in times of flood, or cause excessive increases in flood heights or velocities;

C. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
D. Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of flood waters;
E. Control filling, grading, dredging and other development which may increase flood damage;
F. Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.

TITLE IX – FLOOD CONTROL
CHAPTER 2
GENERAL PROVISIONS

Section 9.2.1 Lands to which this Ordinance Applies

The ordinance shall apply to all areas of special flood hazard within the jurisdiction of Mount Vernon.

Section 9.2.2 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 Mount Vernon," dated September 29, 2010, 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.

Section 9.2.3 Establishment of Development Permit
A Development Permit shall be required to ensure conformance with the provisions of this ordinance.

Section 9.2.4 Compliance
No structure or land shall hereafter be located, altered, or have its use changed without full compliance with the terms of this ordinance and other applicable regulations.

Section 9.2.5 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.

Section 9.2.6 Interpretation
In the interpretation and application 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 statutes.

Section 9.2.7 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 man-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.

Section 9.2.8 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. (adopted revisions October 2010)

TITLE IX – FLOOD CONTROL

CHAPTER 3

ADMINISTRATION

Section 9.3.1 Designation of the Floodplain Administrator

The Mount Vernon Municipal Finance Officer is hereby appointed the Floodplain Administrator to administer and implement the provisions of this ordinance and other appropriate sections of 44 CFR (National Flood Insurance Program Regulations) pertaining to floodplain management.

Section 9.3.2 DUTIES & RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR

Duties and responsibilities of the Floodplain Administrator shall include, but not be limited to, the following:

A. Maintain and hold open for public inspection all records pertaining to the provisions of this ordinance.
B. Review permit application to determine whether proposed building site, including the placement of manufactured homes, will be reasonably safe from flooding.
C. Review, approve or deny all applications for development permits required by adoption of this ordinance.
D. Review permits for proposed development to assure 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) from which prior approval is required.
E. 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.
F. Notify, in riverine situations, adjacent communities and the State Coordinating Agency which is the South Dakota State Office of Emergency Management, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.
G. Assure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained.
H. When base flood elevation data has not been provided in accordance with Article 3, Section B, the Floodplain Administrator shall obtain, review and reasonably utilize any base flood elevation data and floodway data available from a Federal, State or other source, in order to administer the provisions of Article 5.
I. When a regulatory floodway has not been designated, the Floodplain Administrator must require that no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A1-30 and AE 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 one foot at any point within the community.
J. Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Program regulations, a community may approve certain development in Zones A1-30, AE, AH, on the community's FIRM which increases the water surface elevation of the base flood

by more than one foot, provided that the community first applies for a conditional FIRM revision through FEMA (Conditional Letter of Map Revision).

Section 9.3.3 Permit Procedures

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, plans in duplicate drawn to scale showing the location, dimensions, and elevation of proposed landscape alterations, existing and proposed structures, including the placement of manufactured homes, and the location of the foregoing in relation to areas of special flood hazard. Additionally, the following information is required:

A. Elevation (in relation to mean sea level), of the lowest floor (including basement) of all new and substantially improved structures;
B. Elevation in relation to mean sea level to which any nonresidential structure shall be floodproofed;
C. A certificate from a registered professional engineer or architect that the nonresidential floodproofed structure shall meet the floodproofing criteria of Article 5, Section B(2);
D. Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development.
E. Maintain a record of all such information in accordance with Article 4, Section (B)(1).

Section 9.3.4 Approval or Denial of Development Permit

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:

A. The danger to life and property due to flooding or erosion damage;
B. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
C. The danger that materials may be swept onto other lands to the injury of others;
D. The compatibility of the proposed use with existing and anticipated development;
E. The safety of access to the property in times of flood for ordinary and emergency vehicles;
F. 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;
G. 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;
H. The necessity to the facility of a waterfront location, where applicable;
I. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
J. The relationship of the proposed use to the comprehensive plan for that area.

Section 9.3.5 Variance Procedures

A. The appeal Board as established by the community shall hear and render judgment on requests for variances from the requirements of this ordinance.
B. The Appeal Board 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.

C. Any person or persons aggrieved by the decision of the Appeal Board may appeal such decision in the courts of competent jurisdiction.

D. The Floodplain Administrator shall maintain a record of all actions involving an appeal and shall report variances to the Federal Emergency Management Agency and the State Office of Emergency Management upon issuing a variance.

E. 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.

F. 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 Section C(2) of this Article have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.

G. 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 (Article 1, Section C).

H. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

I. 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.

J. Prerequisites for granting variances:

1. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
2. Variances shall only be issued upon:
    a. showing a good and sufficient cause;
    b. a determination that failure to grant the variance would result in exceptional hardship to the applicant, and
    c. 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.

3. 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.

K. 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:

1. the criteria outlined in Article 4, Section D(1)-(9) are met, and

2. the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

CHAPTER 4

PROVISIONS FOR FLOOD HAZARD REDUCTION

Section 9.4.1 General Standards

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; and,
G. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

Section 9.4.2 Specific Standards

In all areas of special flood hazards where base flood elevation data has been provided as set forth in (i) Article 3, Section B, (ii) Article 4, Section B(8), or (iii) Article 5, Section C(3), the following provisions are required:

A. Residential Construction - new construction and substantial improvement of any residential structure shall have the lowest floor (including basement), elevated to one foot above the base flood elevation. A registered professional engineer, architect, or land surveyor shall submit a certification to the Floodplain Administrator that the standard of this subsection as proposed in Article 4, Section C(1)a., is satisfied.
B. 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 one foot above 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 which includes the specific elevation (in relation to mean sea level) to which such structures are floodproofed shall be maintained by the Floodplain Administrator.

C. Enclosures -new construction and substantial improvements, with fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which 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 meet or exceed the following minimum criteria:

1. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
2. The bottom of all openings shall be no higher than one foot above grade.
3. 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. Manufactured Homes

1. 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 which 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.
2. Require that manufactured homes that are placed or substantially improved within Zones A1-30, AH, and AE on the community's FIRM on sites (i) outside of a manufactured home park or subdivision, (ii) in a new manufactured home park or subdivision, (iii) in an expansion to an existing manufactured home park or subdivision, or (iv) 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 to one foot above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
3. Require that manufactured homes be placed or substantially improved on sites in an existing manufactured home park or subdivision with Zones A1-30, AH and AE on the community's FIRM that are not subject to the provisions of paragraph (4) of this section be elevated so that either:
   a. the lowest floor of the manufactured home is at one foot above base flood elevation, or
   b. the manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

E. Recreational Vehicles -Require that recreational vehicles placed on sites within Zones A1-30, AH, and AE on the community's FIRM either:

1. be on the site for fewer than 180 consecutive days,
2. be fully licensed and ready for highway use, or
3. meet the permit requirements of Article 4, Section C(1), and the elevation and anchoring requirements for "manufactured homes" in paragraph (4) of this section. 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.

Section 9.4.3 Standards for Subdivision Proposals

A. All subdivision proposals including the placement of manufactured home parks and subdivisions shall be consistent with Article 1, Sections B, C, and D of this ordinance.
B. All proposals for the development of subdivisions including the placement of manufactured home parks and subdivisions shall meet Development Permit requirements of Article 3, Section C; Article 4, Section C; and the provisions of Article 5 of this ordinance.
C. Base flood elevation 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, whichever is lesser, if not otherwise provided pursuant to Article 3, Section B or Article 4, Section B (8) of this ordinance.
D. All subdivision proposals including the placement of manufactured home parks and subdivisions shall have adequate drainage provided to reduce exposure to flood hazards.
E. 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 9.4.4 Standards for Areas of Shallow Flooding (AO/AH Zones)

Located within the areas of special flood hazard established in Article 3, Section B, are areas designated as shallow flooding. These areas have special flood hazards associated with base flood depths of 1 to 3 feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow; therefore, the following provisions apply:

A. All new construction and substantial improvements of residential structures have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified).
B. All new construction and substantial improvements of non-residential structures:
    1. have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified), or;
    2. 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 of effects of buoyancy.
C. A registered professional engineer or architect shall submit a certification to the Floodplain Administrator that the standards of this Section, as proposed in Article 4, Section C (1)a., are satisfied.
D. Require within Zones AH or AO adequate drainage paths around structures on slopes, to guide flood waters around and away from proposed structures.

TITLE IX – FLOOD CONTROL

CHAPTER 5

PENALTIES FOR NONCOMPLIANCE

Section 9.5.1 Penalties

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 Two Hundred Dollars ($200) or imprisoned for not more than 30 days, or both, for each violation, and in addition shall pay all costs and expenses involved in the case. Nothing herein contained shall prevent the City of Mount Vernon from taking such other lawful action as is necessary to prevent or remedy any violation.