

MUNICIPAL CODE
MARTIN, SOUTH DAKOTA
Last Updated February 17, 2023

Martin City Code, Martin, South Dakota

This code book is organized to make the City ordinances accessible to city officials, city employees and private citizens. This code is organized in the following manner.

This Code is a re-codification of the City of Martin, Bennett County, South Dakota. In preparing this Code, the source materials included the 1997 City Code and ordinances subsequently adopted by the Martin City Council. The source of each Section is included in the Source/Authority line appearing at the end of each Section. A table listing the state law citations is included at the back of this Code.

Numbering System. To ensure the Fine and Bond Schedule will not require a complete overhaul, this code continues to use the same format as the prior Martin City Code. The **Title** is the first number, then **Chapter**, and finally **Section**. For example, 1-1-1 represents Title 1, Chapter 1, Section 1.

Title. Generally, the title represents a broad category or topic of ordinances. This code contains nine (9) titles. An example is Title 2 regarding Health and Sanitation. The ordinances under this title will generally concern the health and safety of the citizens in relation to littering, nuisances, dogs and cats, etc. We have marked the beginning of each title for ease of use.

Chapter. Chapters concern a more specific type of ordinance and the ordinances within each subject will be related.

Section. An Individual Section of this code represents the actual substantive ordinance or “law” of the City.

Source/Authority Line. At the bottom of each Section is a “**Source**” line. This line provides the ordinance enacting the law. This line also includes the “authority” or the state statute that permits the City to enact such an ordinance. This “**Authority**” is also considered a statutory reference.

Table of Contents. This code contains a table of contents to assist the user in locating ordinances of interest.

Parallel Tables. The same code numbers are continued in this compilation. Therefore, this code will not include parallel tables. Such a table is normally prudent when the older or previous code is renumbered. In those instances, the parallel table will assist people in locating the prior code Sections. Cross-references are included in many **Source lines** referencing other Code Sections pertinent to that Section or South Dakota statutes regarding the same. By not renumbering the Code, the City’s Fine and Bond Schedule will be nearly unaffected by this recodification.

Tables will be included for those ordinances of a temporary nature or that deal with subjects not normally codified, such as budgets, taxes, annexations or rezones.

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TITLE ONE CITY ADMINISTRATION

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Chapter 1-1

DEFINITIONS AND GENERAL PROVISIONS

Sections:

- 1-1-1 Definitions
- 1-1-2 Construction of other terms not defined herein
- 1-1-3 Certain ordinances not repealed
- 1-1-4 Severability
- 1-1-5 Certain materials not part of ordinances
- 1-1-6 Penalties for violation of Code

1-1-1 DEFINITIONS

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

- (1) **"City" or "Municipality"** - That political subdivision of the state of South Dakota known as the City of Martin, a municipal corporation.
- (2) **"City Employee"** - any person employed full or part-time by the City of Martin, and serving by appointment of the Governing body.
- (3) **"City Officer"** - any elected official of the City or the head of any department of city government.
- (4) **"Code"** - The 2012 Municipal Code of the City of Martin.
- (5) **"Council" or "Governing body"** - The City Council of the City of Martin.
- (6) **"May"** - a permissive term allowing the person discretion as to whether or not he/she will undertake to either perform or refrain from doing an act.
- (7) **"Ordinance"** - this 1997 Municipal Code, Ordinance Number 97, in revision of the Ordinances of the City of Martin.
- (8) **"Person"** - Any natural person or persons, non-profit or for-profit business, venture, firm, corporation or any other legal entity.
- (9) **"Police"** - Any law enforcement official, including the Bennett County Sheriffs Office, required by law to enforce state statutes or local ordinances.
- (10) **"SDCL"** -- The South Dakota Codified Laws.
- (11) **"Shall" or "Shall not"** - A mandatory term, requiring an act to be performed or to refrain from doing an act.
- (12) **"State"** - The State of South Dakota.

Source: Ord. 97A and 97B, 5/7/97; **Authority:** SDCL 9-19-3; SDCL 22-6-2(2); **Cross-Ref:** Municipal Code (hereinafter "Code") 2-2-6; 3-2-6; 3-3-10; 3-3-11; 4-2-11; 5-2-42; 5-4-23; 6-3-3; 6-4-4; 6-5-6; 7-1-7; 7-2-9; 7-4-7.

1-1-2 CONSTRUCTION OF OTHER TERMS NOT DEFINED HEREIN

All other terms not specifically defined in Section 1-1-1 or elsewhere in this Code shall have their common and ordinary meanings, unless the context clearly requires otherwise. When not inconsistent with the context, words used in the present tense include the future tense, and words used in the plural number include the singular and the singular number includes the plural number.

Source: Ord. 97A and 97B, 5/7/97.

1-1-3 CERTAIN ORDINANCES NOT REPEALED

Notwithstanding the enactment of the prior Ordinance 186A, the prior Codification, Revision, and Compilation of City Ordinances known as the 2012 Municipal Code of the City of Martin, and notwithstanding this Ordinance 207, the Codification, Revision, and Compilation of City Ordinances known as the 2017 Municipal Code, it is expressly provided that any ordinances dealing with the appropriation of monies or the granting of franchises to any entity are not repealed and remain in full force and effect as if this Ordinance had never been enacted.

Source: Ord. 97A and 97B, 5/7/97; Ord. 207, __/__/2017.

1-1-4 SEVERABILITY

If any code Section or Sections are declared invalid by a court of competent jurisdiction, all other parts of this Code shall remain in full force and effect.

Source: Ord. 97A and 97B, 5/7/97.

1-1-5 CERTAIN MATERIALS NOT PART OF ORDINANCES

The table of contents, index, catch lines, title, chapter, and Section designations, legislative history, and any other tables or finding aids are not part of any ordinance or ordinances and have no legal effect whatsoever.

Source: Ord. 97A and 97B, 5/7/97; **Authority:** SDCL 2-14-9.

1-1-6 PENALTIES FOR VIOLATION OF CODE

Except as stated elsewhere in a specific Section of the Code, any person violating any of the provisions of this Code shall be deemed in violation of City ordinance and upon such a determination thereof shall be fined in an amount not exceeding \$200.00, and taxed the costs of prosecution of the case. Any other penalties other than fines shall apply to the specific chapter or Section to which a penalty is provided for the violation thereof. Each day such violation is committed or permitted to continue shall constitute a separate violation and shall be punished as such hereunder.

Source: Ord. 97A and 97B, 5/7/97; Ord. 207, __/__/2017; **Authority:** SDCL 9-19-3; SDCL 22-6-2(2); **Cross-Ref:** Municipal Code (hereinafter "Code") 2-2-6; 3-2-6; 3-3-10; 3-3-11; 4-2-11; 5-2-42; 5-4-23; 6-3-3; 6-4-4; 6-5-6; 7-1-7; 7-2-9; 7-4-7.

Chapter 1-2

WARDS AND ELECTIONS

Sections:

- 1-2-1 Redistricting of City into Wards – Ward One**
- 1-2-2 Redistricting of City into Wards – Ward Two**
- 1-2-3 Redistricting of City into Wards – Ward Three**
- 1-2-4 Secondary election requirement – Procedure**

1-2-1 REDISTRICTING OF CITY INTO WARDS - WARD ONE

The first ward shall embrace all territory in the corporate limits of the City of Martin lying and being from the center line of 4th Avenue to the center line of 7th Avenue along the center line of U.S. Highway 18, north along the center line of 7th Avenue to the center line of Pugh Street, east along the center line of Pugh Street to the center line of 5th Avenue, north along the center line of 5th Avenue to the alley midway between State Street and Stover Street, east along the alley between State Street and Stover Street to the center line of 4th Avenue, north along the center line of 4th Avenue to the center line of Swallow Street, east along the center line of Swallow Street to the center line of 2nd Avenue, north along the center line of 2nd Avenue to the center line of Dorothy Street, west along the center line of Dorothy Street to the center line of 4th Avenue, north along the center line of 4th Avenue to the corporate limits, east along the north city boundary from the center line of 4th Avenue to the eastern corporate limits, then south along the southern corporate limits, then west along the center line of State Street to the center line of 1st Avenue, south along the center line of 1st Avenue, west along the center line of School Street, then north along the center line of 3rd Avenue, then west along the center line of School Street to the center line of 4th Avenue, south along the center line of 4th Avenue to the center line of U.S. Highway 18.

Source: 1986 Rev. Ord. 4; 7/6/81; Ord. 121, 1/16/02; Ord. 122, 4/17/02; Ord. 177, 1/24/12; **Authority:** SDCL 9-13-16, SDCL 12-14-1.

1-2-2 REDISTRICTING OF CITY INTO WARDS- WARD TWO

The second ward shall embrace all territory in the corporate limits of the City of Martin lying and being from the center line of 5th Avenue west along the center line of Pugh Street to the center line of 7th Avenue, north from the center line of 7th Avenue to the northern corporate limits, then east along the northern corporate limits to the center line of 4th Avenue, south to the center line of Dorothy Street, east along the center line of Dorothy Street to the center line of 2nd Avenue, then south along the center line of 2nd Avenue to the center line of Swallow Street, then west along the center line of Swallow Street to the center line of 4th Avenue, south along the center line of 4th Avenue to the alley midway between Stover Street and State Street, then west along the alley between Stover Street and State Street to the center line of 5th Avenue, then south along the center line of 5th Avenue to the center line of Pugh Street.

Source: 1986 Rev. Ord. 4; 7/6/81; Ord. 121, 1/16/02; Ord. 122, 4/17/02; Ord. 177, 1/24/12; **Authority:** SDCL 9-13-16, SDCL 12-14-1.

1-2-3 REDISTRICTING OF CITY INTO WARDS - WARD THREE

The third ward shall embrace all territory in the corporate limits of the City of Martin lying and being from the southeastern corner of the corporate limits of the City of Martin, west along the southern corporate limits, then north along the corporate limits, then west along the corporate limits to the center line of South Dakota Highway 73, north along the center line of South Dakota Highway 73 to the southern corporate limits of the City of Martin, west along the corporate limits, then north along the corporate limits to the center line of U.S. Highway 18, then east along the center line of U.S. Highway 18 to the center line of 4th Avenue, then north along the center line of 4th Avenue to the center line of School Street, east along the center line of School Street to the center line of 3rd Avenue, then south along the center line of 3rd Avenue to the center line of School Street, east along the center line of School Street to the center line of 1st Avenue, then north along the center line of 1st Avenue to the center line of State Street, then east along the center line of State Street to the center line of E Avenue, then south along the center line of E Avenue almost to E. Easy Street, east along the corporate limits, then south along the eastern corporate limits back to the southeastern corner of the corporate limits of the City of Martin.

Source: 1986 Rev. Ord. 4; 7/6/81; Ord. 121, 1/16/02; Ord. 122, 4/17/02; Ord. 177, 1/24/12; **Authority:** SDCL 9-13-16, SDCL 12-14-1.

1-2-4 SECONDARY ELECTION REQUIREMENT – PROCEDURE

In municipalities with a population of twenty-five thousand or less, the person having the highest number of votes for any office shall be declared elected.

Source: Ord. 72, Sec. 2, 9/15/93; Ord. 134, 6/22/04; **Authority:** SDCL 9-13-25.

Chapter 1-3

MAYOR AND CITY COUNCIL

Sections:

- 1-3-1 General Authority of Mayor and City Council**
- 1-3-2 Salaries of Mayor and City Council members**
- 1-3-3 Veto power of Mayor**
- 1-3-4 Meetings of City Council**
- 1-3-5 City Council – Quorum – Order of Business**
- 1-3-6 City Council – Discussion by members**
- 1-3-7 City Council – Reports and Petitions to – Action Taken**
- 1-3-8 City Council – Standing Committees**
- 1-3-9 City Council – Claims**

1-3-1 GENERAL AUTHORITY OF MAYOR AND CITY COUNCIL

The Governing body of the City of Martin shall consist of a Mayor and Common Council to be elected at the times and in the manner provided by law, and they shall have and assume jurisdiction over all territory within the corporate limits of said City and over any common or public grounds belonging to the municipality, whether within or without the corporate limits, for all corporate purposes; and in and over all places within one mile of the corporate limits for the purpose of enforcing its Ordinances and Resolutions relating to police, health and quarantine regulations.

Source: 1986 Rev. Ord. 1, 7/6/86; **Authority:** SDCL Ch. 9-8.

1-3-2 SALARIES OF MAYOR AND CITY COUNCIL MEMBERS

The Mayor of the City of Martin shall receive a salary of \$1,200 per year plus \$75 per meeting that is attended. Each Council member of the City of Martin shall receive a salary of \$500 per year plus \$60.00 per meeting that is attended. The salaries herein provided for, are payable semi-annually in December and July. Council members who attend meetings outside of Bennett County shall be paid \$60.00 per meeting.

Source: 1986 Rev. Ord. 2, Sec. 2, 12/18/86; Ord. 58, Sec. 2, 8/21/91; Ord. 73, 11/17/93; Ord. 160, 6/30/09;
Authority: SDCL Ch. 9-8; SDCL Ch. 9-12.

1-3-3 VETO POWER OF MAYOR

The Mayor, if he/she disapproves any ordinance or resolution passed by the Council or any part of item of any ordinance or resolution appropriating money, he/she shall have the power to veto the same, and in case such veto only extends to a part of such ordinance or resolution, the residue thereof shall take effect and be in force. Such veto power shall be exercised by the Mayor by filing his/her written objections thereto with the City Finance Officer within 10 days after the final passage of such ordinance or resolution. If the Mayor shall fail to sign any ordinance or resolution on final passage thereof or within 10 days thereafter it shall be published and become a law without his/her signature. If the Mayor vetoes any ordinance or resolution or parts thereof, it shall be noted by the Finance Officer and presented with the Mayor's written objections at the next regular meeting of the City Council and may be by it reconsidered, and if

it shall pass by a 2/3 vote of all Council members elected to the Council, it shall be published and become effective, notwithstanding the Mayor's disapproval thereof. The vote upon all Ordinances and Resolutions and to pass the same over any veto shall be taken by 'yeas' and 'nays' and entered upon the minutes of the meeting.

Source: 1986 Rev. Ord. 3, Sec. 1, 12/18/86; **Authority:** SDCL 9-8-3.

1-3-4 MEETINGS OF CITY COUNCIL

(1) The City Council of the City of Martin shall hold its regular monthly meeting some time in the second week of each month, at the City Office Building. By majority vote of the Council, it may change its regular meeting time to any other time of the month by publishing a notice of the change once in the official newspaper of the City.

(2) Special meetings of the City Council may be called at any time by the Mayor, or in his/her absence by the Acting Mayor, or President of the Council, or a special meeting may be called by the Finance Officer upon the written request of three members of the City Council. When a special meeting is called, the call shall be in writing, stating the time, place, and object of the meeting and shall be signed by the person issuing the call and shall be filed with the Finance Officer and entered upon the records of the City. It shall be the duty of the City Finance Officer when a call for a special meeting has been filed to immediately prepare a notice stating the time of the meeting and the purpose for which it is called. One notice shall be personally served upon each member of the City Council by one of the Police Officers, City Finance Officer or the Mayor, but if a Council member cannot be found at their usual place of business or residence said notice may be left by the officer at such place of business or residence. A written return to the City Finance Officer concerning the service of notices for the special meeting shall be made by the officer who served such notices. The majority of the Council members elected shall constitute a quorum to do business at a special meeting but no business can be transacted at such meeting except that within the purview of the call.

Source: 1986 Rev. Ord. 3, Sec. 2, 12/18/86; Ord. 69, Sec. 2, 9/15/93; **Authority:** SDCL 9-8-8.

1-3-5 CITY COUNCIL – QUORUM - ORDER OF BUSINESS

At the time appointed for a meeting of the Council the members shall be called to order by the Mayor, and the City Finance Officer shall call the roll, noting absentees, and announce whether or not a quorum be present. Upon the presence of a quorum the Council, at the regular meetings shall proceed to business in the following order:

- (1) Calling the Meeting to Order.
- (2) Calling the Roll.
- (3) Approval of previous months minutes, corrections, etc., that had been sent to the Council.
- (4) Additions to the Agenda.
- (5) Presentation and approval of Financial Report and Claims.
- (6) Presentation of petitions and communications.
- (7) Reports of standing committees, special committees and officers.
- (8) Introduction and passage of Ordinances and Resolutions.
- (9) Building permits.
- (10) Unfinished business.
- (11) New and miscellaneous business.

(12) Adjournment.

And at all special meetings as follows:

- (1) Calling the meeting to Order.
- (2) Calling the roll.
- (3) Reading the call of finance officer.
- (4) Proceeding to business stated in call.
- (5) Adjournment.

At all adjourned meetings, both of regular and special sessions, the unfinished business of the preceding meetings shall be taken up in its order, unless some other business be made the special order by a majority vote of the Council members present.

Source: 1986 Rev. Ord. 3, Sec. 3, 12/18/86; **Authority:** SDCL Ch. 9-8.

1-3-6 CITY COUNCIL - DISCUSSION BY MEMBERS

No Council member shall have the right to discuss on the floor, more than twice, at any one session of the Council, any particular matter, motion or business under consideration of the Council, except by leave first obtained by motion of a majority of the Council members present at such session. This rule may be suspended at any session for that session only, on vote by 2/3 majority of the Council members present.

Source: 1986 Rev. Ord. 3, Sec. 7, 12/18/86; **Authority:** SDCL Ch. 9-8.

1-3-7 CITY COUNCIL - REPORTS AND PETITIONS TO - ACTION TAKEN

All resolutions, papers or petitions offered or presented to the Council shall be in writing and filed with the City Finance Officer and shall be referred without motion as the presiding officer shall direct, unless otherwise ordered by the Council, and shall be acted upon at once, unless postponed on motion or referred to a committee. All reports of committees or of officers made to the Council shall be made in writing and filed with the City Finance Officer.

Source: 1986 Rev. Ord. 3, Sec. 4, 12/18/86; **Authority:** SDCL Ch. 9-8.

1-3-8 STANDING COMMITTEES

Standing Committees are to be appointed by the Mayor and shall consist of at least two members of the City Council.

Source: 1986 Rev. Ord. 3, Sec. 5, 12/18/86; Ord. 170, 7/26/11; **Authority:** SDCL Ch. 9-8.

1-3-9 CITY COUNCIL – CLAIMS

No general bills or claims of any other nature against the City shall be allowed or paid until passed upon and approved by a quorum of the City Council, except payment of bonded indebtedness and interest thereon.

Source: 1986 Rev. Ord. 3, Sec. 6, 12/18/86; **Authority:** SDCL Ch. 9-8.

Chapter 1-4

OFFICERS AND EMPLOYEES

Sections:

- 1-4-1 Appointments
- 1-4-2 City Finance Officer – Reports to Council
- 1-4-3 City Finance Officer – Handling of City Funds
- 1-4-4 City Finance Officer – Authority of Deputy - Other Duties
- 1-4-5 City Attorney – General Duties
- 1-4-6 City Attorney – Drafting of Legal Documents
- 1-4-7 City Attorney – Prosecution of Appeals
- 1-4-8 City Attorney – Salary
- 1-4-9 Powers and Authority of Deputy Officials
- 1-4-10 Salaries of City Officials and Employees
- 1-4-11 City Board of Health – Composition – Health Officer
- 1-4-12 City Board of Health – Duties – Powers
- 1-4-13 Appointed Officials

1-4-1 APPOINTMENTS

Every officer of the municipality will begin to discharge their duties as provided by state statute. At the first meeting after the election, the Council shall elect a President and a Vice President for the ensuing year. The Mayor shall appoint said committees as needed with the approval of Council at the first meeting or as soon thereafter as possible.

Source: 1986 Rev. Ord. 2, Sec. 1, 12/18/86; Ord. 135, 7/25/04; Ord. 165, 9/22/10; Ord. 169, 6/14/11; **Authority:** SDCL 9-14-5.

1-4-2 CITY FINANCE OFFICER - REPORTS TO COUNCIL

The City Finance Officer shall make such reports of City affairs to the City Council as it may direct, all in conformity with state law.

Source: 1986 Rev. Ord. 2, Sec. 4, 12/18/86; **Authority:** SDCL 9-14-17 to 9-14-21.

1-4-3 CITY FINANCE OFFICER - HANDLING OF CITY FUNDS

Unless otherwise ordered by the Governing body or specially provided by law, no money shall be paid out of the treasury except upon the warrant of the Mayor, countersigned by the City Finance Officer, except bonds and interest coupons, which when due may be paid upon presentation, or in case the same are payable at some place other than the municipality, then the money for their redemption shall be sent to the place where they are payable in time to meet such payment when due. The manner of such payment shall be in conformity with generally accepted accounting standards, state law, and guidelines promulgated by the State Department of Legislative Audit.

Source: 1986 Rev. Ord. 2, Sec. 3, 12/18/86; **Authority:** SDCL 9-14-17 to 9-14-21.

1-4-4 CITY FINANCE OFFICER - AUTHORITY OF DEPUTY - OTHER DUTIES

In addition to the duties herein prescribed, the City Finance Officer shall do and perform such other acts and duties as are now or may hereafter be imposed by ordinance or by the laws of the State of South Dakota. The Deputy Finance Officer is duly authorized to perform all acts which the Finance Officer may perform and the Finance Officer shall be responsible for the acts of his or her deputy.

Source: Ord. 97A and 97B, 5/7/97; **Authority:** SDCL 9-14-17 to 9-14-21.

1-4-5 CITY ATTORNEY - GENERAL DUTIES

It shall be the duty of the City Attorney to furnish an opinion upon any matter relating to the affairs of the City and to any officer of the City when requested upon any matter relating to the official duties of such officer. He/she shall prosecute all violations of ordinances and resolutions of the City whenever in his/her judgment the best interest of the City requires or when instructed to by the Governing body of the City and shall represent the City in all actions or proceedings in any and all courts in which it is a party, and shall perform such other professional services incidental to his or her office as may be required by ordinance or by the laws of the State of South Dakota or as directed by the Governing body.

Source: 1986 Rev. Ord. 2, Sec. 8, 12/18/86; **Authority:** SDCL 9-14-22 and 9-14-23.

1-4-6 CITY ATTORNEY - DRAFTING OF LEGAL DOCUMENTS

The City Attorney shall review all Ordinances, Bonds, Contracts, Conveyances, Resolutions, or other similar legal instruments when proposed, prepared and presented by a majority vote of the Martin City Council or shall draft all Ordinances, Bonds, Contracts, Conveyances, Resolutions, and all other legal instruments which may be required of the City Attorney by Ordinance or by order of a majority of the City Council; and further the City Attorney shall act as the legal advisor for the City in all matters relating to the enactment or enforcement of Laws, and Ordinances, Contracts, Bonds, Conveyances, Resolutions, and all other legal instruments, or special assessments, in which the City is interested, or has under consideration.

Source: 1986 Rev. Ord. 2, Sec. 9, 12/18/86; Ord. 154, 4/8/08; **Authority:** SDCL 9-14-22 and 9-1 4-23.

1-4-7 CITY ATTORNEY - PROSECUTION OF APPEALS

The City Attorney is hereby authorized to take appeals in all cases in which the City is a party, when in his or her opinion, and when authorized by motion of the Council. The City Attorney shall be governed by such determination of the City Council.

Source: 1986 Rev. Ord. 2, Sec. 11, 12/18/86; **Authority:** SDCL 9-14-22 and 9-1 4-23.

1-4-8 CITY ATTORNEY- SALARY

The City Attorney shall receive a salary as negotiated by him or her and the City Council. The salary as negotiated shall reflect the payment of the costs of litigation, and other expenses of the attorney and what types of cases the City attorney shall handle as included in his or her salary.

Source: 1986 Rev. Ord. 2, Sec. 12, 12/18/86; **Authority:** SDCL 9-14-22 and 9-14-23.

1-4-9 POWERS AND AUTHORITY OF DEPUTY OFFICIALS

Any City employee designated as a deputy to a department head shall have all powers and authority of the official under whom they serve, and in their absence, may act for them whenever necessary. The official for whom they work shall be responsible for all of their official acts.

Source: Ord. 97A and 97B, 5/7/97; **Authority:** SDCL Ch. 3-2.

1-4-10 SALARIES OF CITY OFFICIALS AND EMPLOYEES

The Council, by resolution, shall fix the salary of all City officers and employees.

Source: Ord. 97A and 97B, 5/7/97; **Authority:** SDCL 9-14-28.

1-4-11 CITY BOARD OF HEALTH – COMPOSITION - HEALTH OFFICER

The Board of Health shall consist of a committee appointed by the Mayor, Council members, and a City Health Officer who is a state-licensed health care professional. The Board of Health and Health Officer shall have general supervision over contagious diseases afflicting any person located therein, and may take such measures as they may deem necessary for the public safety.

Source: 1986 Rev. Ord. 2, Sec. 26-27, 12/18/86; Ord. 97A and 97B, 5/7/97; **Authority:** SDCL 9-32-1 and 9-32-2.

1-4-12 CITY BOARD OF HEALTH - DUTIES – POWERS

The Board of Health may examine into all nuisances, sources of disease and causes of sickness, and make such regulations respecting same as they may judge necessary for the public health and safety of the inhabitants, and when any nuisance, source of filth or cause of any sickness is found on private property, the Board of Health shall order the owner or occupant thereof, at his own expense, to remove the same within 12 hours and whenever such owner or occupant shall not comply with such order of the Board of Health, said Board may cause said nuisance, source of filth, cause of sickness to be abated, and all expense incurred thereby shall be paid by said owner or occupant or by such other person as has caused or permitted the same, to be recovered in a civil action, prosecuted in the name of the City of Martin, in a court of competent jurisdiction.

Source: 1986 Rev. Ord. 2, Sec. 26-27, 12/18/86; **Authority:** SDCL 9-32-2.

1-4-13 APPOINTED OFFICIALS

The Mayor shall appoint, with the approval of the Council, the following officials: City Attorney.

Source: 2013 Ord. 191, 6/25/13; **Authority:** SDCL 9-14-3.

Chapter 1-5

FINE AND BOND SCHEDULE

<u>Ord.</u>	<u>VIOLATION</u>	<u>FINE</u>	<u>COSTS</u>	<u>TOTAL & BOND</u>
2-1-2	Abandoned Vehicle	\$100 First Offense \$200 Second Offense \$500 Third Offense	\$60.00	\$160.00/P.R. \$260.00/P.R. \$560.00/P.R.
2-1-3	Racing or Antique Vehicles	\$100 First Offense \$200 Second Offense \$500 Third Offense	\$60.00	\$160.00/P.R. \$260.00/P.R. \$560.00/P.R.
2-1-4	Failure Maintain Litter-Free Premises	\$100 First Offense \$200 Second Offense \$500 Third Offense	\$60.00	\$160.00/P.R. \$260.00/P.R. \$560.00/P.R.
2-1-5	Noxious Weeds	\$100 First Offense \$200 Second Offense \$500 Third Offense	\$60.00	\$160.00/P.R. \$260.00/P.R. \$560.00/P.R.
2-1-6	Operation of Jacob Brakes	\$100 First Offense \$200 Second Offense \$500 Third Offense	\$60.00	\$160.00/P.R. \$260.00/P.R. \$560.00/P.R.
2-1-7	Creating or Maintaining a Nuisance	\$100 First Offense \$200 Second Offense \$500 Third Offense	\$60.00	\$160.00/P.R. \$260.00/P.R. \$560.00/P.R.
2-1-10	Underage Gathering, Disorderly House	\$100 First Offense \$200 Second Offense \$500 Third Offense	\$60.00	\$160.00/P.R. \$260.00/P.R. \$560.00/P.R.
2-1-11	Leasing for Unlawful Purposes	\$100 First Offense \$200 Second Offense \$500 Third Offense	\$60.00	\$160.00/P.R. \$260.00/P.R. \$560.00/P.R.
2-1-12	Premises Used for Unlawful Purposes	\$100 First Offense \$200 Second Offense \$500 Third Offense	\$60.00	\$160.00/P.R. \$260.00/P.R. \$560.00/P.R.
2-1-13	Maintenance of Conditions Constituting Nuisance	\$100 First Offense \$200 Second Offense \$500 Third Offense	\$60.00	\$160.00/P.R. \$260.00/P.R. \$560.00/P.R.
2-1-20	Recreational Vehicles	\$100 First Offense \$200 Second Offense \$500 Third Offense	\$60.00	\$160.00/P.R. \$260.00/P.R. \$560.00/P.R.
2-1-21	International Property	\$200.00	\$60.00	\$260.00/P.R.

<u>Ord.</u>	<u>VIOLATION</u>	<u>FINE</u>	<u>COSTS</u>	<u>TOTAL & BOND</u>
	Maintenance Code			
2-2-2	Littering	Less than 1lb - \$25.00 1lb to 2lb - \$50.00 2lb to 3lbs - \$75.00 3lb to 4lbs - \$100.00 4lb and more- \$200.00	\$60.00	\$85.00/P.R. \$110.00/P.R. \$135.00/P.R. \$160.00/P.R. \$260.00/P.R.
2-2-3	Unlawful Deposit	\$100.00	\$60.00	\$160.00/P.R.
2-2-4	Sweeping Litter into Gutter	\$100.00	\$60.00	\$160.00/P.R.
2-2-5	Failure Maintain Litter-free Premises	\$30.00	\$60.00	\$90.00/P.R.
2-2-5a	Unlawful deposits and litter	\$200.00	\$60.00	\$260.00/P.R.
2-3-2	Licensing – Dogs & Cats	\$60.00	\$60.00	\$120.00/P.R.
2-3-3	Tag & Collar Required – Dogs & Cats	\$60.00	\$60.00	\$120.00/P.R.
2-3-4	Animals Running at Large	\$60.00	\$60.00	\$120.00/P.R.
2-3-7	Vicious Animals	\$100.00	\$60.00	\$160.00/P.R.
2-3-8	Keep or Maintain Dog or Cat without Vaccinations	\$60.00	\$60.00	\$120.00/P.R.
2-3-9	Limit of Dogs & Cats per household	\$60.00	\$60.00	\$120.00/P.R.
2-4-1	Keeping of Animals within City Limits	\$60.00	\$60.00	\$120.00/P.R.
3-1-1	Fireworks Prohibited in City Limits	\$60.00	\$60.00	\$120.00/P.R.
3-1-2	Distribution of Fireworks Prohibited	\$60.00	\$60.00	\$120.00/P.R.
3-1-3	Storage of Explosives	\$60.00	\$60.00	\$120.00/P.R.
3-1-4	Storage of Flammable Liquids	\$60.00	\$60.00	\$120.00/P.R.
3-1-6	Bulk Storage Facilities	\$60.00	\$60.00	\$120.00/P.R.
3-2-3	Buildings within Fire Limits – Construction	\$60.00	\$60.00	\$120.00/P.R.
3-2-4	Buildings within Fire Limits – Chimneys and Flues	\$60.00	\$60.00	\$120.00/P.R.
3-2-5	Moving or Building Structure within Fire Limits without Permit	\$60.00	\$60.00	\$120.00/P.R.
3-3-2	International Building Code Adopted	\$100.00	\$60.00	\$160.00/P.R.

<u>Ord.</u>	<u>VIOLATION</u>	<u>FINE</u>	<u>COSTS</u>	<u>TOTAL & BOND</u>
3-3-3	International Residential Code Adopted	\$100.00	\$60.00	\$160.00/P.R.
3-3-5	Requirement for Building Permit	\$100.00	\$60.00	\$160.00/P.R.
3-3-7	Mobile Homes, Trailers, and Manufactured Home Application required	\$100.00	\$60.00	\$160.00/P.R.
3-3-10	Single Dwelling Requirement	\$100.00	\$60.00	\$160.00/P.R.
4-1-2	Failure to Pass to Right on Street	\$60.00	\$60.00	\$120.00/P.R.
4-1-3	Failure to Properly Turn & Signal	\$60.00	\$60.00	\$120.00/P.R.
4-1-4	Backing Motor Vehicle	\$60.00	\$60.00	\$120.00/P.R.
4-1-5	Failure to Yield Emergency Vehicles	\$60.00	\$60.00	\$120.00/P.R.
4-1-6	Failure to Yield Right-of-Way at Intersections	\$60.00	\$60.00	\$120.00/P.R.
4-1-7	Driving on Left Side of Street	\$60.00	\$60.00	\$120.00/P.R.
4-1-8	Driving Over Sidewalks	\$60.00	\$60.00	\$120.00/P.R.
4-1-9	Driving in Manner which Obstructs or Hinders Traffic	\$60.00	\$60.00	\$120.00/P.R.
4-1-10	Reckless or Careless Driving-Excessive Speed	\$140.00	\$60.00	\$200.00/P.R.
4-1-11	Leaving Vehicle Unattended	\$60.00	\$60.00	\$120.00/P.R.
4-1-12	Driving Vehicle with Excessive Noise, Smoke or Dust	\$60.00	\$60.00	\$120.00/P.R.
4-1-13	Failure to Drive in Compliance with State Laws – Brakes, Lights and Signaling Devices	\$60.00	\$60.00	\$120.00/P.R.
4-1-14	Underage Driving	\$60.00	\$60.00	\$120.00/P.R.
4-1-15	Driving on Sidewalks	\$60.00	\$60.00	\$120.00/P.R.
4-1-16	Interference with Funeral Procession	\$60.00	\$60.00	\$120.00/P.R.
4-1-17	Obstruction of Streets or	\$60.00	\$60.00	\$120.00/P.R.

<u>Ord.</u>	<u>VIOLATION</u>	<u>FINE</u>	<u>COSTS</u>	<u>TOTAL & BOND</u>
	Alleys			
4-1-18	Backing of Vehicles at Curbs	\$60.00	\$60.00	\$120.00/P.R.
4-1-19	Parking	\$60.00	\$60.00	\$120.00/P.R.
4-1-20	Truck Parking	\$60.00	\$60.00	\$120.00/P.R.
4-1-21	Unloading of Cargo on Certain Streets	\$60.00	\$60.00	\$120.00/P.R.
4-1-22	Restricted Parking Trucks	\$30.00	\$60.00	\$90.00/P.R.
4-1-23	Speed Limit at 15 m.p.h. – Trucks	\$60.00	\$60.00	\$120.00/P.R.
4-1-24	Parking – Trucks	\$30.00	\$60.00	\$90.00/P.R.
4-1-25	Parking – Farm Equipment	\$30.00	\$60.00	\$90.00/P.R.
4-1-26	Parking Regulations/U-Turns/Stopping in Street/stop sign violation, etc.	\$60.00	\$60.00	\$120.00/P.R.
4-1-27	Speeding	(1-5 mph over) \$30.00 (6-10 mph over) \$45.00 (11-15 mph over) \$65.00 (16-20 mph over) \$85.00 (21-25 mph over) \$105.00 (26 and over) \$160.00	\$60.00	\$90.00/P.R. \$105.00/P.R. \$125.00/P.R. \$145.00/P.R. \$165.00/P.R. \$220.00/P.R.
4-1-28	Parking Too Close to Fire Hydrant	\$60.00	\$60.00	\$120.00/P.R.
4-1-29	Failure to Yield to Fire Department Vehicles	\$60.00	\$60.00	\$120.00/P.R.
4-1-30	Driving Over Fire Hose	\$35.00	\$60.00	\$95.00/P.R.
4-1-31	Careless Driving – Other	\$60.00	\$60.00	\$120.00/P.R.
4-1-32	Handicap Parking	\$100 before 72 hours \$110 after 72 hours	\$60.00	\$160.00/P.R. \$170.00/P.R.
4-2-1	Failure Property License Bicycle	\$10.00	\$60.00	\$70.00/P.R.
4-2-3	Failure Bicyclist to Follow Traffic-Control Device	\$30.00	\$60.00	\$90.00/P.R.
4-2-4	Riding on Bicycles	\$10.00	\$60.00	\$70.00/P.R.
4-2-5	Riding Bicycles on Roadways and Bicycle Paths	\$10.00	\$60.00	\$70.00/P.R.
4-2-6	Bicycle – General Traffic Rules & Operation	\$60.00	\$60.00	\$120.00/P.R.
4-2-7	Bicycle Parking	\$10.00	\$60.00	\$70.00/P.R.

<u>Ord.</u>	<u>VIOLATION</u>	<u>FINE</u>	<u>COSTS</u>	<u>TOTAL & BOND</u>
4-2-8	Equipment for Bicycles	\$10.00	\$60.00	\$70.00/P.R.
4-2-9	Unauthorized Use of Bicycle without Owner's Consent	\$60.00	\$60.00	\$120.00/P.R.
4-2-10	Parents Not to Excuse Bicycle Violations	\$60.00	\$60.00	\$120.00/P.R.
5-1-5	Unlawful Use of Water System	\$60.00	\$60.00	\$120.00/P.R.
5-1-9	Reconnect to Water Service	Without Deposit - \$15.00 If Deposit Required - \$75.00	\$60.00	\$75.00 \$135.00
5-1-15	Use of Water During Fire	\$200.00	\$60.00	\$260.00/P.R.
5-1-17	Failure to Pay Snow Removal Fee	\$200.00	\$60.00	\$260.00/P.R.
5-1-20	Prohibition of Private Water Well	\$60.00	\$60.00	\$120.00/P.R.
5-2-2	Sewer System Usage Mandatory	\$60.00 (after notice and reasonable time to cure)	\$60.00	\$120.00/P.R.
5-2-4	Discharge of Sewer or Polluted Water	\$60.00 (after notice and reasonable time to cure)	\$60.00	\$120.00/P.R.
5-2-5	Privies, Cesspools, Etc. Prohibited	\$60.00 (after notice and reasonable time to cure)	\$60.00	\$120.00/P.R.
5-2-6	Toilets Connected to Sewer	\$60.00 (after notice and reasonable time to cure)	\$60.00	\$120.00/P.R.
5-2-7	Dwellings to be Connected to Sewer System	\$60.00 (after notice and reasonable time to cure)	\$60.00	\$120.00/P.R.
5-2-8	Sewer Connection Permit Required	\$60.00 (after notice and reasonable time to cure)	\$60.00	\$120.00/P.R.
5-2-15	Groundwater Connections to Sewer System Prohibited	\$60.00 (after notice and reasonable time to cure)	\$60.00	\$120.00/P.R.
5-2-16	Prohibition of Clear Water Connections	\$60.00 (after notice and reasonable time to cure)	\$60.00	\$120.00/P.R.
5-2-19	Street Excavations for Sewer Work	\$60.00 (after notice and reasonable time to cure)	\$60.00	\$120.00/P.R.
5-2-20	Water Runoff Prohibited in Sewer	\$60.00 (after notice and reasonable time to cure)	\$60.00	\$120.00/P.R.
5-2-21	Storm Water to be Discharged to Designated Sewers	\$60.00 (after notice and reasonable time to cure)	\$60.00	\$120.00/P.R.

<u>Ord.</u>	<u>VIOLATION</u>	<u>FINE</u>	<u>COSTS</u>	<u>TOTAL & BOND</u>
5-2-22	Prohibited Discharges into Sewer System	\$60.00 (after notice and reasonable time to cure)	\$60.00	\$120.00/P.R.
5-2-28	Sewer Usage Data to be Provided to City upon Request	\$60.00 (after notice and reasonable time to cure)	\$60.00	\$120.00/P.R.
5-2-31	Damage to Sewer Facilities	\$60.00 (after notice and reasonable time to cure)	\$60.00	\$120.00/P.R.
5-2-36	Commercial Waste Water License	\$60.00 (after notice and reasonable time to cure)	\$60.00	\$120.00/P.R.
5-30-20	Prohibition of Clear Water Connections	\$200.00	\$60.00	\$260.00/P.R.
5-4-3	Use of Garbage Cans	\$60.00	\$60.00	\$120.00/P.R.
5-4-4	Burning of Garbage	\$60.00	\$60.00	\$120.00/P.R.
5-4-5	Failure Provide Container	Less than 1lb - \$25.00 1lb to 2lb - \$50.00 2lb to 3lbs - \$75.00 3lb to 4lbs - \$100.00 4lb and more- \$200.00	\$60.00	\$85.00/P.R. \$110.00/P.R. \$135.00/P.R. \$160.00/P.R. \$260.00/P.R.
5-4-6	Garbage Containers for Commercial Establishment	\$60.00	\$60.00	\$120.00/P.R.
5-4-7	Improper Accumulation of Non-food Wastes	\$60.00	\$60.00	\$120.00/P.R.
5-4-8	Placement of Paper Wastes	\$60.00	\$60.00	\$120.00/P.R.
5-4-12	Dumping in a non-designated area	\$200.00	\$60.00	\$260.00/P.R.
6-1-6	Excavation	\$200.00	\$60.00	\$260.00/P.R.
6-1-7	Failure to Construct, Repair, or Rebuild Sidewalk	\$60.00	\$60.00	\$120.00/P.R.
6-1-9	Construction of Streets & Sidewalks – Driveway approaches.	\$200.00	\$60.00	\$260.00/P.R.
6-1-12	Construction of Streets & Sidewalks - Construct Sidewalk	\$200.00	\$60.00	\$260.00/P.R.
6-1-13	Nuisance Streets & Sidewalks	\$100 First Offense \$200 Second Offense \$500 Third Offense	\$60.00	\$160.00/P.R. \$260.00/P.R. \$560.00/P.R.
6-3-1	Entering, remaining, or loitering at Park after Closed	\$60.00 (after 3 informal reprimands)	\$60.00	\$120.00/P.R.
6-3-2	Basketball Court – Rules of	\$60.00 (after 3 informal	\$60.00	\$120.00/P.R.

<u>Ord.</u>	<u>VIOLATION</u>	<u>FINE</u>	<u>COSTS</u>	<u>TOTAL & BOND</u>
	Conduct	reprimands)		
6-4-1	Curfew for Minors Under 18	\$25.00	\$60.00	\$85.00/P.R.
6-4-3	Duty of Parents or Guardian	\$25.00	\$60.00	\$85.00/P.R.
6-5-1	Duty to Remove Snow/Ice	\$60.00	\$60.00	\$120.00/P.R.
6-5-2	Disposal of Snow and Ice	\$200.00	\$60.00	\$260.00
6-5-3	Disposal of Snow/Ice	\$60.00	\$60.00	\$120.00/P.R.
6-6-1	Disturbing the Peace	\$50.00 First Offense \$100.00 Second Offense \$200.00 Third Offense	\$60.00	\$110.00/P.R. \$160.00/P.R. \$260.00/P.R.
6-6-2	Discharging Firearms	\$50.00 First Offense \$100.00 Second Offense \$200.00 Third Offense	\$60.00	\$110.00/P.R. \$160.00/P.R. \$260.00/P.R.
6-6-3	Discharging Weapons	\$50.00 First Offense \$100.00 Second Offense \$200.00 Third Offense	\$60.00	\$110.00/P.R. \$160.00/P.R. \$260.00/P.R.
6-6-3.1	Discharging Firearms or Weapons within 1 mile of City Limits	\$50.00 First Offense \$100.00 Second Offense \$200.00 Third Offense	\$60.00	\$110.00/P.R. \$160.00/P.R. \$260.00/P.R.
6-6-4	Public Begging	\$50.00 First Offense \$100.00 Second Offense \$200.00 Third Offense	\$60.00	\$110.00/P.R. \$160.00/P.R. \$260.00/P.R.
6-6-5	Trespass and Unauthorized Use of Property	\$50.00 First Offense \$100.00 Second Offense \$200.00 Third Offense	\$60.00	\$110.00/P.R. \$160.00/P.R. \$260.00/P.R..
6-6-6	Disorderly Assemblies	\$50.00 First Offense \$100.00 Second Offense \$200.00 Third Offense	\$60.00	\$110.00/P.R. \$160.00/P.R. \$260.00/P.R.
6-6-7	Public Intoxication	\$50.00 First Offense \$100.00 Second Offense \$200.00 Third Offense	\$60.00	\$110.00/P.R. \$160.00/P.R. \$260.00/P.R.
7-1-1; 7-1-2	Failure to Obtain Trade License	\$80.00	\$60.00	\$140.00/P.R.
7-1-3;	Failure to Post Trade License	\$80.00	\$60.00	\$140.00/P.R.
7-2-2	Failure to Pay Sales Tax	\$80.00	\$60.00	\$140.00/P.R.
7-2-5	Failure to Pay Use Tax	\$80.00	\$60.00	\$140.00/P.R.
7-4-2	Failure to Obtain Pawnbroker License	\$80.00	\$60.00	\$140.00/P.R.
10-1-3	License Required for	\$500.00	\$60.00	\$560.00/P.R.

<u>Ord.</u>	<u>VIOLATION</u>	<u>FINE</u>	<u>COSTS</u>	<u>TOTAL & BOND</u>
	cannabis establishment			
10-1-13	Cannabis license not transferable	\$500.00	\$60.00	\$560.00/P.R.
10-1-14	Cannabis hours of operation	\$500.00	\$60.00	\$560.00/P.R.
Ord. 125	Failure to Pay Bed, Board, Booze and Ticket Sales Tax	\$80.00	\$60.00	\$140.00/P.R.

Source: Ord. 234, 9/13/2022.

TITLE TWO

HEALTH AND SANITATION

Chapters:

- 2-1 Nuisances**
- 2-2 Littering in Public Places**
- 2-3 Dogs and Cats**
- 2-4 Livestock and Other Animals**

Chapter 2-1

NUISANCES

Sections:

- 2-1-1 Definitions
- 2-1-2 Abandoned Motor Vehicles as Nuisance – Findings
- 2-1-3 Racing or Antique Vehicles
- 2-1-4 Owner of Property to Maintain Premises Free of Litter – Failure to do so as Nuisance – Findings
- 2-1-5 Noxious Weeds as Nuisance – Removal by City – Findings
- 2-1-6 Jacob Brakes
- 2-1-7 Designated Nuisances Prohibited
- 2-1-8 Remedies
- 2-1-9 Abatement of Dangerous Buildings
- 2-1-10 Other Nuisance Declared
- 2-1-11 Leasing Premises for Unlawful Purposes
- 2-1-12 Premises Used for Unlawful Purposes
- 2-1-13 Maintenance of Conditions Constituting Nuisance
- 2-1-14 Right of Entry
- 2-1-15 Remedies Against Nuisances
- 2-1-16 Keeping of Articles or Property which have been declared to be a Public Nuisance
- 2-1-17 Destruction or Sale of Property Declared to be a Public Nuisance
- 2-1-18 When Notice Waived
- 2-1-19 Penalty
- 2-1-20 Recreational Vehicles
- 2-1-21 International Property Maintenance Code Adopted by Reference
- 2-1-22 Amendments
- 2-1-23 Appeals Procedure
- 2-1-24 Severability

NOTWITHSTANDING ANY PROVISIONS TO THE CONTRARY CONTAINED IN ANY OF THE ORDINANCES IN THE MUNICIPLE CODE, ALL NUISANCES IN THE CITY OF MARTIN SHALL BE PROCESSED IN ACCORDANCE WITH THE PROVISIONS CONTAINED IN 2-1-16 – 2-1-18.

2-1-1 DEFINITIONS

For the purposes of this Chapter, the following definitions shall apply:

(1) **Vehicles:** “Abandoned motor vehicle” means any motor vehicle which is left unattended on any public street or alley, in any public parking lot, or in any other public place for more than twenty-four consecutive hours. "Junk motor-vehicles" means any motor vehicle which does not have lawfully affixed thereto unexpired license plates or which is wrecked, dismantled, partially dismantled, inoperable or discarded. "Motor vehicle" means any self-propelled vehicle

including, but not limited to, automobiles, motorcycles, motor scooters, trucks, tractors, go-carts, golf carts, campers or trailers. For the purposes of this Chapter, the term **trailer**, as defined in Code 4-1-1(12) is included within the definition of vehicle.

(2) **Owner:** Any person who owns, controls, or is in possession of real property or motor vehicles which are concerned by this Title or Chapter.

(3) **Place:** As the term is used in this Chapter shall be construed to mean any street, alley, or other type of public property within the City of Martin, and any private, individually, jointly, corporately, or other type owned real estate within the City. The term "**Place**" is also intended to include any and all area or real estate, public or private, situated within the corporate limits of the City of Martin, South Dakota.

(4) **Weeds & Noxious Matter:** "Grass" means blue grass, western wheat species, buffalo grass, gramma grass, big blue stem, little blue stem, Indian grass, needle and thread, and green needle. "Noxious Matter" means trash, garbage and all other material which has been strewn about or otherwise apparently abandoned, or of no apparent value, which is unsightly, or which may be potentially hazardous as a breeding ground for insects and rodents and other undesirable animals, or which may prove hazardous to individuals using the area upon which these noxious matters exist. "Stabilize" means the taking of reasonable measures to prevent the erosion, future-growth of weeds, or the prevention of future collection of noxious matter on said area. "Weeds" means all weeds of the kind known as Russian thistle, Canadian thistle, cocklebur, ragweed, goldenrod, burdock, barberry, creeping Jennie, fescue, quack grass or sunflower, and all other noxious or unhealthy vegetation.

(5) **Police chief:** as used in this article shall be construed to mean the police chief of the Martin Police Department, authorized representatives, or any other city official authorized by the City Council to assist in property maintenance or nuisance abatement.

(6) **Public nuisance defined:** A nuisance consists in doing an act, or omitting to perform a duty, which act or omission either:

- (A) Annoys, injures or endangers the comfort, repose, health or safety of others;
- (B) Offends decency;
- (C) Unlawfully interferes with, obstructs, or tends to obstruct, or renders dangerous for passage, any lake or navigable river, bay, stream, canal or basin, or any public park, square, street or highway;
- (D) In any way renders other persons insecure in life, or in the use of property or;
- (E) Violates any provisions of the IPMC

(7) **International Property Maintenance Code or IPMC:** the most current property maintenance code promulgated by the International Code Council or required of municipalities by South Dakota law.

(8) **Adverse Decision:** A decision made by the City or City Council pursuant to this Chapter which an aggrieved person or entity believes was incorrect under this Chapter or the IPMC.

(9) **Chapter:** all ordinances contained in this Chapter of this title and as may be amended from time to time.

Source: 1986 Rev. Ord. 20, Sec. 1-2, 12/18/86; Ord. 112, 12/15/99; 2016 Rev. Ord. 203, 6/15/2016; Ord. 231, 2/15/2022. **Authority:** SDCL 9-29-13; See also SDCL Ch. 21-10 and SDCL Ch. 9-30; **Cross-Ref:** Code Sec. 1-1-1, 3-1-7, 3-2-6, 3-3-9, 2-3-4.

2-1-2 ABANDONED MOTOR VEHICLES AS NUISANCE – FINDINGS

(1) **Nuisance declared:** It shall be unlawful for any person to leave or park a motor vehicle at any place within the City over a period of more than 24 hours and the presence of an abandoned, wrecked, dismantled motor vehicle or parts thereof, on private or public property, is declared a public nuisance pursuant to SDCL § 9-29-13, and is prohibited within the City limits. The Council finds that unlicensed vehicles so abandoned constitute a health and safety hazard as vermin and rodents tend to accumulate in such vehicles and young children are attracted to and tend to play about such vehicles, which could cause them harm from sharp metal edges or broken glass in such vehicles. Additionally, the vehicles tend to become unsightly.

This Section shall not apply to any motor vehicle enclosed within a building on private property or to any motor vehicles held in connection with a business enterprise properly operated in the appropriate zoning district, or to any motor vehicle in operable condition specifically adapted or designed for operation on drag strips or raceways and covered with an appropriate cover to screen it from view, which vehicle remains on private property.

(2) **Storing, parking, or leaving on public property - Prohibited:** No person shall park, store, leave or permit the parking, storing or leaving of any abandoned or junk motor vehicle of any kind, whether attended or not, upon any public property in the city.

(3) **Storing, parking or leaving on public property - Removal:** Whenever any police officer finds an abandoned motor vehicle or junk motor vehicle on public property he shall place written notice on the vehicle that it will be removed to a garage or place of safety unless the owner removes the vehicle from public property within 24 hours of the giving of the notice. After the expiration of the 24-hour period, the vehicle may be removed by the removal agency to a garage or place of safety. Nothing in this Section precludes the police department from immediately removing a motor vehicle which causes an obstruction or hazard to traffic.

(4) **Presence on private property - Prohibited:** No person owning, in charge of, or in control of any real property within the City, whether as owner, tenant, occupant, lessee, or otherwise, shall allow any abandoned or junk motor vehicle of any kind to remain on such property longer than 30 days.

Source: 1986 Rev. Ord. 20, Sec. 3, 12/18/86; Ord. 112, 12/15/99; **Authority:** SDCL 9-29-13; see also SDCL Ch. 21-10, SDCL 32-20-12 to 30-20-18.

2-1-3 RACING OR ANTIQUE VEHICLES

No owner or occupant of private property shall have an uncovered motor vehicle in operable condition specifically adopted or designed for operation on drag strips or raceways or an uncovered motor vehicle retained on private property for antique collection purposes.

Source: 1986 Rev. Ord. 20; Sec. 3, 12/18/86; Ord. 112, 12/15/99; 2016 Rev. Ord. 203, 6/15/2016; **Authority:** SDCL 9-29-13; see also SDCL Ch. 21-10, SDCL 32-20-12 to 30-20-18.

2-1-4 OWNER OF PROPERTY TO MAINTAIN PREMISES FREE OF LITTER – FAILURE TO DO SO AS NUISANCE – FINDINGS

Maintenance of real property within the City, contrary to Code Chapter 2-2, whereby litter as defined in 2-2-1 accumulated, is declared to be a public nuisance. The Council hereby finds that it is contrary to public health to maintain property contrary to Chapter 2-2 as rodents, stray animals, and children may play in such accumulation, resulting in health hazards and generally unsanitary conditions.

Source: 2016 Rev. Ord. 203, 6/15/2016; **Authority:** SDCL 9-29-13; see also SDCL Ch. 21-10; **Cross-Ref:** Code Ch. 2-2.

2-1-5 NOXIOUS WEEDS AS NUISANCE - REMOVAL BY CITY-- FINDINGS

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

Source: Ord. 112, 12/15/99; 2016 Rev. Ord. 203, 6/15/2016; **Authority:** SDCL 9-29-13; See also SDCL Ch. 21-10, SDCL 32-20-12 to 30-20-18, SDCL 9-38-28, and SDCL 10-23-1.1

2-1-6 JACOB BRAKES

It shall be unlawful to operate a dynamic braking device (commonly referred to as a Jacobs Brake) on any motor vehicle. This device converts the internal combustion engine to an air compressor for the purpose of braking without the use of wheel brakes.

Penalties for this Section shall be construed the same as for 1-1-6 on violation of Code.

Source: Ord. 110, 4/21/99; **Authority:** SDCL Ch. 9-12; **Cross-Ref:** Code Ch. 1-1.

2-1-7 DESIGNATED NUISANCES PROHIBITED

(1) No person or persons, owner, occupant or person in charge of any house, building, lot or premises, shall create, maintain or commit, or permit to be created, maintained or committed, any public nuisance as defined 2-1-1(6) or as enumerated in subsection (2) of this Section.

(2) Nuisances shall include, but are not limited to, the following enumerations, which are deemed and declared nuisances:

(A) Waste, including but not limited to, items such as paper, rags, trash, garbage, discarded clothing, shoes, curtains, linen and other apparel, tin cans, aluminum cans, boxes, bales or baled items, plastic containers, glass containers, plastic wrap, cleaning utensils, cooking utensils, and discarded household fixtures, when such items are stored, collected, piled or kept on private or public property and in view of adjacent properties or public right-of-ways;

(B) Used building materials and waste, including but not limited to, such items as lumber, lath, gypsum board, pallets, plaster, old iron or other metal, concrete, brick and tile, piles of rock, sand, dirt or gravel when not used for landscaping purposes, doors, windows, and scrap

or salvage building materials, when such items are stored, collected, piled or kept and are not stored inside a building; except for building materials that are temporarily stored for work on the premises authorized by a valid building permit obtained for the premises and in compliance with Chapter 3; provided that such used or waste building materials shall not remain on the premises more than thirty (30) days after the expiration of the building permit;

(C) Appliances, fixtures and furniture, including but not limited to, items such as stoves, refrigerators, freezers, sinks, cabinets and other kitchen appliances, bedroom furniture, mattresses, tables, chairs, clothes washing and drying machines, bathroom appliances and fixtures, light fixtures, wash tubs, lawn mowers, tillers, chainsaws, snow blowers, and garden equipment when such items are stored, collected, piled or kept and are not stored inside a building; except that patio furniture and other furniture designed for outdoor use shall not constitute a nuisance when kept in any district and in view of adjacent properties or public right-of-ways.

(D) Dismantled motor vehicles, motor vehicle bodies, and disassembled parts thereof, disassembled bicycles and bicycle parts, and other mechanical machines or motors or parts thereof when such items are stored, collected, piled or kept and are not stored inside a building in compliance with City ordinances;

(E) Carcasses of animals and hides – all carcasses of animals remaining exposed one hour after death, excepting legally caught and tagged game, which shall be twenty-four hours; and all green or salted hides left deposited in any open place;

(F) Liquid refuse – all slop, foul or chemically polluted water, liquor or beer washings, all filth, refuse or offal, grease, lard, discharged through drains or spouts or otherwise thrown or deposited in or upon any street, alley, sidewalk, public way, lot, park, public square, public enclosure, or any pond or pool of water;

(G) Vegetables or vegetable matters emitting noxious odors. All vegetables, vegetable matters, or other articles that emit or cause an offensive, noxious or disagreeable smell or odor; and any compost pile which is of such a nature as to spread or harbor disease, emit unpleasant odors or harmful gas, or attract rodents, vermin or other disease carrying pests, animals, or insects, except that the presence of earthworms in a compost pile shall not constitute a nuisance; or

(H) Any other condition the City Council shall deem and declare to be a nuisance.

Source: Ord. 112, 12/15/99; 2016 Rev. Ord. 203, 6/15/2016; **Authority:** SDCL 9-29-13; See also SDCL Ch. 21-10, SDCL 32-20-12 to 30-20-18, SDCL 9-38-28, and SDCL 10-23-1.1.

2-1-8 REMEDIES

The remedies against a public nuisance, in addition to those prescribed herein, shall be those prescribed by state law.

Source: Ord. 112, 12/15/99; **Authority:** SDCL 9-29-13; See also SDCL Ch. 21-10, SDCL 32-20-12 to 30-20-18, SDCL 9-38-28, and SDCL 10-23-1.1.

2-1-9 ABATEMENT OF DANGEROUS BUILDINGS

There is adopted by the City for the purpose of prescribing regulations for the practical safeguarding of persons and property from hazards arising from dangerous buildings and for providing additional limitations consistent with other legal remedies for the vacation and repair or demolition of buildings adjudged to be dangerous that certain codes known as **Uniform Code**

for the Abatement of Dangerous Buildings and the Uniform Housing Code as recommended by the International Conference of Building Officials; specifically, the 1997 edition thereof. A copy of same is on file in the office of the City Finance Officer.

Source: Ord. 112, 12/15/99; 2016 Rev. Ord. 203, 6/15/2016; **Authority:** SDCL 9-29-13; See also SDCL Ch. 21-10, SDCL 32-20-12 to 30-20-18, SDCL 9-38-28, and SDCL 10-23-1.1.

2-1-10 OTHER NUISANCES DECLARED

In addition to other declarations of nuisances contained elsewhere in the Municipal Code, the following are hereby deemed and declared to be public nuisances:

(1) Under Age Gathering. An underage gathering is any assemblage where three or more persons under the age of 21 are present for a social occasion or a social activity and alcoholic beverages are possessed or consumed by any person under the age of 21 other than a permanent resident of the premises.

(2) Person(s) Responsible for Underage Gathering. The person(s) responsible for the underage gathering is the person(s) who owns, rents, leases, or otherwise controls the premises on which the underage gathering takes place, the person in charge of the premises, and/or the person(s) who organized the underage gathering. When the person(s) who controls the property or organized the underage gathering rents or leases the premises or when the person(s) attending the underage gathering are not lawfully on the premises, the owner of the premises shall not be the person responsible for the underage gathering unless the underage gathering occurred with the owner's knowledge.

(3) Disorderly House. A disorderly house shall be deemed a room, house, building, structure or premises where the unlawful or illegal acts enumerated below are being committed. It shall be unlawful for the owner, lessees or proprietor of any room, house, building, structure or premises to knowingly collect or permit to be collected therein person(s) who are engaging in any unlawful or illegal act, or to knowingly make, cause, permit, or suffer to be therein, any loud or improper noise to the annoyance or disturbance of any person or neighborhood. Unlawful or illegal acts shall include but are not limited to the following:

(A) State or federal criminal offenses related to the illegal sale, possession or manufacture of controlled substances, cannabis or drug paraphernalia;

(B) Violations the Municipal Code of the City of Martin, including but not limited to those prohibiting disturbing the peace, discharge of firearms or weapons, underage gathering, and disorderly assemblies; and

(C) Any of the following offenses as defined by the South Dakota criminal code: disturbing the peace, disorderly assemblies, disorderly conduct, assault, criminal mischief, domestic violence, minor in possession, procurement of alcohol to minors, and unlawful use of weapons.

(4) Any other condition the common council shall deem and declare to be a nuisance.

Source: Ord. 182, Sec. 1, 6/12/12; 2016 Rev. Ord. 203, 6/15/2016; **Authority:** SDCL 9-29-13; See also SDCL Ch. 21-10, SDCL 32-20-12 to 30-20-18, SDCL 9-38-28, and SDCL 10-23-1.1.

2-1-11 LEASING PREMISES FOR UNLAWFUL PURPOSES

No person shall knowingly lease or rent to another any house, building, shed, booth, lot or other place or premises, or any thereof for use or conduct of gambling activities, prostitution,

unlawful sale or distribution of alcoholic beverages, or activities which annoy or injure the health or safety of others.

Source: Ord. 182, Sec. 1, 6/12/12; **Authority:** SDCL 9-29-13; See also SDCL Ch. 21-10, SDCL 32-20-12 to 30-20-18, SDCL 9-38-28, and SDCL 10-23-1.1.

2-1-12 PREMISES USED FOR UNLAWFUL PURPOSES

All places used for the unlawful purposes described in 2-1-11 are declared to be public nuisances, and upon the judgment of the court, for violation for any of the offenses so described, the Chief of Police shall be directed to abate and shut up such place by taking possession of all devices and all other property used in maintaining the nuisance and such personal property so taken shall be forthwith publically destroyed by the officer.

This Ordinance shall be in force from and after its passage and publication as required by law.

Source: Ord. 182, Sec. 1, 6/12/12; 2018 Ord. 212; 10/16/2018. **Authority:** SDCL 9-29-13; See also SDCL Ch. 21-10, SDCL 32-20-12 to 30-20-18, SDCL 9-38-28, and SDCL 10-23-1.1; **Cross-Ref.:** Code 2-1-14.

2-1-13 MAINTENANCE OF CONDITIONS CONSTITUTING NUISANCE

(1) It is unlawful for any person, firm or corporation owning, leasing, occupying, or having charge or possession of or part of any premises in the city to create, keep, maintain or permit a public nuisance.

(2) It is unlawful for any person, firm or corporation to create, keep, or maintain a public nuisance upon any public property or body of water within the city limits.

Source: 2016 Ord. 203; 6/15/16.

2-1-14 RIGHT OF ENTRY

Whenever necessary to make an inspection to enforce any of the provisions of this chapter, or whenever the police chief or her or his authorized representative has reasonable cause to believe that there exists upon any premises any condition which is prohibited under this chapter, the police chief or her or his authorized representative may enter such building or premises at all reasonable times to inspect the same or to perform any duty imposed upon the police chief by this chapter; provided that if such premises be occupied, she or he shall first present proper credentials and request entry; and if such building or premises be unoccupied, he or she shall first make a reasonable effort to locate the owner or other persons having charge or control of the premises and request entry. If such entry is refused, the police chief or his or her authorized representative shall have recourse to every remedy provided by law to secure entry including but not limited to the securing of a search warrant.

Source: 2016 Ord. 203; 6/15/16.

2-1-15 REMEDIES AGAINST NUISANCES

The city may pursue any of the following remedies, and in any combination, against nuisances:

- (1) Issue complaint with summons and promise to appear (a city ticket).

(A) The chief of police may serve a complaint together with a summons and promise to appear (a “city ticket”) to the owner or occupant of the premises where the condition posing a nuisance is located. The city ticket may be sent by U. S. mail to the last known address of the owner or occupant.

(B) The city ticket will include a date and time when the owner or occupant may appear in court to contest the city ticket.

(2) Notice to abate. Issuance.

(A) Whenever the police chief becomes aware of, and upon inspection thereof confirms that any condition or conditions prohibited in this chapter has been created or exist on any premises located within the city, the police chief may give or cause to be given a notice to abate to the occupant, person in charge or owner of the property requiring the person to abate the unlawful condition or conditions existing on the premises within a specified time frame. The notice to abate shall include the following:

(i) Notice that the city has declared that a nuisance condition exists on the subject premises;

(ii) The location of the premises where the nuisance condition exists;

(iii) A description of the condition existing on the premises which constitutes a nuisance in violation of the city ordinances;

(iv) The measures which must be taken by the owner or occupant to abate or cure the nuisance condition;

(v) The time and date by which the nuisance condition must be abated or otherwise modified to bring the premises into compliance with the city’s ordinances;

(vi) Advise the owner or occupant that the failure to abate the nuisance or bring the subject premises into compliance with city ordinances may result in a fine. In addition, the city may take action to abate the nuisance and hold the owner or occupant responsible for any and all costs incurred in doing so, including reasonable attorney’s fees;

(vii) Provide information concerning how the owner or occupant may contact city personnel to discuss how to resolve the matter.

(B) Service of such notice may be accomplished by personally delivering the notice upon either the occupant, person in charge or owner of any lot, or may be sent by U.S. mail to the last known address of the owner or occupant.

(C) In the event a person shall fail to abate any nuisance created, permitted or maintained by him following written notice to him to do so, the police chief or finance officer may cause such nuisance to be abated. The cost may be charged against the owner or occupant of the personal property abated or the owner of the real estate upon which the nuisance was located, including by assessment or civil action.

(D) The police chief or city finance officer may prepare a statement of the expense incurred in the razing, demolishing, removing, reconstruction or other affirmative act necessary to abate the unlawful condition(s) and shall file such statement with the city finance officer. Such statement shall refer to the particular premises including any improvements, structures or buildings thereon, upon which the actions taken to abate the unlawful conditions occurred. With regard to

the premises or each piece of property therein referred to, the statement shall show the number of the lot and block and the name of the addition in which the lot lies or upon which the structures, improvements or buildings were located at the time that the actions to abate the unlawful conditions were taken or shall describe such premises in any other way that they may be easily identified. The city finance officer shall cause a statement of the costs of the abatement to be served upon the owner, agent of the owner, lessee, occupant or person in possession of the parcel of land on which the nuisance was abated. Such notice may be given personally or by first class mail addressed to the last known address of the owner as shown on the director of equalization's records. Notice shall be further given that if the costs are not paid upon receipt of the statement the city may levy the costs as a special assessment against the property or by civil action. (E) "Expense incurred" shall be defined as the actual expense incurred to abate the unlawful condition(s) plus a graduated noncompliance fee calculated over the calendar year as follows:

First violation abated: fifty-dollar noncompliance fee;

Second violation abated: one hundred-dollar noncompliance fee;

Third violation abated: one hundred fifty-dollar noncompliance fee;

Fourth violation abated: two hundred-dollar noncompliance fee.

(F) The owner or any person affected shall have the right of appeal to the Martin City Council for investigation and review of the police chief's determination.

Such appeal shall be in writing, shall state the objections of the person filing the same, shall be filed with the city finance officer within the ten days after the date of written notice (see paragraph (2)(A)) and shall be presented to the city council.

(G) Recovery of expense—Special assessment.

The city may recover the expenses incurred by the police chief or finance officer in abating any nuisance by taxing the cost thereof by special assessment against the real property on which the nuisance occurred, as authorized by state law.

(H) - Recovery of expense—Civil suit.

The city may recover the expenses, including reasonable attorney's fees and costs, incurred by the city in abating any nuisance from the person creating, permitting or maintaining the same, or the person owning the real estate, in a civil suit instituted for such purpose.

(3) Civil Suit

(A) The City may file a civil suit, as allowed by state law, to abate any nuisance.

(B) The City may recover the expenses, including reasonable attorney's fees and costs, incurred by the City in abating any nuisance from the person creating, permitting or maintaining the same, or the person owning the real estate, in the same civil suit.

Source: 2016 Ord. 203; 6/15/16.

2-1-16 KEEPING OF ARTICLES OR PROPERTY WHICH HAVE BEEN DECLARED TO BE A PUBLIC NUISANCE

The police chief or the police department may take possession of any article or property (including recreational vehicle) for reasons of abating a public nuisance. If the same is believed

to have any value, he shall keep it and make an attempt to find the owner thereof, and retain any such article or property so taken. It shall be the duty of said departments to maintain a place for the keeping of any such article or property until the same shall be claimed or otherwise disposed of, and the city shall have a lien thereon for the reasonable expenses incurred and value or cost of the time and effort necessary in taking, removing and storing such article or property, and for the value of the storage in keeping thereof, and may retain possession until any and all such liens are discharged.

Source: 2016 Ord. 203; 6/15/16; 2018 Ord. 212; 10/16/2018.

2-1-17 DESTRUCTION OR SALE OF PROPERTY DECLARED A PUBLIC NUISANCE

Any article or property taken severally, or in congregate, by the city for reasons of abating a public nuisance may be destroyed or sold pursuant to law as city surplus property, as determined by the city council, if the owner thereof does not fully pay the city for its aggregate lien expenses incurred for the removal and storage of said article(s) and property(ies) before the expiration of thirty days from the taking of same.

Source: 2016 Ord. 203; 6/15/16.

2-1-18 WHEN NOTICE WAIVED

Whenever the person responsible for the creation of, or the owner occupant or agent of, any premises in or upon which any nuisance may be found is unknown or cannot be found, the police chief may proceed to abate the nuisance without notice. In either case, the expense of such abatement shall be collected by any legal means from the person who may have created, caused or suffered such nuisance to exist.

Source: 2016 Ord. 203; 6/15/16.

2-1-19 PENALTY

In addition to remedies prescribed in this Code, any person maintaining any nuisance in violation of any provision of this code shall be punished as specified in Chapter 1-5 the Fine and Bond Schedule. All such convictions may include costs for prosecution of the case and restitution. Such penalties may apply for each day the nuisance exists.

Source: Ord. 112, 12/15/99; Ord. 182, Sec. 2, 6/12/12; 2016 Rev. Ord. 203, 6/15/2016; Ord. 239, 12/13/22

Authority: SDCL 9-29-13; See also SDCL Ch. 21-10, SDCL 32-20-12 to 30-20-18, SDCL 9-38-28, and SDCL 10-23-1.1.

2-1-20 RECREATIONAL VEHICLES

Except as specifically excluded in this section, no recreational vehicle (camping trailer, travel trailer, or motor home) or tent may be occupied (used for sleeping or living purposes for more than 24 hours) in a place other than a commercial campground or a municipal park in areas specifically designated for camping. No recreational vehicle may park overnight on city property, except for in an emergency situation. Recreational vehicles may be parked on city streets for up to three days for the purpose of loading and unloading. In private residential zones with a house thereon, off-street recreational vehicles and tents may be occupied for no more than fourteen consecutive days if the public health, safety or welfare is not endangered, and if occupied by friends or family members of the private property house owner, so long as the private property house owner consents.

An exception to this ordinance is made hereto to allow a recreational vehicle to remain as an occupied place of residence if the recreational vehicle was in place and occupied as of August 12, 2018. Such a recreational vehicle may remain occupied only if the recreational vehicle has, at all times, adequate skirting, its tires are removed, water and sewer pipes are adequately protected from freezing, water and sewer service is provided by the City and fully functional, and the recreational vehicle and its owner and occupants comply with all other City ordinances. Should the recreational vehicle move to a different location, it no longer falls under this exception.

Source: 2018 Ord. 212, 10/16/2018; 2018 Ord. 214, 11/8/2018. **Authority:** SDCL § 9-29-13.

2-1-21 INTERNATIONAL PROPERTY MAINTENANCE CODE ADOPTED BY REFERENCE

There is adopted by the City for the purpose of establishing rules and regulations for the maintenance of existing buildings and structures, that certain property maintenance code known as the IPMC, current edition and recent amendments, save and except portions as are hereinafter deleted, modified or amended in accordance with this Chapter. One master copy of the IPMC will be kept on file with the City and the same is adopted and incorporated as fully as if set out at length herein to the extent the IPMC does not conflict with this Chapter or any other ordinances, and from the date of which this ordinance shall take effect, the provisions found herein and in the IPMC shall control in the maintenance of all existing buildings and structures contained within the jurisdictional limits of the City.

Source: Ord. 231, 2/15/2022; **Authority:** SDCL § 11-10-11, SDCL § 9-29-13, SDCL § 9-32-1, SDCL §9-19-3.

2-1-22 AMENDMENTS

As this Chapter controls over the IPMC to the extent any terms conflict as provided in this Chapter, the effect of any amendments to this Chapter or a term of this Chapter which conflicts with the IPMC, is, pursuant to SDCL § 11-10-11, as may be amended from time to time, that of an amendment, modification, or deletion of the portion of the IPMC which is in conflict.

Source: Ord. 231, 2/15/2022; **Authority:** SDCL § 11-10-11, SDCL § 9-29-13, SDCL § 9-32-1, SDCL §9-19-3.

2-1-23. APPEALS PROCEDURE.

(A) Any person who has experienced an Adverse Decision under this Chapter may appeal to the City Council by submitting a written appeal requesting review, providing relevant law, relevant IPMC standards, and providing a detailed written explanation of why the Adverse Decision was incorrect.

(B) A request for a hearing and the written appeal must be submitted not less than ten (10) days before the next City Council meeting taking place after the allegedly Adverse Decision took place.

(C) The written appeal must be submitted to City Hall, Martin, South Dakota, 57551. The appeal will be considered by the City Council at the next regularly scheduled monthly meeting or a specially scheduled hearing.

(D) Failure to request a hearing or timely submit a written appeal results in a waiver of the same and is deemed to constitute a failure to exhaust administrative remedies to the extent allowed by law.

Source: Ord. 231, 2/15/2022; **Authority:** SDCL § 11-10-11, SDCL § 9-29-13, SDCL § 9-32-1, SDCL §9-19-3.

2-1-24: SEVERABILITY

The provisions of this Chapter are severable. If any provision of this Chapter 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 Chapter which can be given effect without the invalid provision or application.

Source: Ord. 231, 2/15/2022; **Authority:** SDCL § 11-10-11, SDCL § 9-29-13, SDCL § 9-32-1, SDCL §9-19-3.

Chapter 2-2

LITTERING IN PUBLIC PLACES

Sections:

2-2-1 Definitions

2-2-2 Littering Prohibited – In Public Places- Vacant Lots, Etc.

2-2-5a Unlawful Deposits and Litter

2-2-3 Deposit of Litter in Receptacles

2-2-4 Sweeping Litter into Gutter Prohibited – Sidewalks kept clear

2-2-5 Owner of Property to Maintain Premises Free of Litter – Failure to do so as Nuisance

2-2-5a Unlawful Deposits and Litter

2-2-6 Penalties – Each Day as Separate Offense

2-2-6a Penalties for Each Event

2-2-1 DEFINITIONS

All other terms used herein are defined in 1-1-1 or other Code Sections, or as the context plainly requires:

(1) "Authorized private receptacle" is a litter storage and collection receptacle as required and authorized by the City of Martin.

(2) "Garbage" is putrescible animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of food.

(3) "Litter" is garbage, refuse and rubbish, as defined herein, and all other waste material which, if thrown or deposited as herein prohibited, tends to create a danger to public health, safety and welfare.

(4) "Park" is a park, playground, recreation center such as ball diamonds, golf courses, tennis court, or any other public area in the City owned or used by the City and devoted to active or passive recreation.

(5) "Private Premises" are all lots, out lots, acreage or other real estate areas located within the City of Martin, whether such be vacant or improved, and in the case of such being improved, include any dwelling house, building or other structure designed or used wholly or in part for residential, storage, or other purposes, whether inhabited or temporary or continuously uninhabited or vacant, and shall include yard, grounds, walk, driveway, porch, steps, vestibule or mail box belonging or appurtenant to such dwelling house, storage building or other structures.

(6) "Public Place" is any and all streets, sidewalks, boulevards, alleys or other public ways and any and all public parks, squares, spaces, grounds, and buildings open to public use.

(7) "Refuse" is all putrescible and non-putrescible solid wastes, including garbage, rubbish, ashes, street cleaning, dead animals, abandoned automobiles, and solid market and industrial wastes.

(8) "Rubbish" is non-putrescible solid wastes consisting of both combustible and noncombustible wastes such as paper, wrappings, cigarettes, cardboard, tin cans, yard clippings, leaves, wood, glass, bedding, crockery and similar materials and building materials including metals, plastics, rubber, glass, and wood.

Source: 1986 Rev. Ord..34, Sec. 3, 12/18/86; **Authority:** SDCL 34A-7-14; **Cross-Ref.:** Code 1-1-1.

2-2-2 LITTERING PROHIBITED - IN PUBLIC PLACES - VACANT LOTS, ETC.

No person shall throw or deposit litter:

- (1) In or upon any street, sidewalk or other public place within the City except in public receptacles for collection, or in official City dumps;
- (2) On any open or vacant private property within the City, whether owned by such person or not;
- (3) While a driver or passenger in any vehicle, upon any street or other public place within the City, or upon private property; or
- (4) In any park within the City except in public receptacles and in such a manner that the litter will be prevented from being carried or deposited by the elements upon any part of the park or upon any street or other public place. Where public receptacles are not provided, all such litter shall be carried away from the park by the person responsible for its presence and properly disposed of elsewhere as provided herein.

Source: 1986 Rev. Ord. 34, Secs. 1, 2, 5, 6, 12/18/86; **Authority:** SDCL 34A-7-14.

2-2-3 DEPOSIT OF LITTER IN RECEPTACLES

Persons placing litter in public receptacles or in authorized private receptacles shall do so in such a manner as to prevent it from being carried or deposited by the elements upon any street, sidewalk or other public place or upon private property.

Source: 1986 Rev. Ord. 34, Sec. 3, 12/18/86; **Authority:** SDCL 34A-7-14.

2-2-4 SWEEPING LITTER INTO GUTTER PROHIBITED - SIDEWALKS KEPT CLEAR

No person shall sweep into or deposit in any gutter, street or other public place within the City the accumulation of litter from any building or lot or from any public or private sidewalk or driveway. Persons owning or occupying property shall keep the sidewalk in front of their premises free of litter.

Source: 1986 Rev. Ord. 34, Sec. 4, 12/18/86; **Authority:** SDCL 34A-7-14, **Cross-Ref.:** Code Ch. 6-2.

2-2-5 OWNER OF PROPERTY TO MAINTAIN PREMISES FREE OF LITTER – FAILURE TO DO SO AS NUISANCE

The owner or person in control of any private premises shall at all times maintain the premises free of litter, provided however, that this Section shall not prohibit the storage of litter in authorized private receptacles for collection. The following acts are hereby declared to be public nuisances:

- (1) Private premises to become conspicuously laden with litter;
- (2) Private premises covered with noxious, deleterious weeds, or other rank growth;
- (3) Private premises laden with inoperable junk type car bodies; or
- (4) Private premises containing abandoned or substandard type buildings, the presence of which is dangerous to public health, safety, or welfare.

Authority: SDCL 9-29-13; 34A-7-14; **Cross-Ref.:** Code Ch. 2-1.

2-2-5a UNLAWFUL DEPOSITS AND LITTER

- (1) No person may transport by any means garbage or refuse from any dwelling, residence, place of business, farm, or other site to and deposit such material in, around, or on top of trash barrels or other receptacles placed in public parks or other public land.
- (2) No person may transport by any means garbage or refuse from any dwelling, residence, place of business, farm, or other site to and deposit such material in, around, or on top of trash barrels or other receptacles placed on private property, without the express permission of the property owner.

Source: Ord. 232, 4/12/22. **Authority:** SDCL 9-29-13; 34A-7-14.

2 -2-6 PENALTIES – EACH DAY AS SEPARATE OFFENSE

Notwithstanding any other remedies pursued by the City, for every day that this chapter is violated, that shall be considered a separate offense. Any person violating any of the provisions of this chapter and upon conviction thereof shall be fined in an amount not exceeding \$200.00 per day.

Source: 1986 Rev. Ord. 34, Sec. 8, 12/18/86; Ord. 133, 5/25/04; **Authority:** SDCL 9-19-3, 34A-7-14; **Cross Ref:** Code Sec. 1-1-6.

2 -2-6a PENALTIES FOR EACH EVENT

- Any littering of less than 1 pound will be fined a minimum of \$25.00.
- Any littering of 1 pound to less than 2 pounds will be fined a minimum of \$50.00.
- Any littering of 2 pounds to less than 3 pounds will be fined a minimum of \$75.00.
- Any littering of 3 pounds to less than 4 pounds will be fined a minimum of \$100.00.
- Any littering over 4 pounds will be fined \$200.00.

Source: Ord. 133, 5/25/04; **Authority:** SDCL 9-19-3, 34A-7-14; **Cross Ref:** Code Sec. 1-1-6.

Chapter 2-3 DOGS AND CATS

Sections:

- 2-3-1 Definition of Terms**
- 2-3-2 License and Registration Required – Fees – Exceptions**
- 2-3-3 Tag & Collar**
- 2-3-4 Dogs or Cats Running At Large – As Public Nuisance**
- 2-3-5 Impoundment of Dogs or Cats**
- 2-3-6 Notice to Owner of Impoundment – Redemption**
- 2-3-7 Vicious Animals**
- 2-3-8 Vaccination**
- 2-3-9 Limit of Dogs and Cats per Household**
- 2-3-10 Sick Animals**
- 2-3-11 Penalty**

2-3-1 DEFINITION OF TERMS

As used in this Chapter, unless the context otherwise indicates:

1. "Dog" shall be intended to mean an animal of the canine genus, both male and female.
2. "Cat" shall be intended to mean an animal of the feline genus, both male and female.
3. "Owner" shall be intended to mean any person or persons; firm, association, or corporation owning, keeping or harboring a dog or cat.
4. "At Large" shall be intended to mean off the premises of the owner and not under the control of the owner or a member of his or her immediate family, either by leash, cord, chain or otherwise.
5. "Household" shall mean a single apartment, single family house, or single mobile home, or other living quarters, each of which is intended to house a maximum of one family related by blood or consanguinity.

Source: 1986 Rev. Ord. 5, 12/18/86; Ord. 54, 11/21/90; Ord. 179, 4/25/12; **Authority:** 9-29-12.

2-3-2 LICENSE AND REGISTRATION REQUIRED – FEES – EXCEPTIONS

All dogs and cats kept, harbored or maintained by their owners in the City of Martin shall be licensed and registered if over six months of age. Dog and cat licenses shall be issued by the City Office Clerk upon proof of current rabies vaccination and payment of a license fee. The license fee for each dog or cat shall be set by resolution of the City Council, with an additional charge for each dog or cat over one in the household. The owner shall state at the time application is made for license and upon printed forms provided for such purpose his or her name and address, and the name, breed, color and sex of each dog or cat owned or kept by him. The provisions of this Section shall not be intended to apply to dogs or cats whose owners are nonresidents temporarily (three months per year or less) within the City; to dogs or cats brought into the City for the purpose of participating in any dog or cat show; or to seeing eye dogs properly trained to assist blind persons for the purpose of aiding them in going from place to place.

Source: 1986 Rev. Ord. 5, Sec. 11, 12/18/86; Ord. 54, Sec. 11, 11/21/90; Ord. 179, 4/25/12; **Authority:** SDCL 9-29-12.

2-3-3 TAG & COLLAR

Upon payment of the license fee, which is \$5.00 for a neutered animal and \$10.00 for an unneutered animal, the City Office shall issue to the owner a license certificate and a metallic tag for each dog or cat so licensed. The shape of the tag shall be changed every year and the number corresponding with the number of the certificate. Every owner shall be required to provide each dog or cat with a collar to which the license tag must be affixed and shall see that the collar and tag are constantly worn. The collar shall be of a size and color that will be conspicuous to law enforcement enforcing this Chapter, if possible. In case a dog or cat tag is lost or destroyed, a duplicate will be issued by the City Office upon presentation of a receipt showing the payment of the license fee for the current year, and the payment of \$1.00 for such duplicate. Dog or cat tags shall not be transferrable from one dog or cat to another, and no refunds shall be made on any dog or cat license fee because of the death of the dog or cat or the owner's leaving the City before expiration of the license period. Upon payment to the City Office, the sum of the license fee as previously stated, this license shall be valid from January 1 to December 31 (inclusive) of each year.

Source: 1986 Rev. Ord. 5, Sec. 2, 12/18/86; Ord. 54, Sec. 2, 11/21/90; Ord. 155, 5/20/08; Ord. 179, 4/25/12;
Authority: SDCL 9-29-12.

2-3-4 DOGS OR CATS RUNNING AT LARGE - AS PUBLIC NUISANCE

No owner or keeper shall permit any dogs or cats to become a public nuisance. For the purpose of this Chapter, a public nuisance is defined as:

- (1) excessive barking or meowing to the point that it creates public annoyance;
- (2) running in packs;
- (3) being on public property and by their presence creating a public disturbance and constituting threat to the safety of any person;
- (4) being on the private property of persons other than the owner and digging holes, tearing up garbage bags or containers, or otherwise interfering with the normal and reasonable use and enjoyment of such private property by said persons;
- (5) creating by their presence an offensive and foul odor;

When off the premises of the owner, dogs or cats must be accompanied by a person who has full control of the dog or cat at all times.

Source: 1986 Rev. Ord. 5, Sec. 3, 12/18/86; Ord. 54, Sec. 3, 11/21/90; Ord. 179, 4/25/12; **Authority:** SDCL 9-29-12.

2-3-5 IMPOUNDMENT OF DOGS OR CATS

It shall be the duty of every police officer, pound master, dog catcher, or other person officially designated by the City of Martin to apprehend any dog or cat found running at large or which has become a public nuisance as herein provided in Code sec. 2-3-4 and to impound such dog or cat in the City Dog Pound or other suitable place. The pound master or some other designated official, upon receiving any dog or cat shall make a complete registry, entering the breed (if known), color and sex of such dog or cat. He/she shall enter the name and address of the owner, the number of the license tag, if any, and location of where the dog or cat was found. Any dog or cat found running at large without a dog or cat tag issued by the City and which is

unable to be captured easily shall be subject to extermination without notice. Puppies or kittens under 6 months of age are exempt from immediate extermination.

Source: 1986 Rev. Ord. 5, Sec. 4, 12/18/86; Ord. 54, Sec. 4, 11/21/90; Ord. 179, 4/25/12; **Authority:** SDCL 9-29-12; **Cross-Ref.:** Code 2-3-4.

2-3-6 NOTICE TO OWNER OF IMPOUNDMENT- REDEMPTION

As soon as possible after the impoundment of any licensed dog or cat, the owner shall be notified by the City, law enforcement, or the facility holding the dog or cat. The owner of any dog or cat so impounded may reclaim such licensed dog or cat upon payment of costs and charges incurred by the City of Martin for the impounding and maintenance of said dog or cat at a daily rate set by the City. All dogs and cats shall be impounded for a period of 48 hours. If at the expiration of 48 hours from the date of impoundment such dog or cat has not been redeemed, it shall be disposed of as provided for in this Code. If the owner of any dog or cat wishes to challenge any part of the impoundment process, they may request a hearing before the City Council. The hearing must be requested before the animal is euthanized. The City Council shall prevent the animal from being euthanized until it can render a final decision on the issues raised by the owner at the owner's requested hearing. The City is not responsible for notifying the owners of unlicensed dogs or cats that are impounded. Any provisions of the Ordinances of the City of Martin which are contrary to the intent and purposes of this Ordinance are hereby declared to be repealed.

Source: 1986 Rev. Ord. 5, Sec. 5, 12/18/86; Ord. 54, Sec. 5, 11/21/90; Ord. 155, 5/20/08; Ord. 179, 4/25/12; Ord. 225, 6/29/21. **Authority:** SDCL 9-29-12.

2-3-7 VICIOUS ANIMALS

(1) An animal may be declared to be vicious by Law Enforcement or the attending Physician, or the victim of an animal bite or scratch may request such declaration, under the following guidelines:

- (a) An animal which, in a vicious or terrorizing manner, approaches in an apparent attitude of attack, or bites, inflicts injury, assaults or otherwise attacks a person or other animal upon the streets, sidewalks, or any public grounds or places; or
- (b) An animal which, on private property, in a vicious or terrifying manner, approaches in an apparent attitude of attack, or bites, or inflicts injury, or otherwise attacks a mailman, meter reader, serviceman, journeyman, deliveryman, or other employed person, or other animal who is on private property by reason of permission of the owner or occupant of such property or who is on private property by reason of a course of dealing with the owner of such private property.
- (c) No animal may be declared vicious if the injury or damage is sustained to any person or animal who is committing a willful trespass or other tort upon premises occupied by the owner or keeper of the animal, or which person was teasing, tormenting, abusing or assaulting the animal or was committing or attempting to commit a crime.

(2) When an animal is declared to be vicious, the City Police Department or Finance Officer shall notify the owner of such declaration in writing. Such notice shall be served on the owner either in person or by mail.

(3) The owner of an animal that has been declared vicious shall make application to the City Finance Office to register such vicious animal and shall notify the City Finance Office of any changes in the following:

- 1) Ownership of the animal,
- 2) Name, address and telephone number of the new owner,
- 3) Address change of the owner or any change in where the animal is housed,
- 4) Any changes in the health status of the animal, and
- 5) Death of the animal.

(4) If the animal is indoors, the animal shall be under the control of a person over 18 years of age.

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

(6) If the animal is outdoors and unattended, the animal must be locked in an escape-proof kennel approved by animal control. Minimum standards shall include the following:

- (a) Fencing materials shall not have openings with the diameter of more than two inches; in the case of a wooden fence the gaps shall not be more than two inches.
- (b) Any gates within such pen or structure shall be lockable and of such design to prevent the entry of children or the escape of the animal.
- (c) The required pen or structure shall have secure sides and secure top. If the pen or structure has no bottom to secure the sides, the sides shall be embedded into the ground or concrete.
- (d) The pen or structure shall protect the animals from the elements.
- (e) The pen or structure may be required to have double exterior walls to prevent the insertion of fingers, hands, or other objects.

(7) The animal shall be permanently identified by injecting an identification microchip into the animal using standard veterinarian procedures and practices at the expense of the owner within 5 days, the owner shall report to the Finance Office the microchip number and the veterinarian who injected the microchip.

(8) A universal sign denoting a vicious animal shall be displayed on the kennel or enclosure and on a place visible from the sidewalk or road adjacent to the property where the animal is kept.

(9) The owner shall carry \$250,000 liability insurance covering the medical and/or veterinary costs resulting from the vicious actions or any other damage the animal may do or cause to be done. Proof of such insurance shall be filed with the City Finance Officer each year on or before January 1st.

(10) The owner shall present proof of current rabies vaccinations and current city license of the animal to the City Finance Office each year on or before January 1st.

(11) The owner shall present proof the animal has been altered to prevent reproduction to the City Finance Office within 5 days of alteration.

(12) The vicious animal shall be impounded at the owner's expense until the owner complies with all provisions of sections (3) – (11).

(13) If the owner does not comply with the conditions in sections (3) – (11) within 5 days from the day of the incident, the City may euthanize the animal in a humane manner and proof of euthanasia shall be filed with the City Finance Office.

(14) Any vicious animal found off the premises of its owner, other than provided for in this section, shall be seized by any law enforcement officer and impounded pursuant to § 2-3-6. If the animal has been running at large, bites a person, or bites another animal, any law enforcement officer may determine the animal is dangerous, vicious, or running-at-large and seize the animal. The law enforcement officer shall keep the animal at a suitable place of the officer's choosing such as a vet clinic, a pound, or a local animal shelter for a minimum period of 48 hours. If the owner, after receiving notice of impoundment pursuant to § 2-3-6, disagrees that the animal was dangerous or running-at-large, the owner may request a hearing before the City Council to present evidence that the animal was not dangerous or running at large. The hearing must be requested before the animal is euthanized. The City Council shall prevent the animal from being euthanized until it can render a final decision on the issues raised by the owner at their requested hearing. The City Council shall consider, but is not necessarily limited to the following criteria in determining whether the animal is dangerous or running-at large:

- (a) Provocation;
- (b) Severity of attack or injury to a person or domestic animal;
- (c) Previous aggressive history of the animal;
- (d) Observable behavior of the animal;
- (e) Site and circumstances of the incident;
- (f) Statements from interested parties and;
- (g) Any other criteria the City Council deems relevant.

The City Council shall make a final determination at the hearing either affirming or reversing the law enforcement officer's determination. The City Council shall then order the animal impounded, subject to the owner's right of redemption pursuant to § 2-3-6, or order the release of the animal to their owner.

(15) If any animal has been declared vicious under this Section, noncompliance with subsections (3) – (14) shall result in a fine in accordance with the bond schedule.

Source: 1986 Rev. Ord. 5, Secs. 6-7, 12/18/86; Ord. 54, Secs. 6-7, 11/21/90; Ord. 130, 4/13/04; Ord. 179, 4/25/12; 2014 Ord. 195, 8/19/14; Ord. 225, 6/29/21. **Authority:** SDCL 9-29-12 and 40-34-14; **Cross-Ref:** Code 2-3-4

2-3-8 VACCINATION

It shall be unlawful for the owner of any dog or cat to keep or maintain the dog or cat within the City limits of Martin unless it has been vaccinated by a licensed veterinarian with anti-rabies vaccine according to current recommendations for the vaccine used.

Source: 1986 Rev. Ord. 5, Sec. 8, 12/18/86; Ord. 54, Secs. 8, 11/21/90; Ord. 179, 4/25/12; **Authority:** SDCL 9-29-12.

2-3-9 LIMIT OF DOGS AND CATS PER HOUSEHOLD

There shall be a limit of three dogs and/ or cats or any combination thereof; per household within the city limits of Martin, South Dakota.

Source: Ord. 179, 4/25/12; **Authority:** SDCL 9-29-12 and 9-2-13.

2-3-10 SICK ANIMALS

Any animal displaying symptoms or characteristics of rabies may be seized by law enforcement and can be destroyed by a veterinarian upon authorization of the chief of police.

Source: Ord. 179, 4/25/12; **Authority:** SDCL 9-29-12 and 9-2-13.

2-3-11 PENALTY

(1) Criminal penalties. If any person, firm or corporation shall violate any provision of this Chapter or any provision thereof, he or she shall be guilty of a misdemeanor and punished by a fine of not more than \$200 or by confinement not to exceed 30 days in the County Jail, or both the fine and imprisonment. Each day of violation of any provision of this chapter shall constitute a separate offense. The payment of a fine imposed in criminal proceedings pursuant to this subsection does not relieve the person of the liability for any taxes, fees, costs, or penalties otherwise imposed under this chapter.

(2) Citations and pound fees. No impounded animal may be redeemed from the pound until all incurred pound fees have been paid in full. The pound fee will be established by resolution of the City. The citation may be delivered in person to the violator; or, if the violator cannot be readily found, the citation may be mailed to the violator by first-class or certified mail.

Source: Ord. 171, 9/13/11; Ord. 179, 4/25/12; **Authority:** SDCL 9-29-12 and 9-2-13.

Chapter 2-4

LIVESTOCK & OTHER ANIMALS

2-4-1 KEEPING OF ANIMALS WITHIN CITY LIMITS

No person shall place, keep, or maintain any live swine, horses, cows , goats , buffalo, sheep, llamas, prairie dogs, primates, snakes , ducks, geese, chickens , or other domestic fowl, except on property zoned for agriculture, or any wild mammal, reptile, fowl which is not naturally tame or gentle, but is of a wild nature or disposition, and which because of its size, vicious nature or other characteristics would constitute a danger to human life or property if it escaped from secure quarters, within the limits of the City.

Source: 1986 Rev. Ord. 14, 12/18/86; Ord. 88, 8/30/95; See also SDCL 9-32-1; See generally SDCL 40-5-19, SDCL Ch. 40-28.

**TITLE THREE
FIRE AND BUILDING REGULATION**

Chapters:

- 3-1 Fire Regulation**
- 3-2 Fire Limits**
- 3-3 Buildings and Construction**

Chapter 3-1

FIRE REGULATION

Sections:

- 3-1-1 Prohibition of Fireworks within City – Exception**
- 3-1-2 Distribution of Fireworks**
- 3-1-3 Storage of Explosives in City Limits**
- 3-1-4 Storage of Flammable Liquids within City Limits**
- 3-1-5 Bulk Storage Facilities within City Prohibited – Definitions**
- 3-1-6 Bulk Storage Facilities within City Prohibited**
- 3-1-7 Violation of Bulk Storage Code Sections as Nuisance**

3-1-1 PROHIBITION OF FIREWORKS WITHIN CITY- EXCEPTION

It shall be unlawful for any person to shoot, discharge or explode, or cause to be shot, discharged or exploded any fire crackers , sky rockets, blank cartridges , fireworks or other explosives , used as fireworks or fire display in the City of Martin. Subject only to the following exceptions:

(1) Any non-profit or civic organization holding a State or Federal tax exemption status may apply to the City Council for a permit to conduct a fireworks display within the City of Martin, and upon the granting of such permit, said non-profit or civic organization may conduct, state, or otherwise present a fireworks display.

(2) Private persons and individuals may discharge ground displays, firecrackers, sparklers, roman candles, bottle rockets, or smaller type aerial displays, from June 29th through July 2nd and on July 5th between the hours of 9:00 a.m. to 10:00 p.m. On July 3rd and 4th between the hours of 9:00 a.m. to 11:00 p.m. and December 31st through January 1st between the hours of 11:00 p.m. and 1:00 a.m.

Non-profit or civic organizations, and any private persons and individuals, shall be responsible for any damage done to persons or property resultant from such organization or persons discharge of fireworks .

Source: 1986 Rev. Ord. 24, Sec. 1, 12/18/86; Ord. 123, 7/1/02; **Authority:** SDCL 9-33-1; see also SDCL Ch. 34-37.

3-1-2 DISTRIBUTION OF FIREWORKS

It shall be unlawful for any person to sell, deliver, or give away to any person in the City, any firecrackers, blank cartridges , roman candles, rockets or other fireworks or explosives , or material or explosives from which firecrackers, blank cartridges or other fireworks may be made or manufactured. Subject only to the following exceptions:

(1) Non-profit or civic organizations holding a State or Federal tax exemption status may apply to the City Council for a permit to sell or otherwise dispense fireworks during the period of June 29th through and including July 5th. Upon being granted such permit by the City Council, such non-profit or civic organization shall be permitted to engage in such activity.

Source: 1986 Rev. Ord. 24, Sec. 2, 12/18/86; Ord. 123, 7/1/02; **Authority:** SDCL 9-33-1; See also SDCL Ch. 34-37.

3-1-3 STORAGE OF EXPLOSIVES IN CITY LIMITS

No person shall keep in store, any gun or blasting powder or any other like substance in excess of 10 lbs. (ten pounds) in any house, shop or other place within the city, except in such place or magazine as shall have been approved by the City Council for that purpose, provided that any person engaged in retailing powder may keep for purpose of retailing only a quantity of gun powder not to exceed 100 lbs. at any one time, at his or her place of business, provided that all powder so kept for sale shall be kept in fireproof boxes or containers, in conformity with state law, out of doors, and remote from fires, lighted lamps, candles, or gas jets, and so that the same can be readily removed in case of fire.

Source: 1986 Rev. Ord. 24, Sec. 3, 12/18/86; **Authority:** SDCL 9-33-1; see also SDCL Ch. 34-37.

3-1-4 STORAGE OF FLAMMABLE LIQUIDS WITHIN CITY LIMITS

It shall be unlawful for any person to keep or store or cause to be kept or stored in any building or buildings or within twenty (20) feet of any building or buildings, unless such building or buildings are constructed of brick, stone, cement or tile, with a non-inflammable roof thereon, within the fire limits of the City, gasoline, benzene, benzol, naphtha or other light or volatile products of petroleum or crude oil or petroleum, in quantities greater than ten (10) gallons, except that oils and their products mentioned herein be kept in underground tanks, the top of which tanks shall be at least two (2) feet below the surface grade, and if said tanks are placed in the basement or cellar, and the oils from said tanks above-mentioned be drawn therefrom by pumps so arranged that all surplus oil shall be drained back into the tank.

Source: 1986 Rev. Ord. 24, Sec. 4, 12/18/86; **Authority:** SDCL 9-33-1; see also SDCL Ch. 34-38.

3-1-5 BULK STORAGE FACILITIES WITHIN CITY PROHIBITED - DEFINITIONS

For the purpose of this Chapter, a **bulk petroleum station** or **storage plant** shall be defined as follows:

(1) Any container or series of containers constructed of any material whatsoever regardless of capacity, whether constructed above or below the ground, the chief purpose of which is to receive and store liquid petroleum, fertilizer, pesticides, or herbicides for subsequent dispensing to retail outlets for resale to the consumer public, or

(2) Any container or series of containers constructed of any material whatsoever regardless of capacity, whether constructed above or below the ground, the chief purpose of which is to receive and store gaseous or liquid petroleum or liquid petroleum fertilizer, pesticides, or herbicides whether or not under pressure, for subsequent dispensing direct to consumer or other outlets for retail resale to the consumer public.

Source: 1986 Rev. Ord. 25, 12/18/86; **Authority:** SDCL 9-33-1; see also SDCL Ch. 34-38; **Cross-Ref:** Code 1-1-1.

3-1-6 BULK STORAGE FACILITIES WITHIN CITY PROHIBITED

It shall be unlawful to construct or erect within the City limits of the City of Martin, any bulk storage facilities for the storing of liquid or gaseous products. No bulk storage facilities as defined in this chapter, located within the City Limits of Martin, may be replaced after the enactment of this Code.

Source: 1986 Rev. Ord. 25, 12/18/86; **Authority:** SDCL 9-33-1; see also SDCL Ch. 34-38.

3-1-7 VIOLATION OF BULK STORAGE CODE SECTIONS AS NUISANCE

Violation of Section 3-1-6 of this Code shall be considered a public nuisance and may be abated as provided under Chapter 2-1 of this Code, and under applicable state law.

Source: 1986 Rev. Ord. 25, 12/18/86; **Authority:** SDCL 9-33-1, 9-29-13; see also SDCL Ch. 34-38; Cross Ref: Code Ch. 2-1 and 3-1-6.

Chapter 3-2

FIRE LIMITS

Sections:

- 3-2-1 Definitions
- 3-2-2 Boundaries of City Fire Limit
- 3-2-3 Buildings within Fire Limits – Construction
- 3-2-4 Buildings within Fire Limits – Chimneys and Flues
- 3-2-5 Moving or Building Structure within Fire Limits – Permit Required – Fee
- 3-2-6 Violation of Chapter – As Nuisance – Penalties

3-2-1 DEFINITIONS

For the purpose of this Chapter, the following definitions are hereby adopted:

- (1) A **wall** must be able to carry its own weight and support the roof above it.
- (2) **Buildings** are defined to include in addition to what would normally be included, all trucks, truck boxes, trailers, trailer houses, or other suitable or usable or used for storage, housing or conducting a business therefrom, left in the fire limits over one day or connected to the City water or sewer system.
- (3) **Buildings** are defined to include all additions to existing buildings and all repairs upon existing buildings involving over \$500.00 for material and reasonable value of labor, or which extends any of the outer dimensions of said existing building.

Source: 1986 Rev. Ord. 29, Sec. 3, 12/18/86; **Authority:** SDCL 9-33-2.

3-2-2 BOUNDARIES OF CITY FIRE LIMIT

That portion of the City, lying within the following described limits is hereby declared to be and constitute the fire limits of the City to-wit:

Beginning at a point on the Section line bounding the East side of Section 18, Township 37 North, Range 37 West, in Bennett County, South Dakota, which would be the center line of State Avenue as the same is fixed and adopted by Ordinance, extended to said point, and which highway thereon is known as First Avenue in the City Limits of Martin, South Dakota, thence running West along the center line of State Street to the center of the intersection of State Street and Fifth Avenue, thence South along the center line of Fifth Avenue to the center of the intersection of Fifth Avenue and Pugh Street, thence East along the center line of Pugh Street to a point on the Section line bounding the East side of said Section 18, Township 37 North, Range 37 West, aforesaid, thence North along said East Section line of said Section 18, to the place of beginning.

Source: 1986 Rev. Ord. 29, Sec. 1, 12/18/86; **Authority:** SDCL 9-33-2.

3-2-3 BUILDINGS WITHIN FIRE LIMITS - CONSTRUCTION

All buildings hereinafter constructed in, moved into, or moved from one point inside said fire limits to another point in said fire limits shall have all external and party walls of brick, stone, cement, cement blocks, metal or metal frame, or other suitable and incombustible material.

Source: 1986 Rev. Ord. 29, Sec. 2, 12/18/86; **Authority:** SDCL 9-33-2.

3-2-4 BUILDINGS WITHIN FIRE LIMITS - CHIMNEYS AND FLUES

Chimneys and smoke flues hereafter constructed within the aforesaid limits shall meet Federal Building Codes or current Uniform Building Codes.

Source: 1986 Rev. Ord. 29, Sec. 2, 12/18/86; **Authority:** SDCL 9-33-2.

3-2-5 MOVING OR BUILDING STRUCTURE WITHIN FIRE LIMITS - PERMIT REQUIRED - FEE

Prior to constructing, remodeling, or moving a building from one point within or without the fire limits to a point in the fire limits, the owner or occupier thereof shall first secure a permit to do so from the City Council. The application for a permit shall be accompanied by a set of plans detailing how the construction, remodeling, or moving of said building will be accomplished. The permit fee shall be set by resolution of the City Council.

Source: 1986 Rev. Ord. 29, Sec. 4, 12/18/86; **Authority:** SDCL 9-33-2.

3-2-6 VIOLATION OF CHAPTER - AS NUISANCE - PENALTIES

Such building or improvement constructed, remodeled, or moved contrary to this Chapter is hereby declared to be a public nuisance and the City Council may take all legal steps necessary to abate such nuisance.

Source: 1986 Rev. Ord. 29, Sec. 6, 12/18/86; **Authority:** SDCL 9-33-2; **Cross-Ref.:** Code Ch. 2-1.

Chapter 3-3

BUILDINGS AND CONSTRUCTION

Sections:

- 3-3-1 Definitions
- 3-3-2 International Building Code Adopted by Reference and Compliance
- 3-3-3 International Residential Code Adopted by Reference
- 3-3-4 Exemptions from Building, and Residential Code, and Chapter
- 3-3-5 Requirement for Building Permit or Variance, Contents of Written Application, Factors for Issuance of Building Permits or Variances, and Exceptions to Building Permit Requirement
- 3-3-6 Building Permit Fees and Requirement for Payment
- 3-3-7 Mobile Homes, Trailers, and Manufactured Homes
- 3-3-8 Time limits on Building Permits and Variances - Permit Application Completion - Consent
- 3-3-9 Variances from Chapter, Procedure, and Precedential Value of Variances or Building Permit
- 3-3-10 Single Dwelling Requirement and Subdivision
- 3-3-11 Optional City Warning to Warn Violators of Chapter
- 3-3-12 Fines, Enforcement, and Inspection
- 3-3-13 Amendments
- 3-3-14 Appeals Procedure
- 3-3-15 Severability

3-3-1 DEFINITIONS

(A) In addition to the definitions found in the International Building Code (“IBC”) or International Residential Code (“IRC”), the following definitions apply to this chapter:

(1) The term “**Adverse Decision**” refers to a decision made by the City pursuant to this Chapter which an aggrieved person or entity believes was incorrect under this Chapter, the IBC, or the IRC.

(2) The term “**Building Permit**” refers to an application submitted to the City on a pre-approved form under this Chapter, and subsequently approved by the City, but an application or paper issued by the City for which payment of the fees set by the City has not been made is not a Building Permit under this Chapter.

(3) The term “**City**” refers to the City of Martin and its personnel, officers, agents, employees, independent contractors, and City Council.

(4) The term “**City Attorney**” refers to the currently serving attorney, law firm, or its personnel which is contracted with, paid by, or retained by the City to provide legal services.

(5) The term “**City Council**” refers to the currently serving City Council of the City of Martin.

(6) The term “**Chapter**” refers to all ordinances contained in this Chapter of this title and as may be amended from time to time.

(7) The term “**Code Enforcer**” refers to any individual or entity under contract with the City of Martin to assist in the enforcement of property maintenance, nuisance abatement, and this Chapter, if any.

(8) The term “**Code Inspector**” refers to any individual or entity under contract with the City of Martin to inspect new construction and consult with on matters related to the IBC, the IRC, or this Chapter, if any.

(9) The term “**International Building Code**” or “**IBC**” refers to the most current building code promulgated by the International Code Council, Incorporated, or required of municipalities by South Dakota law.

(10) The term “**International Residential Code**” or “**IRC**” refers to the most current residential code promulgated by the International Code Council, Incorporated, or required of municipalities by South Dakota law.

(11) The term “**Trailer**” as used in this Chapter refers only to a trailer which one lives in and does not refer to a trailer used for transporting property which is drawn by a motor vehicle. The term “trailer” should be construed as a colloquial synonym to “mobile home”.

(12) The term “**Variance**” refers to a decision by the City Council, after an application by an Applicant, to allow a building, activity, construction, property condition, or anything related thereto to take place despite non-compliance with this Chapter, the IBC, or the IRC. An application or paper issued by the City for which payment of the fees set by the City has not been made is not a Variance under this Chapter.

(13) All other definitions found in the IBC and IRC are incorporated as though fully set forth herein to the extent those definitions are not in conflict with anything contained in this Chapter.

Source: Ord. 230, 2/15/2022; **Authority:** SDCL §11-10-5, SDCL §9-33-41.1, SDCL §9-33-6, SDCL §9-19-3; 2021 Edition of the International Residential Code.

3-3-2 INTERNATIONAL BUILDING CODE ADOPTED BY REFERENCE AND COMPLIANCE

(A) There is adopted by the City 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 Variances, Building Permits, fines, and penalties, that certain building code known as the IBC, current edition and recent amendments, save and excepting such portions as are hereinafter deleted, modified or amended by this

Chapter. One master copy of the IBC will be kept on file with the City and the same is adopted and incorporated as fully as if set out at length herein to the extent the IBC does not conflict with this Chapter, and from the date of which this Chapter shall take effect, the provisions found herein and in the IBC shall control in the construction of all buildings and structures contained within the jurisdictional limits of the City. All building construction, remodeling, whether such be general, mechanical, electrical or otherwise and covered by the IBC, or this Chapter, shall be accomplished in conformity the provisions of the IRC, unless provided otherwise by this Chapter or other applicable law.

Source: Ord. 230, 2/15/2022; **Authority:** SDCL §11-10-5, SDCL §9-33-41.1, SDCL §9-33-6, SDCL §9-19-3; 2021 Edition of the International Residential Code.

3-3-3 INTERNATIONAL RESIDENTIAL CODE ADOPTED BY REFERENCE

(A) There is adopted by the City 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 Building Permits, Variances, penalties and fines, that certain residential code known as the IRC, current edition and recent amendments, save and excepting such portions as are hereinafter deleted, modified or amended by this Chapter. One master copy of the IRC will be kept on file with the City and the same is adopted and incorporated as fully as if set out at length herein to the extent the IRC does not conflict with this Chapter, and from the date of which this Chapter shall take effect, the provisions found herein and in the IRC shall control existing residential buildings contained within the jurisdictional limits of the City. All building construction, remodeling, property conditions, whether such be general, mechanical, electrical or otherwise and covered by the IRC, or this Chapter, shall be accomplished in conformity the provisions of the IRC, unless provided otherwise by this Chapter or other applicable law.

Source: Ord. 230, 2/15/2022; **Authority:** SDCL §11-10-5, SDCL §9-33-41.1, SDCL §9-33-6, SDCL §9-19-3; 2021 Edition of the International Residential Code.

3-3-4 EXEMPTIONS FROM BUILDING, AND RESIDENTIAL CODE, AND CHAPTER

(A) The following construction and structures are exempt from application of the IBC, IRC, and this Chapter:

- (1) General upkeep on buildings to the extent allowed by the IBC or IRC;
- (2) Sidewalks and driveways not more than 30 inches above grade and;
- (3) Anything else exempted under the IBC or IRC;
- (4) Anything else the City Council exempts by Variance pursuant to this Chapter and;
- (5) Anything else the City Council exempts by an amendment of this Chapter or resolution from time to time.

Source: Ord. 230, 2/15/2022; **Authority:** SDCL §11-10-5, SDCL §9-33-41.1, SDCL §9-33-6, SDCL §9-19-3; 2021 Edition of the International Residential Code.

3-3-5 REQUIREMENT FOR BUILDING PERMIT OR VARIANCE, CONTENTS OF WRITTEN APPLICATION, FACTORS FOR ISSUANCE OF BUILDING PERMITS OR VARIANCES, AND EXCEPTIONS TO BUILDING PERMIT REQUIREMENT

(A) That prior to doing anything which is covered by the IBC, IRC, or this Chapter, including, but not necessarily limited to: construction of, addition to, or improvement of a building, or the moving into the City of, or moving from one point within the City to another point of, any existing building, structure, mobile home, or trailer, the owner, individual, or person in charge of the foregoing property must apply for and receive a Building Permit or Variance issued by the City. The City will charge an application fee for a Building Permit or Variance as set forth in this Chapter.

(B) The application for a Building Permit or Variance shall contain the following in writing:

- (i) A general description of the facts and circumstances surrounding the application and;
- (ii) Plans for what the Applicant intends to accomplish with the Building Permit or Variance and;
- (iii) Contact information, including emails, phone numbers, and names of all individuals or entities related to Applicant or otherwise interested;
- (iv) An explanation of why the application is made and;
- (v) Any supporting documentation and Applicant would like the City to consider.

(C) Nothing covered by the IBC, IRC or this Chapter shall take place until the City has, issued a Building Permit or Variance. The decision to issue a Building Permit or Variance shall be based the factors provided below. The City may consider an Applicant's application at any time before or after the next regularly scheduled meeting, provided approval is given by a (2/3) majority of City Council or any sub-committee thereof. The City shall issue a written decision regarding a Building Permit or Variance denial within a reasonable time if requested by an Applicant in writing. The City may delegate the task of issuing a written decisions to an Applicant to a Code Enforcer, Code Inspector, City Attorney, or other agent. Each of the factors provided below may be considered in any combination by the City in deciding whether to issue a Variance or Building Permit. There is no requirement that a factor below is accorded equal weight or all factors are considered. The factors provided below are not required to be accorded equal weight by the City. The City will use the following factors in deciding whether to issue a Building Permit or Variance:

- (i) The contents of the application submitted or;
- (ii) Controlling law or;
- (iii) Relevant construction standards or;
- (iv) The applicable IBC or IRC standards or;
- (v) This Chapter or;
- (vi) Any other relevant facts and circumstances or;
- (vii) For any other reasons for which denial of a Building Permit or Variance would not be not arbitrary or capricious.

(D) The failure of any person or entity to obtain a Building Permit or Variance prior to doing anything for which a Building Permit is required under this Chapter, creates and is hereby declared a nuisance which may be abated or enjoined in accordance with Martin City Ordinance 2-1-1 *et. seq.*, as amended from time to time, and under state law. The City may exercise all other remedies allowed by law. In enforcing the Building Permit requirement, the City may also seek to recover reasonable attorneys' fees from any person or entity who fails to obtain a Building Permit or Variance, and whether or not litigation occurs, in violation of this Chapter, to the maximum extent allowed by law.

(E) The only two exceptions to this Building Permit requirement is as follows:

- (1) A Building Permit is not required where a Variance is granted and;
- (2) In case of casualty damage to existing buildings in the City, any damage may be repaired with like material and workmanship quality without a Building Permit or Variance if completed within 90 days.

(F) Any issues regarding any decisions made by the City under parts (A)-(E) above constitute an Adverse Decision which is required to be appealed to the City in accordance with the provisions regarding appeals found elsewhere in this Chapter.

Source: Ord. 230, 2/15/2022; **Authority:** SDCL §11-10-5, SDCL §9-33-41.1, SDCL §9-33-6, SDCL §9-19-3; 2021 Edition of the International Residential Code.

3-3-6 BUILDING PERMIT FEES AND REQUIREMENT FOR PAYMENT

(A) The partially refundable application fee for an Applicant for a Building Permit or Variance unrelated to moving any house trailer, mobile home, or the like into or to another location within the City limits, but otherwise required under this Chapter, shall be set by the City Council in its sole discretion and according to the terms of resolutions passed from time to time. The City Council will consider the following in passing said resolutions and setting prices:

- (1) The cost in materials and labor of the new construction or alteration of an existing structure and;
- (2) The value of the construction or alteration and;
- (3) Any other practical considerations reasonably related to the issuance of Building Permits and;
- (4) For any other reasons allowed by law.

(B) No written document of any kind issued by the City under this Chapter shall constitute a Building Permit or Variance unless it meets the definition of those terms found in this Chapter.

Source: Ord. 230, 2/15/2022; **Authority:** SDCL §11-10-5, SDCL §9-33-41.1, SDCL §9-33-6, SDCL §9-19-3; 2021 Edition of the International Residential Code.

3-3-7 MOBILE HOMES, TRAILERS, AND MANUFACTURED HOMES

(A) All mobile homes, trailers, or manufactured homes within the City's jurisdiction shall be subject to the requirements of this Chapter unless provided otherwise.

(B) Any entity or person who desires to move a mobile home, trailer, or manufactured home into the City shall first submit an application to the City for either a Building Permit or a Variance. Any entity or person with an existing mobile home, trailer, or manufactured home shall comply with this Chapter, and all other applicable Martin City Ordinances unless a Variance is applied for and provided by the City.

(C) An Applicant for a Building Permit or Variance to move any mobile homes, trailers, or manufactured homes into the City, or to another location within the City limits, or maintain an existing mobile home, trailer, or manufactured home which is not in compliance with this Chapter shall pay the City a non-refundable fee in certified funds or money order for said Building Permit or Variance of:

- (1) \$1000.00 for a mobile home, trailer, or manufactured home which is 1 to 10 years old.
- (2) \$2500.00 for a mobile home, trailer, or manufactured home which is 10 to 15 years old.
- (3) \$5000.00 for a mobile home, trailer, or manufactured home which is 15-20 years old.

(D) For Building Permits or Variances described in parts (B) and (C) above, prior to issuance thereof by the City and prior to inspection, Applicant shall also pay a non-refundable fee in certified funds or money order to the City as follows:

- (1) An inspection travel fee of \$.58 per mile to travel to an inspection site both ways by the City, Code Enforcer, Code Inspector, or agent thereof and;
- (2) A \$150.00 for an in-person inspection where pictures will be taken, where Applicant will provide documents requested by the City will be provided, and thereafter a file will be created for the City.

(E) The inspection fee and in-person inspection fees must be paid in certified funds or by money order to the City ten (10) days in advance of the scheduled inspection.

(F) The fees outlined in parts (C)-(D) are non-refundable even if the City does not ultimately issue a Building Permit or Variance after an inspection.

(G) The City may provide an Applicant with a cost estimate upon request, but the City is not strictly bound by the cost estimate and Applicant will be responsible for all reasonable and unforeseen costs which exceed the estimated cost.

(H) All mobile homes, trailers, and/or manufactured homes, shall be subject to the additional following requirements:

- (1) All mobile homes, trailers, and/or manufactured homes shall be set with the outer walls including porches and other structures not less than five (5) feet from the sidewalk line

of the street fronting the lot on which said trailer or mobile home is located and not less than five (5) feet from the outer edges of said lot or lots, excluding streets and alleys, and to have sewer and water as elsewhere in this Code as set out or hereinafter set out. Any trailer or mobile home parked in a trailer park must have a minimum distance of ten (10) feet on all sides between itself and any other living quarters. This shall include porches, entries, etc., and is required for fire protection;

- (2) All mobile homes, trailers, and/or manufactured homes moved into the City shall be placed on cement or cinder blocks or pressure treated woods every twenty (20) feet;
- (3) All mobile homes, trailers, and/or manufactured homes moved into the City shall have tie downs on it every twenty (20) feet;
- (4) All mobile homes, trailers, and/or manufactured homes parked within the boundaries of the City of Martin shall be skirted. Skirting shall be of material suitable for exterior exposure and contact with the ground. Skirting shall be adequately secured to assure stability, to minimize vibration and susceptibility to wind damage, and to compensate for possible frost heave. Skirting of a trailer or mobile home moved into the City must be skirted, ground clean up and inspected within 30 days from the day placed on the lot and;
- (5) All mobile homes, trailers, and/or manufactured homes being moved into the City must be inspected for damage to siding, roof, windows, and under frame, and be approved by the City, Code Enforcer, Code Inspector, or an agent thereof before being placed on a lot in the City. If the trailer or mobile home is not approved it may not be left anywhere in the City.

(I) Any trailer or mobile home being moved into the City must be 20 years old or newer (“the 20 year rule”). Notwithstanding the foregoing only to the extent it conflicts with this subpart (I), provided the fees contained in this Chapter are paid to the City, and all other provisions of this Chapter are complied with, an individual may apply for Variance to the 20 year rule. The Applicant must permit an in-person inspection of the trailer or mobile home by the City and pay all applicable fees in advance of said inspection. The City Council may delegate its ability to inspect to a member of the City Council or any other employee, agent, Code Enforcer, Code Inspector, or other independent contractor. After the inspection, the City Council will vote on whether to grant a Variance to the 20 year rule at the next regularly scheduled City Council meeting.

(J) All mobile homes, trailers, and/or manufactured homes shall comply with all applicable state laws and federal laws. The City hereby incorporates and adopts as ordinances in this Chapter, all applicable state and federal laws applicable to mobile homes, trailers, and/or manufactured homes as though set forth in full herein. The City reserves the right to enforce state and federal legal requirements in a manner consistent therewith to the maximum extent allowed by law.

(K) No written document of any kind issued by the City under this Chapter shall constitute a Building Permit or Variance unless it meets the definition of those terms found in this Chapter.

Source: Ord. 230, 2/15/2022; **Authority:** SDCL §11-10-5, SDCL §9-33-41.1, SDCL §9-33-6, SDCL §9-19-3; 2021 Edition of the International Residential Code.

3-3-8 TIME LIMITS ON BUILDING PERMITS AND VARIANCES - PERMIT APPLICATION COMPLETION - CONSENT

(A) Building Permits will be good for a time period 30 days to 270 days to be set by the City Council or the Code Enforcer or Code Inspector. Additional extensions may be granted by City Council because of problems with the weather, supplies of building material, and construction difficulties. Variances may either be granted on a temporary or permanent basis depending on findings made under the factors for issuing a Building Permit as outlined elsewhere in this Chapter.

(B) All Building Permit or Variance applications must be fully completed or deemed substantially completed by the City Council or the Code Enforcer or Code Inspector before consideration.

(C) By applying for or receiving a Building Permit or Variance, the applicant consents to all terms of the IBC, IRC, and this Chapter, and consents to the City performing administrative searches and inspections to the maximum extent allowed by law and for purposes of ensuring compliance with the IBC, the IRC, and this Chapter.

Source: Ord. 230, 2/15/2022; **Authority:** SDCL §11-10-5, SDCL §9-33-41.1, SDCL §9-33-6, SDCL §9-19-3; 2021 Edition of the International Residential Code.

3-3-9 VARIANCES FROM CHAPTER, PROCEDURE, AND PRECEDENTIAL VALUE OF VARIANCES AND BUILDING PERMIT

(A) Requests for a Variance from this Chapter, the IBC, or IRC, shall be submitted by an Applicant on a pre-approved City form. The form will then be reviewed by the City, Code Enforcer, Code Inspector, or City Attorney. A recommendation will be made to the City for approval or denial of a variance by a City Council Member, Code Enforcer, Code Inspector, City Attorney, or another authorized agent based upon the same factors used for deciding on whether to issue a Building Permit as provided by this Chapter. The City Council at its next regularly scheduled meeting must approve the Variance by a two-thirds (2/3) majority. Any approved Variance should be compatible with the underlying rationale and purposes of this Chapter the IBC, and the IRC to the extent reasonable under the circumstances.

(B) Variances serve as an addition, deletion, modification, or amendment to the IBC or IRC, pursuant to SDCL § 11-10-5, with respect to only that property owner receiving the Variance.

(C) The issuance of a Variance or Building Permit under this Chapter has no precedential value. Issuance of a Variance or Building Permit has no value whatsoever with regard to issuing or not issuing a Variance or Building Permit in the future to another Applicant or on any future application by the same Applicant to whom a Variance or Building Permit was previously issued.

(D) Any issues regarding any decisions by the City made under parts (A)-(C) above constitute an Adverse Decision which is required to be appealed to the City in accordance with the provisions regarding appeals found elsewhere in this Chapter.

Source: Ord. 230, 2/15/2022; **Authority:** SDCL §11-10-5, SDCL §9-33-41.1, SDCL §9-33-6, SDCL §9-19-3; 2021 Edition of the International Residential Code.

3-3-10 SINGLE DWELLING REQUIREMENT AND SUBDIVISION

(A) On any lot located within the City of Martin, there shall only be one dwelling. This shall not include any apartment complex contained within one building. It is recognized that at the time of the consideration of Ordinance #39 (July 1987) there existed within the City of Martin lots which are already divided and on which there exist permanent dwellings or trailer hookups. Such lots already divided as of July 31, 1987, are specifically exempt. It is the specific intent of this Chapter to prevent any further subdivision of lots within the City of Martin, and that a change of ownership or sixty (60) days vacancy will void existing divided lots. For purposes of this Chapter the term “dwelling” refers to any structure covered elsewhere by this Chapter.

Source: Ord. 230, 2/15/2022; **Authority:** SDCL §11-10-5, SDCL §9-33-41.1, SDCL §9-33-6, SDCL §9-19-3; 2021 Edition of the International Residential Code.

3-3-11 OPTIONAL CITY WARNING TO WARN VIOLATORS OF CHAPTER

(A) The City, City Attorney, Code Enforcer, Code Inspector, or anyone else working in the City on the City’s behalf may provide a warning or notice to a property owner whenever they find or their attention is called to any building being constructed, moved or added to contrary to the provisions of this Chapter, the IBC, or the IRC.

Source: Ord. 230, 2/15/2022; **Authority:** SDCL §11-10-5, SDCL §9-33-41.1, SDCL §9-33-6, SDCL §9-19-3; 2021 Edition of the International Residential Code.

3-3-12 FINES, ENFORCEMENT, AND INSPECTION

(A) To the extent allowed by law, a fine of one hundred dollars (\$100.00) per day, per each violation of this Chapter, the IRC, or the IBC, may be added to the cost of a Building Permit or Variance, if an application is not received and approved in advance by the City prior to new construction or a mobile home, trailer, or manufactured home move into, within, or out of the City. The fine may also be assessed to any persons or entities who have already violated this Chapter, the IRC, or the IBC prior to applying for a Building Permit or Variance in order to bring the prior violation into compliance. The City may alternatively levy any applicable fines found in the City’s fine and bond schedule, as may be amended from time to time, at any time.

(B) The City may declare any building, construction, property condition, or activity violating the IBC, the IRC or any part of this Chapter a nuisance. The City reserves the right to abate the same in accordance with Chapter 2-1-1 *et. seq.* of the Martin City Code, as may be amended

from time to time, and under state law. The City reserves all other rights and remedies available by law to ensure enforcement of the IBC, the IRC, and the provisions of this Chapter.

(C) Upon receiving credible information in any form of a suspected violation of the IBC, IRC, or this Chapter, the City shall have a right to send the Code Inspector, Code Enforcer or other City agent, employee, or independent contractor to inspect any building or investigate any activity, construction, or property condition which is reasonably believed to not be in compliance with the IBC, the IRC, or this Chapter to the maximum extent allowed by law.

(D) The Code Inspector, Code Enforcer, or other City agent, employee, or independent contractor shall be allowed entry by the property owner if an application for a Variance or Building Permit is pending for purposes of investigating:

- (1) Whether such Variance or Building Permit should be issued;
- (2) Whether any other violations of the IBC, the IRC, or this Chapter exist and;
- (3) All other relevant facts and circumstances to the extent allowed by law.

(E) If a property owner refuses entry, the City may apply for an administrative search warrant with or without notice to an entity or individual owning property reasonably believed to be in violation of this Chapter, the IBC, or the IRC. The City may, also, to the extent allowed by law, seek to recoup all costs associated with such administrative search warrants in a later court proceeding. Such costs shall include, but are not necessarily limited to reasonable attorneys' fees and costs, as well as Code Enforcer or Code Inspector fees.

(F) The scope of any inspection or investigation by the City made pursuant to this Chapter shall be limited to enforcing this Chapter, the IBC, or the IRC.

(G) Any issues regarding any decisions by the City made under parts (A)-(F) above constitute an Adverse Decision which is required to be appealed to the City in accordance with the provisions regarding appeals found elsewhere in this Chapter.

Source: Ord. 230, 2/15/2022; **Authority:** SDCL §11-10-5, SDCL §9-33-41.1, SDCL §9-33-6, SDCL §9-19-3; 2021 Edition of the International Residential Code.

3-3-13. AMENDMENTS

As this Chapter controls over the IBC and IRC to the extent any terms conflict as provided in this Chapter, the effect of any amendments to this Chapter or a term of this Chapter which conflicts with the IBC or the IRC, is, pursuant to SDCL § 11-10-5, as may be amended from time to time, that of an amendment, modification, or deletion of the portion of the IBC or IRC which is in conflict.

Source: Ord. 230, 2/15/2022; **Authority:** SDCL §11-10-5, SDCL §9-33-41.1, SDCL §9-33-6, SDCL §9-19-3; 2021 Edition of the International Residential Code.

3-3-14. APPEALS PROCEDURE

(A) An applicant or building permit holder or any other person or entity who has experienced an Adverse Decision under these ordinances shall appeal that decision to the City Council by submitting a written appeal requesting review, providing relevant law, relevant IBC or IRC standards, and providing a detailed written explanation of why the Adverse Decision was incorrect.

(B) A request for a hearing and the written appeal must be submitted not less than ten (10) days before the next City Council meeting taking place after the allegedly Adverse Decision took place.

(C) The written appeal must be submitted to City Hall, Martin, South Dakota, 57551. The appeal shall be considered by the City Council at the next regularly scheduled monthly meeting or may alternatively be considered at a specially scheduled meeting set by the City Council.

(D) Failure to request a hearing or timely submit a written appeal results in a waiver of the same and is deemed to constitute a failure to exhaust administrative remedies to the extent allowed by law.

Source: Ord. 230, 2/15/2022; **Authority:** SDCL §11-10-5, SDCL §9-33-41.1, SDCL §9-33-6, SDCL §9-19-3; 2021 Edition of the International Residential Code.

3-3-15: SEVERABILITY

The provisions of this Title are severable. If any provision of this Chapter is held invalid or contrary to law, such invalidity shall not affect other provisions of this Chapter by the City which can be given effect without the invalid provision.

Source: Ord. 230, 2/15/2022; **Authority:** SDCL §11-10-5, SDCL §9-33-41.1, SDCL §9-33-6, SDCL §9-19-3; 2021 Edition of the International Residential Code.

TITLE FOUR TRAFFIC REGULATION

Chapters:

- 4-1 Motor Vehicles**
- 4-2 Bicycles**

Chapter 4-1

MOTOR VEHICLES

Sections:

- 4-1-1 Definitions
- 4-1-2 Passing to Right on Street
- 4-1-3 Turning and Signaling of Motor Vehicles
- 4-1-4 Backing of Motor Vehicles
- 4-1-5 Right of Way for Emergency Vehicles
- 4-1-6 Right of Way at Intersections
- 4-1-7 Driving on Left Side of Street
- 4-1-8 Driving Over Sidewalks
- 4-1-9 Driving in a manner as to obstruct or hinder traffic
- 4-1-10 Reckless or Careless Driving – Excessive Speed
- 4-1-11 Leaving Vehicle Unattended
- 4-1-12 Driving Vehicle with Excessive Noise, Smoke or Dust
- 4-1-13 Driving in Compliance with State Laws – Brakes, Lights, and Signaling Devices
- 4-1-14 Underage Driving
- 4-1-15 Driving on Sidewalks – Exception
- 4-1-16 Interfering with Funeral Procession
- 4-1-17 Obstructions of Streets or Alleys
- 4-1-18 Backing of Vehicles at Curbs
- 4-1-19 Parking of Motor Vehicles
- 4-1-20 Parking of Trucks on Certain Streets – Exceptions
- 4-1-21 Unloading of Truck Cargo to Other Trucks on Certain Streets
- 4-1-22 Restricted Parking of Trucks – Specified Areas in City – Exceptions
- 4-1-23 Truck Speed and Load Limit on Main Street - REPEALED
- 4-1-24 Parking of Trucks on City Streets – Exception
- 4-1-25 Parking of Farm Equipment within City Limits
- 4-1-26 Parking Regulations: For Motor Vehicles – Definitions
- 4-1-27 General Motor Vehicle Speed Limits
- 4-1-28 General Parking Regulations
- 4-1-29 Operation of Vehicle while Fire in Progress
- 4-1-30 Driving Over Fire Hose
- 4-1-31 Careless Driving
- 4-1-32 Handicap Parking

4-1-1 DEFINITIONS

(1) The term "**street**" shall apply to any highway, avenue, alley, or other road, square or public place open to public travel by vehicles, motor vehicles or other conveyances.

(2) The term "**roadway**" shall apply to that part of the street set apart for the use of vehicles or other conveyances, and usually bounded by curbs.

(3) The term "**curb**" shall apply to the extreme edge or lateral boundary of a roadway whether marked by curbing or not so marked.

(4) The term "**vehicle**" shall apply to any conveyance intended for use on the street except a motor vehicle, and shall include equestrians and led and driven horses, but where the term "vehicle" is used generally it shall include "motor vehicle" unless a different intention appears from the context.

(5) The term "**driver**" shall apply to rider, driver or leader of a horse, and to the driver or operator of a vehicle, or motor vehicle.

(6) The terms "**left hand**" and "**right hand**" side of a street means the left hand and right hand of the vehicle or motor vehicle as it moves forward.

(7) The term "**park**" shall apply to the standing of a vehicle or motor vehicle upon a street whether accompanied or unaccompanied by an operator or occupant.

(8) The term "**double park**" shall apply to the standing of vehicle or motor vehicles whether accompanied or unaccompanied by an operator or occupant upon a street along side of and parallel to another vehicle or motor vehicle which is parked at the curb.

(9) The term "**street intersection**" shall apply to that part of the street where a street joins another at an angle, whether or not it crosses the other street, and shall include the full width of the street between the curb lines, extended of the intersection.

(10) The term "**cross walk**" shall apply to that part of a street designated or set apart as a cross walk from one side of a street between the curb lines, to the other for the use of pedestrians.

(11) **Truck** is defined to be any vehicle capable of carrying cargo propelled by a motor and regardless whether it be termed truck, or pickup. A vehicle as distinguished from an automobile but including school buses and carriers of persons by what is commonly termed a bus.

(12) A **trailer** is defined as a vehicle without motive power designed to carry property or persons wholly on its own structure and to be drawn by a motor vehicle. These definitions apply to Code §§ 4-1-21 to 4-1-26, inclusive.

Source: 1986 Rev. Ord. 18, Sec. 1, 12/18/86; 1986 Rev. Ord. 19, 12/18/86; **Authority:** SDCL 9-30-4; SDCL 9-31-1; see also SDCL Ch. 32-26; 32-9-1 (12); **Cross-Ref:** Code 1-1-1; 2-1-1(1).

4-1-2 PASSING TO RIGHT ON STREET

Any vehicle or motor vehicle meeting another vehicle or motor vehicle shall pass to the right.

Source: 1986 Rev. Ord. 18, Sec. 2, 12/18/86; **Authority:** SDCL 9-30-4; SDCL 9-31-1; see also SDCL Ch. 32-26.

4-1-3 TURNING AND SIGNALING OF MOTOR VEHICLES

(1) Any vehicle or motor vehicle turning into a street to the right shall turn the corner as near the right hand curb as practicable.

(2) Any vehicle or motor vehicle turning into a street to the left or turning to left for the purpose of making a turn of 180 degrees, shall, before turning, pass beyond the center of the intersecting streets.

(3) It shall be unlawful for any vehicle or motor vehicle to cross over from the right hand side of a street to the left hand side of a street or to make a complete turn around or turn 180

degrees upon any street except upon the intersection of the street with another street or alley. Cross over turning may also be completed, if turning into off-street parking.

(4) Any vehicle or motor vehicle overtaking another, shall first give audible warning and then shall pass to the left, and shall not pull over to the right until entirely clear of the overtaken vehicle or motor vehicle. Every person in charge of a vehicle or motor vehicle when signaled from a vehicle or motor vehicle behind desiring to pass, shall pull up to the right hand side of the street or roadway, and shall not increase his or her speed, but continue at the speed obtained when signaled.

(5) The driver of a vehicle or motor vehicle shall give time warning by signaling in a manner plainly discernible to a driver in his or her rear, of his or her intention to slow up, turn or stop, and they shall be as follows:

- (A) Left arm straight - out for turn in direction pointed.
- (B) Left arm pointed upward for turn in direction opposite arm.
- (C) Left arm pointed down for stopping or checking speed.
- (D) Or by automatic turning and stopping signal on the vehicle.

Source: 1986 Rev. Ord. 18, Secs. 3-7, 12/18/86; Ord. 115, 10/18/00; **Authority:** SDCL 9-30-4, SDCL 9-3-1; see also SDCL Ch. 32-26.

4-1-4 BACKING OF MOTOR VEHICLES

No person driving a vehicle or motor vehicle shall back the same without ample warning first having been given, and while backing must exercise care not to injure those at his or her rear.

Source: 1986 Rev. Ord. 18, Sec. 8, 12/18/86; **Authority:** SDCL 9-30-4, SDCL 9-31-1; see also SDCL Ch. 32-26.

4-1-5 RIGHT OF WAY FOR EMERGENCY VEHICLES

Fire apparatus or police or ambulance vehicles shall have the right of way at all times.

Source: 1986 Rev. Ord. 18, Sec. 9, 12/18/86; **Authority:** SDCL 9-30-4, SDCL 9-31-1; see also SDCL Ch. 32-26-15.

4-1-6 RIGHT OF WAY AT INTERSECTIONS

Every driver of a vehicle or motor vehicle approaching an intersection of a street shall grant the right of way at such intersection to any vehicle or motor vehicle approaching such intersection from his or her right, except on Main Street; provided, that whenever traffic officers are stationed at crosswalks or intersections they shall have full power to regulate traffic.

Source: 1986 Rev. Ord. 18, Sec. 10, 12/18/86; **Authority:** SDCL 9-30-4, SDCL 9-31-1; see also SDCL Ch. 32-26.

4-1-7 DRIVING ON LEFT SIDE OF STREET

It shall be unlawful for any vehicle or motor vehicle to be driven, operated, or allowed to stand on the left hand side of the center of the street; and such vehicle or motor vehicle shall keep over as near as practicable to the right hand curb so as to leave the center of the street free and open for overtaking traffic.

Source: 1986 Rev. Ord. 18, Sec. 11, 12/18/86; **Authority:** SDCL 9-30-4, SDCL 9-31-1; see also SDCL Ch. 32-26.

4-1-8 DRIVING OVER SIDEWALKS

Vehicles or motor vehicles shall not cross a sidewalk, except where a driveway is provided, and in crossing a sidewalk to and from an alley, lot or building, shall be driven at a speed not to exceed 4 miles per hour, and shall before entering a street from an alley, lot or building, come to a full stop, and shall turn only to the right upon entering such street, giving ample warning of his or her approach to such street.

Source: 1986 Rev. Ord. 18, Sec. 12, 12/18/86; **Authority:** SDCL 9-30-4, SDCL 9-31-1; see also SDCL Ch. 32-26.

4-1-9 DRIVING IN A MANNER AS TO OBSTRUCT OR HINDER TRAFFIC

Vehicles or motor vehicles shall not travel two or more abreast on any street or pass a moving vehicle or motor vehicle at a street intersection, nor shall they be driven at an unnecessarily slow rate of speed so as to hinder and retard traffic.

Source: 1986 Rev. Ord. 18, Sec. 13, 12/18/86; **Authority:** SDCL 9-30-4, SDCL 9-31-1; see also SDCL Ch. 32-26.

4-1-10 RECKLESS OR CARELESS DRIVING - EXCESSIVE SPEED

No person shall drive any vehicle or motor vehicle upon any street or alley or public place in the City, at a greater rate of speed than is reasonable and proper under all the circumstances, having due regard to the traffic and use of the highway, or at a reckless or dangerous rate of speed, or in a careless or negligent manner.

Source: 1986 Rev. Ord. 18, Sec. 14, 12/18/86; **Authority:** SDCL 9-30-4, SDCL 9-31-1; see also SDCL Ch. 32-26 & SDCL Ch. 32-24.

4-1-11 LEAVING VEHICLE UNATTENDED

No person shall leave a motor vehicle unattended without the emergency brakes applied, or with the engine running.

Source: 1986 Rev. Ord. 18, Sec. 15, 12/18/86; **Authority:** SDCL 9-30-4, SDCL 9-31-1; see also SDCL Ch. 32-26 & 32-30-5.

4-1-12 DRIVING VEHICLE WITH EXCESSIVE NOISE, SMOKE OR DUST

It shall be unlawful to operate a motor vehicle, unless the same is provided with a muffler, which shall at all times be kept closed so that the exhaust is effectively muffled. It shall be unlawful to operate a motor vehicle in such a manner that it emits unnecessary or excessive smoke from the motor or causes the disturbance of unnecessary or excessive dust to be thrown into the air.

Source: 1986 Rev. Ord. 18, Sec. 16, 12/18/86; **Authority:** SDCL 9-30-4, SDCL 9-31-1; see also SDCL Ch. 32-26.

4-1-13 DRIVING IN COMPLIANCE WITH STATE LAWS - BRAKES, LIGHTS, AND SIGNALING DEVICES

It shall be unlawful to operate a motor vehicle on the streets of the City, except that the motor vehicle laws of the state of South Dakota have been complied with, relative to brakes, lights, signaling device and head lights.

Source: 1986 Rev. Ord. 18, Sec. 17, 12/18/86; **Authority:** SDCL 9-30-4, SDCL 9-31-1; see also SDCL Ch. 32-17, 32-18 & 32-26.

4-1-14 UNDERAGE DRIVING

No person under the age of 14 years shall operate or drive a motor vehicle upon the streets or alleys of the City, unless such person is accompanied by the owner of the motor vehicle.

Source: 1986 Rev. Ord. 18, Sec. 18, 12/18/86; **Authority:** SDCL 9-30-4, SDCL 9-31-1; see also SDCL Ch. 32-26 & 32-12.

4-1-15 DRIVING ON SIDEWALKS - EXCEPTION

No person shall ride any bicycle, tricycle, kiddie car, wagon, or motorcycle, or any other device mechanically propelled by motive or human power upon or along any public sidewalk of any street in the City, except where designated by the City. This Section shall not apply to any physically or mentally impaired person who needs such a device in order to travel upon any public sidewalk or street.

Source: 1986 Rev. Ord. 18, Sec. 19, 12/18/86; **Authority:** SDCL 9-30-4, SDCL 9-31-1; see also SDCL Ch. 32-26.

4-1-16 INTERFERING WITH FUNERAL PROCESSION

No driver of any vehicle or motor vehicle shall drive through or otherwise interfere with any funeral procession as shown by a procession of motor vehicles with their headlights on, moving in one line in the same direction, on any street in the City.

Source: 1986 Rev. Ord. 18, Sec. 20, 12/18/86; **Authority:** SDCL 9-30-4, SDCL 9-31-1; see also SDCL Ch. 32-26.

4-1-17 OBSTRUCTION OF STREETS OR ALLEYS

No vehicles or motor vehicles shall be left or parked upon any street or alley of the City in such a way as to obstruct free use by the public of any sidewalk, or crosswalk or within 15 feet of any fire hydrant; and further no vehicles or motor vehicles shall be left or parked upon any street or alley or public grounds in the City for a period of more than 24 hours.

Source: 1986 Rev. Ord. 18, Sec. 23, 12/18/86; **Authority:** SDCL 9-30-4, SDCL 9-31-1; see also SDCL Ch. 32-26.

4-1-18 BACKING OF VEHICLES AT CURBS

No vehicle or motor vehicle shall be backed up to the curb or left standing backed up to the curb except for the purpose of and when loading or unloading goods or merchandise and then only for such length of time as may be necessary to load or unload.

Source: 1986 Rev. Ord. 18, Sec. 24, 12/18/86; **Authority:** SDCL 9-30-4, SDCL 9-31-1; see also SDCL Ch. 32-26.

4-1-19 PARKING OF MOTOR VEHICLES

(1) Vehicles or motor vehicles shall not be double parked on any street in the City, except when loading or unloading passengers, goods or merchandise at a time when access to the curb is blocked by other vehicles or motor vehicles at the place of delivery, and then only for such length of time as may be necessary to load and unload.

(2) It shall be unlawful to park any vehicle or motor vehicle on Main Street or on Second Avenue between its intersection of State and Pugh; on Third Avenue between its intersection of State and Pugh; on Fourth Avenue between its intersection of State and Pugh, except that the

same be parked at an angle with the curb approximating 39 degrees with the right front wheel touching the curb and not closer to another vehicle or motor vehicle than 18 inches parking thereon.

(3) It shall be unlawful to park a vehicle or motor vehicle in the same identical spot or location on Main Street, or on Second Avenue between its intersection of State and Pugh, on Third Avenue between its intersection of State and Pugh, and on Fourth Avenue between its intersection of State and Pugh, for any continuous period of more than 24 hours.

Source: 1986 Rev. Ord. 18, Secs. 25-27, 12/18/86; **Authority:** SDCL 9-30-4, SDCL 9-31-1; see also SDCL Ch. 32-26.

4-1-20 PARKING OF TRUCKS ON CERTAIN STREETS-EXCEPTIONS

It shall be unlawful for any person or corporation to park any truck, trailers, or automobiles with a trailer attached upon Main Street, on Second Avenue between its intersection of State and Pugh Street, on Third Avenue between its intersection of State and Pugh Street, on Fourth Avenue between its intersection of State and Pugh Street in the City of Martin, either in the daytime or nighttime except while in the act of loading or unloading its cargo to a place of going business or other occupied building located thereon, for which said truck has merchandise to load or unload; and when said person, firm or corporation is in the act of loading or unloading its cargo as above provided he/she or it shall perform said act of loading or unloading in all due haste using no more than a reasonable time in any event not to exceed a period of six consecutive hours.

Source: 1986 Rev. Ord. 19, 12/18/86; **Authority:** SDCL 9-30-4, SDCL 9-31-1.

4-1-21 UNLOADING OF TRUCK CARGO TO OTHER TRUCKS ON CERTAIN STREETS

It shall be unlawful for any operator of any truck, trailer, or automobile with trailer attached, pickup or truck as herein defined, to unload its cargo on Main Street to another truck, trailer or vehicle or carriage of any kind. For the purposes of this Section, the term **operator** shall include helpers, assistants or those assisting in such loading or unloading.

Source: 1986 Rev. Ord. 19, 12/18/86; **Authority:** SDCL 9-30-4, SDCL 9-31-1.

4-1-22 RESTRICTED PARKING OF TRUCKS-SPECIFIED AREAS IN CITY - EXCEPTIONS

The following defined spaces are hereby designated as restricted space or territory and it shall be unlawful for any operator of a truck, his or her agent, or other person to park in such territory, for any purpose, except matters dealing with loading or unloading U.S. mail, bulky packages, or other freight:

- (1) The loading zone directly behind the United States Post Office;
- (2) That space directly in front of the Martin Fire Hall, being a space extending east and north to State Highway 73 and United States Highway 18; or
- (3) Fifteen feet on either side of any fire hydrant.

Source: 1986 Rev. Ord. 19, 12/18/86; **Authority:** SDCL 9-30-4, SDCL 9-31-1.

4-1-23 TRUCK SPEED AND LOAD LIMIT ON MAIN STREET - REPEALED

Source: 1986 Rev. Ord. 19, 12/18/86; Repealed by Ord. 246, 1/17/2022. **Authority:** SDCL 9-30-4, SDCL 9-31-1.

4-1-24 PARKING OF TRUCKS ON CITY STREETS - EXCEPTION

It shall be unlawful for any purpose to park a combination tractor trailer and/or separate trailer and or tractor on any street or right-of-way within the city limits of Martin. This Section shall not apply to those trucks in the process of loading or unloading cargo to a residence or place of business adjacent thereto.

Source: 1986 Rev. Ord. 19, 12/18/86; **Authority:** SDCL 9-30-4, SDCL 9-31-1.

4-1-25 PARKING OF FARM EQUIPMENT WITHIN CITY LIMITS

It shall be unlawful to park at anytime a **grain combine** or other related farming equipment used which is defined as a farm implement for the purpose of gathering and loading into trucks from fields, various grains, within the city limits of the City of Martin, South Dakota, except at such time as said vehicle is being fueled, serviced, or otherwise repaired at a regular place of business within the City. Due to noxious weed problems, for the purposes of this Section, "fueled, serviced, or repaired" does not include the use of any car or truck washing facility in the city limits.

Cross-Ref: see Code 1-1-1; **Authority:** SDCL 9-30-4, SDCL 9-31-1.

4-1-26 PARKING REGULATIONS: FOR MOTOR VEHICLES - DEFINITIONS

All parking of motor vehicles and/or trailers shall be at an angle between lines as marked on curbs. **Marking** is defined as those spaces marked by lines running vertically on the curb and those solid marks running horizontally along the top and outside of the curb. It shall be unlawful and subject to a penalty for any person, firm or corporation:

(1) To park a motor vehicle in a manner which takes up any part of more than one space as marked on the curb.

(2) To park a motor vehicle in a space with solid marking, in which space parking is prohibited.

(3) To enter a street with a motor vehicle marked with a stop sign before coming to a complete and full stop.

(4) To make a U-turn where marked as prohibitive by a distinctive notice of NO U-TURN.

(5) At the intersection of Main Street with Third Avenue, left inside turns shall be permissive.

(6) It shall be unlawful to leave a motor vehicle unattended in the center of the street or parked away from the curb in any other manner than as provided in this Chapter.

(7) It shall be unlawful for two or more motor vehicles as to come to a complete stop, in a street for the purpose of conversation, or otherwise, being parked therein side by side or for a single motor vehicle to come to a complete stop in the center of the street, except, and only when necessary to avoid an accident.

Source: 1986 Rev. Ord. 21, 12/18/86; **Authority:** SDCL 9-30-4, SDCL 9-31-1; **Cross-Ref:** Code 1-1-1.

4-1-27 GENERAL MOTOR VEHICLE SPEED LIMITS

It shall be unlawful for any person to operate a vehicle upon the streets or alleys of the City at a greater rate of speed than that fixed by the City Council by ordinance or by posted speed limit signs. In areas in which a speed limit is not posted or otherwise set by ordinance, the speed limit on all streets or alleys of the City shall be 20 miles per hour.

Source: 1986 Rev. Ord. 22, 12/18/86; Ord. 246, 1/17/2022. **Authority:** SDCL 9-30-4, SDCL 9-31-1.

4-1-28 GENERAL PARKING REGULATIONS

That it shall be unlawful for any vehicle to park in the following described territory at anytime: 15 feet on either side of a city fire hydrant.

Source: 1986 Rev. Ord. 22, 12/18/86; **Authority:** SDCL 9-30-4, SDCL 9-31-1.

4-1-29 OPERATION OF VEHICLES WHILE FIRE IN PROGRESS

While a fire is in progress, all vehicles shall pull into the curb and there remain until such time as they shall not interfere with the progress of the Martin Fire Department or any fire department equipment in going to or coming from such fire.

Source: 1986 Rev. Ord. 22, 12/18/86; **Authority:** SDCL 9-30-4, SDCL 9-31-1.

4-1-30 DRIVING OVER FIRE HOSE

It shall be unlawful for any car, pickup, truck, motorcycle, or any other type of vehicle, including a bicycle to be driven or otherwise propelled over and across a fire hose that has been placed upon any street, alley or other area in the City by the Martin Volunteer Fire Department in connection with the said Fire Department's fighting a fire, or in connection with the said Fire Department's conducting a practice or training exercise, or in connection with any other business operation of said Martin Volunteer Fire Department. It being unlawful to so do whether the fire hose is in actual use transmitting water, or whether such fire hose is not in actual use transmitting water.

Source: 1986 Rev. Ord. 23, Sec. 1, 12/18/86; **Authority:** SDCL 9-30-4, SDCL 9-31-1.

4-1-31 CARELESS DRIVING

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

Source: 1986 Rev. Ord. 23, Sec. 2, 12/18/86; **Authority:** SDCL 9-30-4, SDCL 9-31-1; see also SDCL Ch. 32-24.

4-1-32 HANDICAP PARKING

(1) **Declaration of Purpose.** The purpose of this ordinance is to designate parking spaces for physically disabled persons to comply with SDCL 32-30-11.6.

(2) **Designation of special parking spaces for placement of Official Signs.** The City Foreman or designee is authorized to determine which parking spaces in the City shall be designated as parking spaces usable only by disabled persons and shall mark or sign such parking spaces accordingly. It shall be unlawful for any person to park or leave standing a vehicle in or upon a parking space designated by a sign or other markings unless such a vehicle displays a portable serially numbered certificate or distinctive license plate issue pursuant to

SDCL 32-5-76 through 32-5-76.2, which indicate the motor vehicle is operated to transport a disabled person.

(3) **Design of spaces.** Pursuant to SDCL 32-30-11.6 the parking spaces designated pursuant to subsection 2 of this Ordinance shall be designed in accordance with the American with Disabilities Act as amended on January 1, 2002.

(4) **Violation.** The owner or operator of any vehicle found in violation of this Section may, within 72 hours of the time when the notice of violation was attached to the vehicle, pay to the Office of the Clerk of Courts, as a penalty for and in full satisfaction of the violation, the sum of \$100. If the owner or operator fails to pay the sum within the 72 hour period, he or she may pay to the office, as a penalty for and in full satisfaction of the violation, the sum of \$110. The City may at its option after the passage of 72 hours summons the matter into Court for enforcement of the violation.

Source: Ord. 148, 6/6/06; **Authority:** SDCL Ch. 32-30, 32-5, and SDCL 9-30-4, SDCL 9-31-1; see also SDCL Ch. 32-24.

Chapter 4-2

BICYCLES

Sections:

- 4-2-1 Definition and General Provisions Including Licensure Violation of Section
- 4-2-2 Traffic Laws Apply to Person Riding Bicycles
- 4-2-3 Obedience to Traffic – Control Devices
- 4-2-4 Riding on Bicycles
- 4-2-5 Riding on Roadways and Bicycle Paths
- 4-2-6 General Traffic Rules & Operation
- 4-2-7 Parking
- 4-2-8 Equipment for Bicycles
- 4-2-9 Unauthorized Use
- 4-2-10 Parents not to Excuse Violations
- 4-2-11 Penalty

4-2-1 DEFINITION AND GENERAL PROVISIONS INCLUDING LICENSURE VIOLATION OF SECTION

(1) The term "**bicycle**" shall mean and include a light one or two-wheel device having wheels 20 inches or greater in diameter with tires inflated, propelled by human power.

(2) The provisions of this Chapter shall apply whenever any bicycle is operated upon any highway or upon any path set aside for the exclusive use of bicycles subject to those exceptions stated herein.

(3) No person shall ride or propel a bicycle on any street or public highway in the City, or upon any part thereof without having first secured and attached to such bicycle a property license tag as provided in this Chapter.

(4) Application for a license to own and operate a bicycle shall be made to the Sheriff's Office or other law enforcement agency so designated by motion or resolution of the city Council. Fees, if any, for such license will be set by resolution of the City Council. Such license may be transferred when ownership of said bicycle is transferred upon notification of the Sheriff's Office or other designated law enforcement agency. The Sheriff's Office or other designated law enforcement agency will attach a decal tag to the frame or fenders of the bicycle. The removal of such tag, except by the Sheriff's office or other designated law enforcement agency, shall be a violation of this Chapter.

(5) Such bicycle licenses will be valid for one year from date of issue.

Source: 1986 Rev. Ord. 12, 12/18/86; **Authority:** SDCL 9-30-4, SDCL 9-31-1; see also SDCL Ch. 32-26.

4-2-2 TRAFFIC LAWS APPLY TO PERSON RIDING BICYCLES

Every person riding a bicycle upon a roadway shall be granted all the rights and shall be subject to all the duties applicable to the driver of a vehicle by the laws of this State under provisions of SDCL Chapter 32-26 (*Rules of the Road*) declaring rules of the road applicable to vehicles or by this Code of this City applicable to the driver of a vehicle, except as to special

regulations in this Title and except as those provisions of law and ordinances which by their nature can have no application.

Source: 1986 Rev. Ord. 12, 12/18/86; **Authority:** SDCL 9-30-4, SDCL 9-31-1; see also SDCL Ch. 32-26.

4-2-3 OBEDIENCE TO TRAFFIC - CONTROL DEVICES

(1) Any person operating a bicycle shall obey the instructions of official traffic-control signals, signs and other control devices applicable to vehicles, unless otherwise directed by a police officer.

(2) Whenever authorized signs are erected indicating that no right or left U-turn is permitted, no person operating a bicycle shall disobey the direction of any such sign, except where such person dismounts from the bicycle to make any such turn, in which event such person shall then obey the regulations applicable to pedestrians.

Source: 1986 Rev. Ord. 12, 12/18/86; **Authority:** SDCL 9-30-4, SDCL 9-31-1; see also SDCL Ch. 32-26.

4-2-4 RIDING ON BICYCLES

(1) A person propelling a bicycle shall not ride other than astride a permanent and regular seat attached thereto.

(2) No bicycle shall be used to carry more persons at one time than the number for which it is designated and equipped.

Source: 1986 Rev. Ord. 12, 12/18/86; **Authority:** SDCL 9-30-4, SDCL 9-31-1; see also SDCL Ch. 32-26.

4-2-5 RIDING ON ROADWAYS AND BICYCLE PATHS

(1) Every person operating a bicycle up a roadway shall ride as near to the right hand side of the roadway as practicable exercising due care when passing a standing vehicle or one proceeding in the same direction.

(2) Persons riding bicycles upon a roadway shall not ride more than two abreast.

(3) Whenever a usable path for bicycles has been provided adjacent to a roadway bicycle riders shall use such path and shall not use the roadway.

Source: 1986 Rev. Ord. 12, 12/18/86; **Authority:** SDCL 9-30-4, SDCL 9-31-1; see also SDCL Ch. 32-26.

4-2-6 GENERAL TRAFFIC RULES & OPERATION

(1) No person shall operate a bicycle at a speed greater than is reasonable and prudent under the conditions then existing.

(2) The operator of a bicycle emerging from an alley, driveway, or building, shall upon approaching a sidewalk or the sidewalk area extending across any alleyway, yield the right-of-way to all pedestrians approaching on said sidewalk or sidewalks area and upon entering the roadway shall yield the right-of-way to all vehicles approaching on said roadway.

(3) No person riding upon any bicycle shall attach the same or himself to any vehicle upon a roadway.

(4) No person operating a bicycle shall carry any package, bundle or article which prevents the rider from keeping at least one hand upon the handle bars.

(5) No person shall ride a bicycle upon a sidewalk on Main Street or within one block north or south of Main Street.

(6) The police department is authorized to erect signs on any sidewalk or roadway prohibiting the riding of bicycles thereon by any person and when such signs are in place no person shall disobey the same.

(7) Whenever any person is riding a bicycle upon a sidewalk, such person shall yield the right-of-way to any pedestrian and shall give audible signal before overtaking and passing such pedestrian.

Source: 1986 Rev. Ord. 12, 12/18/86; **Authority:** SDCL 9-30-4, SDCL 9-31-1; see also SDCL Ch. 32-26.

4-2-7 PARKING

No person shall park a bicycle upon a street other than upon the roadway against the curb or upon the sidewalk in a rack to support the bicycle or against a building or at the curb in such manner as to afford the least obstruction to pedestrian traffic.

Source: 1986 Rev. Ord. 12, 12/18/86; **Authority:** SDCL 9-30-4, SDCL 9-31-1; see also SDCL Ch. 32-26.

4-2-8 EQUIPMENT FOR BICYCLES

(1) No bicycle shall be permitted on any street, highway, or boulevard of the City between 30 minutes before sunrise without a headlight visible from the front hereof from not less than 200 feet, nor without a red tail light or in lieu thereof a reflector attached to and visible from the rear of such bicycle for a distance of not less than 200 feet.

(2) No person shall operate a bicycle unless it is equipped with a bell or other device capable of giving a signal audible for a distance of at least 100 feet, except that a bicycle shall not be equipped with nor shall any persons use upon a bicycle any siren or whistle.

(3) Every bicycle shall be equipped with a brake which will enable the operator to make the braked wheel skid on dry, level, clean pavement.

Source: 1986 Rev. Ord. 12, 12/18/86; **Authority:** SDCL 9-30-4, SDCL 9-31-1; see also SDCL Ch. 32-26.

4-2-9 UNAUTHORIZED USE

It shall be unlawful for any person to take any bicycle for the purpose of riding or propelling the same within the City without the consent of the owner.

Source: 1986 Rev. Ord. 12, 12/18/86; **Authority:** SDCL 9-30-4, SDCL 9-31-1; see also SDCL Ch. 32-26.

4-2-10 PARENTS NOT TO EXCUSE VIOLATIONS

The parent of a child or the guardian of any ward shall not authorize or knowingly permit any such child or ward to violate any of the provisions of this Chapter.

Source: 1986 Rev. Ord. 12, 12/18/86; **Authority:** SDCL 9-30-4, SDCL 9-31-1; see also SDCL Ch. 32-26.

4-2-11 PENALTY

Any person or persons violating any of the provisions of this Chapter shall, upon conviction thereof be punished by the bicycle being impounded for up to thirty days at the discretion of the arresting police officer.

Source: 1986 Rev. Ord. 12, 12/18/86; **Authority:** SDCL 9-30-4, SDCL 9-31-1; see also SDCL Ch. 32-26.

TITLE FIVE PUBLIC UTILITIES

Chapters:

- 5-1 Municipal Water System**
- 5-2 Municipal Sewer System**
- 5-3 Sewer System Rates & Charges**
- 5-4 Municipal Garbage Collection**

Chapter 5-1

MUNICIPAL WATER SYSTEM

Sections:

- 5-1-1 Water System to be Owned and Operated By City**
- 5-1-2 Connection to Municipal Water System – Procedure**
- 5-1-3 Multiple Buildings on One Lot to Have Separate Connection**
- 5-1-4 Installation and Repair of Connections – Expense**
- 5-1-5 Unlawful Use or Tampering with System**
- 5-1-6 Claims for Faulty Service – Procedure – Exception**
- 5-1-7 Implied Consent to System - Rules of Operation**
- 5-1-8 Meter Deposit**
- 5-1-9 Discontinuance of Service – Reconnection**
- 5-1-10 Definition – Disconnection of Services**
- 5-1-11 Connections and Installations under City Supervision**
- 5-1-12 Meters, Stops, and Valves on Water Lines**
- 5-1-13 Check Valves and Boilers – Discretion of Foreman**
- 5-1-14 Service Pipes – Copper Construction**
- 5-1-16 Water System Rates and Charges – Definitions**
- 5-1-17 Water User’s Fee – Snow Removal Surcharge – Failure to Pay**
- 5-1-18 Water User’s Fee – Snow Removal Surcharge – Commercial Rates**
- 5-1-19 No Service to Premises Outside City Limits – Exception – Vote of Council**
- 5-1-20 Prohibition of Private Water Wells in City Limits – Exception**
- 5-1-21 Collections**
- 5-1-22 City Shall Not be Liable for Damage**

5-1-1 WATER SYSTEM TO BE OWNED AND OPERATED BY CITY

Forthwith the municipal water system shall be operated as a public utilities of the municipality, and the rates, charges, rentals, regulations and provisions of this ordinance shall be and remain applicable thereto until duly amended. The gross receipts of the municipal Water System shall be sufficient each year to pay all costs of operation and maintenance, depreciation, principal of and interest on obligations payable out of the revenues of said systems and to establish such reserves as may be required.

Source: 1986 Rev. Ord. 31, Sec. 1, 12/18/86; **Authority:** SDCL 9-47-1.

5-1-2 CONNECTION TO MUNICIPAL WATER SYSTEM - PROCEDURE

Any person desiring water services from said utilities for premises not theretofore connected, or a new line connected with the system, shall apply for a connection on a form provided by the municipality. Such application shall give an exact description of the premises to be served, and be filed with the City Office.

The applicant shall pay a connecting fee of not less than \$700.00, which fee is to be paid at the time the application is submitted. This fee shall cover the installing of the line from the existing water main to the curb line of the property for which the connection is applied for. If the

application is not approved, the fee shall be refunded to the applicant. When the installation work is completed, the actual cost of such installation shall be determined, and if the actual cost of such installation exceeds \$700.00, the applicant shall pay such difference in addition to the \$700.00 minimum fee above referred to. If on the other hand the applicant desires to take care of the installation themselves, they shall so state in their application, and shall give a detailed explanation as to how the work is to be performed, and if the municipality approves the application on the basis of the applicant doing the work and furnishing the material themselves, the connecting charge shall be reduced to \$300.00, which shall also be paid before the work commences. If the applicant performs the work themselves, such work shall at all times be subject to the inspection and approval of the municipality. Upon completion of the connection to the City water mains, notification to the City foreman for final inspection shall be made prior to back-filling. If in the performing of the work themselves, the applicant causes any damage to the City water main, they shall be liable to reimburse the municipality for such damage.

The above availability charges shall be applicable only to premises fronting or abutting on streets or alleys wherein municipal water mains are laid. In the event that application is received for service to other premises, the charges shall be determined by the Governing body at the time such application is granted, but in no event shall be less than the above stated costs.

The expense of extending the water line from the curb line onto the applicants' property to the ultimate point of consumption shall be paid and taken care of by the property owner.

Source: 1986 Rev. Ord. 31, Sec. 2, 12/18/86; Ord. 51, 1/30/90; Ord. 59, 8/21/91; Ord. 89, 8/30/95; Ord. 100, 11/19/97 (vetoed by mayor, see special ord. table); Ord. 124, 7/23/02; **Authority:** SDCL 9-47-1.

5-1-3 MULTIPLE BUILDINGS ON ONE LOT TO HAVE SEPARATE CONNECTION

Unless special permission is granted by the City Council, each group of buildings or appurtenant structures on any one lot shall have a separate and distinct service connection, and where permission is granted for branch service systems each branch system must have its own separate meter.

Source: 1986 Rev. Ord. 31, Sec. 3, 12/18/86; **Authority:** SDCL 9-47-1.

5-1-4 INSTALLATION AND REPAIR OF CONNECTIONS - EXPENSE

The cost of original installation of all plumbing in the case of water between the curb line and any service devices maintained by the consumer and all extensions made to such plumbing, as well as all repairs, shall be borne entirely by the customer, although such plumbing and services as well as the meters shall at all reasonable times be subject to inspection by duly authorized representatives of the municipality. In the event that any repairs found to be necessary by such representative shall not be made promptly, the municipality shall be authorized to discontinue service.

Source: 1986 Rev. Ord. 31, Sec. 4, 12/18/86; **Authority:** SDCL 9-47-1.

5-1-5 UNLAWFUL USE OR TAMPERING WITH SYSTEM

It shall be unlawful for any person to use water from any premises without the consent of the owner, or to use water from the municipal water system or hydrant except to be drawn through a meter or installed by the municipality. No person except an authorized representative of the City Council shall turn on or off or tamper with any water service connection.

Source: 1986 Rev. Ord. 31, Sec. 5, 12/18/86; **Authority:** SDCL 9-47-1.

5-1-6 CLAIMS FOR FAULTY SERVICE – PROCEDURE - EXCEPTION

All claims for defective service shall be made in writing and filed with the Utilities Superintendent on or before the 10th day of the month next succeeding such defective service, or be deemed waived by the claimant; and if such claims are so filed, it shall be the duty of the Utilities Superintendent to investigate the facts alleged in such claim and determine the amount, if any, which should be refunded to such claimant by reason of such defective service and report such determination to the Governing body, and if approved, such amount shall be allowed as a credit on the following bill or paid as other claims, but no claim shall be made against the municipality on account of any fire or any injuries to the person or property of any consumer of water under the provisions hereof.

Source: 1986 Rev. Ord. 31, Sec. 6, 12/18/86; **Authority:** SDCL 9-47-1.

5-1-7 IMPLIED CONSENT TO SYSTEM RULES OF OPERATION

Every person applying for water service from the municipal systems, and every owner, agent, or lessee of property for which such application is made, shall be deemed by such application to consent to all the rules, regulations and the rates contained in the resolutions or ordinances of the municipality and to any modification thereof; and to all new rules, regulations or rates duly adopted.

Source: 1986 Rev. Ord. 31, Sec. 7, 12/18/86; **Authority:** SDCL 9-47-1.

5-1-8 METER DEPOSIT

Every customer shall, prior to receiving water service, deposit with the City Office a meter deposit in the amount of \$75.00. Said meter deposit shall be held in a separate fund by the City Finance Officer as a guarantee of payment of water and sewer charges. Whenever service to a customer is discontinued, the balance due the City for water, sewer, or garbage services to said customer, together with penalties, if any, shall be deducted from, said deposit and the balance of said deposit refunded to customer.

Source: 1986 Rev. Ord. 31, Sec. 8, 12/18/86; **Authority:** SDCL 9-47-1.

5-1-9 -DISCONTINUANCE OF SERVICE - RECONNECTION FEE

The municipality reserves the right to discontinue service to any and all customers of the water or sewer systems, without notice, when necessary for repairs, or for nonpayment of either water, sewer, or garbage bills, or for disregard of rules and regulations affecting the service. When service has discontinued for nonpayment of bills or for disregard of regulations, it shall not be resumed except upon payment of the bills, together with penalty thereon, full compliance with the regulations, and the payment to the City Office of a reconnect fee. If the deposit has

been applied to the bill as part of the payment, the reconnect fee shall be in the amount of \$75.00 to reestablish the deposit. If the deposit has not been applied as part of the payment of the bill, the reconnect fee shall be in the amount of \$15.00.

Source: 1986 Rev. Ord. 31, Sec. 9, 12/18/86; Ord. 42, 9/21/88; **Authority:** SDCL 9-47-1.

5-1-10 DEFINITION - DISCONNECTION OF SERVICES

For the purpose of this Chapter, "**customers**" shall include both, the owner of the property for which the water, sewer or garbage service is provided, and the person occupying the premises and actually utilizing the water, sewer or garbage systems. It being the intention of this Chapter that when service has been disconnected for non payment of bills, or for disregard of regulations, it shall not be resumed for the owner of the property, or for a new tenant or other person occupying the property, until all bills, together with any penalty thereon, and all fees for the re-establishment of the service to such property have been paid in full.

Source: 1986 Rev. Ord. 31, Sec. 9, 12/18/86; **Authority:** SDCL 9-47-1; **Cross-Ref:** Code Sec. 1-1-1.

5-1-11 CONNECTIONS AND INSTALLATIONS UNDER CITY SUPERVISION

In installing water service, all taps shall be driven, street excavations made, pipes installed from main to meter, and the meter installed under the supervision of the City Foreman.

Source: 1986 Rev. Ord. 31, Sec. 10; 12/18/86; **Authority:** SDCL 9-47-1.

5-1-12 METERS, STOPS, AND VALVES ON WATER LINES

There shall be a meter in every service line attached to the water main. There shall be one or more stops and waste cocks attached to every supply pipe at some point between the main and the meter so that the water can be shut off and the meter and the house plumbing entirely drained. There shall be another such stop and waste cock in the pipe on the house side of the meter.

Source: 1986 Rev. Ord. 31, Sec. 11, 12/18/86; **Authority:** SDCL 9-47-1.

5-1-13 CHECK VALVES AND BOILERS – DISCRETION OF FOREMAN

Check valves are hereby required on all water connections to steam boilers or any other connection deemed by the City Foreman to require one. Safety and release valves shall be placed on all boilers or other steam apparatus connections with the water system where the steam pressure may be raised in excess of 50 pounds per square inch.

Source: 1986 Rev. Ord. 31, Sec. 12, 12/18/86; **Authority:** SDCL 9-47-1.

5-1-14 SERVICE PIPES - COPPER CONSTRUCTION

All service pipes connected with the water system from the water mains to the water meters shall be made of copper.

Source: 1986 Rev. Ord. 31, Sec. 13, 12/18/86; **Authority:** SDCL 9-47-1.

5-1-15 NON-EMERGENCY OR NON-HOUSEHOLD USES SHUT DOWN DURING FIRE

It is hereby declared to be unlawful for any person in the municipality or any person owning or occupying premises connected to the municipal water system, to use or allow to be used during a fire any water from said system except for the purpose of extinguishing said fire; and, upon the sounding of a fire alarm, it shall be the duty of every such person to see that all water services are tightly closed and that no water is used, except for necessary household purposes, during said fire.

Source: 1986 Rev. Ord. 31, Sec. 14, 12/18/86; **Authority:** SDCL 9-47-1.

5-1-16 WATER SYSTEM RATES AND CHARGES - DEFINITIONS

Until otherwise provided by ordinances amendatory hereof, or supplemental hereto, the rates, charges and rentals for service and benefits furnished by the water system shall be as follows:

(1) The owner or occupant of each premise, resident or commercial, connected with the water system shall pay for water consumed thereon at a rate set by resolution of the Council.

(2) The owner or occupant of each premise situated outside of the City limits of Martin, which has been authorized and is being serviced by the City water system shall pay therefore rates and charges as follows:

(A) Such persons connected with the water system shall pay a rate one and a half (1½) times the rates charged for premises inside the City limits.

(3) The term **residential** as used herein shall include all premises occupied and used exclusively as a home by not more than two families. The term **commercial** shall include all other premises.

(4) The owner or occupant of any commercial premise who, by reason or special circumstances, finds the foregoing rates unjust or inequitable as applied to his or her premises, may make written application to the Governing body stating such circumstances, and requesting a different basis of charges for water service to his or her premises; and if such application be approved the Governing body shall by resolution, fix and establish fair and equitable rates for such premises during the period of such special circumstances.

(5) Whenever by reason of special circumstances the City finds that the foregoing rates are unjust or inequitable as applied to certain premises, the City shall by resolution fix and establish fair and equitable rates for such premises during the period of such special circumstances.

(6) The City Office shall prepare monthly duplicate statements of charges for each customer and mail on the first day of the month.

(7) Customers are required to read their own meters.

(8) Customers who are physically able to read their own meters but fail to do so will be assessed a fee to be set by resolution of the City Council if the City is required to read the meter.

(9) The City of Martin sends out their water, sewer and garbage bills on the 1st day of the month. These bills are due by the 20th day of the month. If the bill has not been paid within five days after the 20th, then a notice will be sent to the delinquent account (if delinquent account is a rental property, then the owner of the property gets the notice). If in response to such notice the water user submits a written, signed proposal, under which the delinquent bill may be paid on an installment arrangement, the business office is authorized to accept any reasonable proposal. If the delinquent bill is not in thus manner satisfactorily resolved, within a period of 30 days from

date of notice, the water customer shall be notified of the fact that the City intends to discontinue their water service, and of the time and place when and where they may meet with the City Council to discuss the matter, and if the delinquent bill is not thereby resolved, the service shall be forthwith discontinued.

(10) That all rental property be the responsibility of the owner in regards to utility bills. The owner shall be responsible for the meter deposit and for the controlling of turning on and shutting off of the utilities and also to agree to hold the City harmless of such discontinuance of utilities.

(11) If water service is provided for any part of a month, a full month's charge shall be made.

(12) The owner or occupant of each premise, resident or commercial, connected with the water system will be billed for the minimum rate whether the premises is occupied or not. If the water is turned on by the City, for any part of a month, a fully monthly charge shall be made for water, sewer, garbage and snow fees.

Source: 1986 Rev. Ord. 31, Sec. 15, 12/18/86; Ord. 42, [disconnection & past due provisions] 9/21/88; Ord. 51, [connection provisions] 1/30/90; Ord. 57, 8/21/91; Ord. 65 [past due provisions] 10/6/92; Ord. 75, [rates & definitions] 11/17/93; Ord. 85, [rates, fees, charges & past due provisions) 1/2/95; Ord. 140, 3/15/05; **Authority:** SDCL 9-47-1.; **Cross-Ref:** Code Sec. 1-1-1.

5-1-17 WATER USER'S FEE – SNOW REMOVAL SURCHARGE –FAILURE TO PAY

(1) Each property owner/street address of the City of Martin who purchases water from the City pursuant to this Chapter shall pay a fee to be set by resolution of the City Council to the City of Martin for each and every month that the customer receives water service. Such fee will be designated a snow removal fee and will be deposited in the City snow removal fund and used exclusively for snow removal purposes by the City of Martin.

(2) The failure or refusal of any customer to pay any portion of the snow removal fees imposed by this Chapter shall be subject to the same penalties and enforcement procedures as are then in effect for the non-payment of the City of Martin water bill.

Source: Ord. 45, 10/19/88; Ord. 74, 11/17/93; **Authority:** SDCL 9-30-2; see also SDCL 9-30-5.

5-1-18 WATER USER'S FEE - SNOW REMOVAL SURCHARGE - COMMERCIAL RATES

Each non-resident (Commercial) of the City of Martin shall pay a fee to be set by resolution of the City Council for snow removal. If water is turned on by the City, for any part of a month, a full monthly charge shall be made for snow removal.

Source: Ord. 74, 11/17/93; **Authority:** SDCL 9-30-2; see also SDCL 9-30-5.

5-1-19 NO SERVICE TO PREMISES OUTSIDE CITY LIMITS - EXCEPTION - VOTE OF COUNCIL

No service shall be furnished by the water system to premises which are located outside the established City limits provided any customers of the water system whose premises are located outside the City limits and are receiving water service at the time of the passage of this Chapter shall be allowed to continue to receive such service until the City Council passes a resolution to the contrary.

Source: 1986 Rev. Ord. 31, Sec. 16, 12/1 8/86; **Authority:** SDCL 9-47-1.

5-1-20 PROHIBITION OF PRIVATE WATER WELLS IN CITY LIMITS - EXCEPTION

That it is unlawful for any person, corporation, organization, or other legal entity to drill, dig or otherwise cause to be accomplished any hold or opening which shall go down to the depth of the water table in and under the City of Martin. It is further unlawful to pump or otherwise remove any water from the water table under the City of Martin. The effective area covered by this Section shall be any where within the corporate limits of the City of Martin. This Section shall not apply to any wells dug by the City of Martin for the purposes of affecting the public water supply.

Source: 1986 Rev. Ord. 32, 12/18/86; **Authority:** SDCL 9-47-1.

5-1-21 COLLECTIONS

Any charges for municipal water or sewer services, and any interest and penalties thereon, or water delivered to any real property, or sewer services thereto, within the City or under its jurisdiction, which are due and unpaid on the first day of October of each year may be certified by the city municipal finance officer to the auditor of the county in the manner provided by applicable state statute, together with any taxes levied for corporate purposes, provided that the City has followed the provisions of 5-1-16(9) as to each delinquent account prior to it being certified by the City to the county auditor. All amounts so certified shall be payable and delinquent at the same time and incur penalty and interest and shall be collected by the same procedure as real estate taxes on the same property.

Source: 2015 Ord. 199; 2/17/15.

5-1-22 CITY SHALL NOT BE LIABLE FOR DAMAGE

The city shall not be liable for any damage to the property of any customer of any utility service furnished by the city due to backflow of the wastewater system, failure of water supply, interruption of service or any cause outside the direct control of the city. Should the City provide any devices for the customer to install in furtherance of the effective use of the utility service, the City shall not be liable for device failure, malfunction, improper installation, or any damage and loss derived from use of the device.

Source: 2020 Ord. 221; 9/09/20.

Chapter 5-2

MUNICIPAL SEWER SYSTEM

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5-2-1 DEFINITIONS

Unless the context specifically indicates otherwise, the meaning of terms used in this Chapter shall be as follows:

(1) "**Biochemical Oxygen Demand**" (**BOD**) shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at 20 degrees centigrade, expressed in milligrams per liter.

(2) "**Building drain**" shall mean that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five (5) feet (1.5 meters) outside the inner face of the building wall.

(3) "**Building Sewer**" shall mean the extension from the building drain to the public sewer or other place of disposal; also called house connection.

(4) "**Combined sewer**" shall mean an acquired legal right for the specific use of land owned by others.

(5) "**Easement**" shall mean an acquired legal right for the specific use of land owned by others.

(6) "**Floatable oil**" is oil, fat, or grease in a physical state such that it will separate by gravity from waste water by treatment in an approved pretreatment facility. Waste water shall be considered free of floatable fat if it is properly pre-treated and the waste water does not interfere with the collection system.

(7) "**Garbage**" shall mean the animal and vegetable waste resulting from the handling, preparation, cooking and serving of foods.

(8) "**Industrial wastes**" shall mean the waste water from industrial processes, trade, or business as distinct from domestic or sanitary wastes.

(9) "**Natural outlet**" shall mean any outlet, including storm sewers and combined sewer overflows into a watercourse, pond, ditch lake, or other body of surface or groundwater.

(10) "**pH**" shall mean the logarithm of the reciprocal of the hydrogen-ion concentration. The concentration is the weight of hydrogen-ions, in grams, per liter of solution. Neutral water, for example, has a pH value of 7 and a hydrogen-ion concentration of 10.

(11) "**Properly shredded garbage**" shall mean the wastes from the preparation, cooking, and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than ½ inch (1.27 centimeters) in any dimension.

(12) "**Public sewer**" shall mean a common sewer controlled by a governmental agency or public utility.

(13) The term "**residential**" as used herein shall include all premises occupied and used exclusively as a home by not more than two families. The term commercial shall include all other premises.

(14) "**Sanitary sewer**" shall mean a sewer that carries liquid and water-carried wastes from residences, commercial buildings, industrial plants, and institutions together with minor quantities of ground, storm, and surface waters that are not admitted intentionally.

(15) "**Sewage**" is the spent water of a community. The preferred term is "waste water".

(16) "**Sewer**" shall mean a pipe or conduit that carries waste water or drainage water.

(17) "**Slug**" shall mean any discharge of water or waste water which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than fifteen (15) minutes more than five (5) times the average twenty-four (24) hour concentration or flows during normal operation and shall adversely affect the collection system and/or performance of the waste water treatment works.

(18) "**Storm drain**" (sometimes termed "storm sewer") shall mean a drain or sewer for conveying water, groundwater, subsurface water, or unpolluted water from any source.

(19) "**Superintendent**" shall mean the superintendent of waste water facilities, and/or of waste water treatment works, and/or of water pollution control of the City, or his or her authorized deputy, agent, or representative, and the term is synonymous with "City Foreman".

(20) "**Suspended solids**" shall mean total suspended matter that either floats on the surface of or is in suspension in water, waste water, or other liquids, and that is removable by laboratory filtering as prescribed in "Standard Methods for the Examination of Water and Waste Water" and referred to as non-filterable residue.

(21) "**Unpolluted water**" is water of quality equal to or better than the effluent criteria in effect or water that would not cause violations of receiving water quality standards and would not be benefited by discharge to the sanitary sewers and waste water treatment facilities provided.

(22) "**Waste water**" shall mean the spent water of a community. From the standpoint of source, it maybe a combination of the liquid and water-carried wastes from residences, commercial buildings, industrial plants, and institutions, together with any groundwater, surface water, and storm water that may be present.

(23) "**Waste water facilities**" shall mean the structures, equipment, and processes required to collect, carry away, and treat domestic and industrial wastes and dispose of the effluent.

(24) "**Waste water treatment works**" shall mean an arrangement of devices and structures for treating waste water, industrial wastes, and sludge. Sometimes used as synonymous with "Waste treatment plant" or "waste water treatment plant" or "water pollution control plant."

(25) "**Watercourse**" shall mean a natural or artificial channel for the passage of water either continuously or intermittently.

Source: 1986 Rev. Ord. 36, Sec. 1, 12/18/86; Ord. 50, Art. I, Secs. 1-28, Appx. B, 11/29/89; **Authority:** SDCL 9-48-2; **Cross Ref:** Code Sec. 1-1-1.

5-2-2 SEWER SYSTEM USAGE MANDATORY

It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the City, or in any area under the jurisdiction of said City, any human or animal excrement, garbage, or other objectionable-waste.

Source: 1986 Rev. Ord. 36, 12/18/86; Ord. 50, Art. II, Sec. 1, 11/29/89; **Authority:** SDCL 9-48-2.

5-2-3 RESTRICTION ON SEWER SERVICE TO NON-RESIDENTS

No service shall be furnished by the sewer system to premises which are located outside the established City limits unless the owner or occupant of such premises makes application to the City Council for approval to receive such service and pay the fees that are established by this Chapter.

Source: 1986 Rev. Ord. 36, 12/18/86; Ord. 50, Appx. B, 11/29/89; **Authority:** SDCL 9-48-2.

5-2-4 DISCHARGE OF SEWAGE OR POLLUTED WATER

It shall be unlawful to discharge to any natural outlet within the City, or in any area under the jurisdiction of said City, any sewage or other polluted water, except where suitable treatment has been provided in accordance with subsequent provisions of this Chapter.

Source: 1986 Rev. Ord. 36, 12/18/86; Ord. 50, Art. 11, Sec. 2, 11/29/89; **Authority:** SDCL 9-48-2.

5-2-5 PRIVIES, CESSPOOLS, ETC. PROHIBITED – EXCEPTION

It shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of waste water unless approved by the City Council.

Source: 1986 Rev. Ord. 36, 12/18/86; Ord. 50, Art. 11, Sec. 3, 11/29/89; **Authority:** SDCL 9-48-2.

5-2-6 TOILETS CONNECTED TO SEWER SYSTEM--WHEN REQUIRED

The owner(s) of all houses, buildings, or properties used for human occupancy, employment, recreation, or other purposes, situated within the City and abutting on any street, alley, or right-of-way in which there is now located or may in the future be located a public sanitary or combined sewer of the City, is hereby required at the owner(s) expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this title within 30 days after date of official notice to do so, provided that said public sewer is within 400 feet of the property line.

Source: 1986 Rev. Ord. 36, 12/18/86; Ord. 50, Art. 11, Sec. 4, 11/29/89; **Authority:** SDCL 9-48-2.

5-2-7 DWELLINGS TO BE CONNECTED TO SEWER SYSTEM

It shall be unlawful for any person as owner or agent to rent for use as a residence any property and it shall be unlawful for any person or persons to occupy as a residence any property as herein defined without said residence having a connection to the City of Martin's sewer

system by which all waste from the human body can be disposed of through the connection to said sewer.

Source: 1986 Rev. Ord. 36, Sec. 2, 12/18/86; Ord. 50, Art. II, Sec. 5, 11/29/89; **Authority:** SDCL 9-48-2.

5-2-8 SEWER CONNECTION PERMITS REQUIRED

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

Source: 1986 Rev. Ord. 36, Sec. 4, 12/18/86; Ord. 50, Art. III, Sec. 1, 11/29/89; **Authority:** SDCL 9-48-2.

5-2-9 SEWER CONNECTION PERMITS - CLASSES

There shall be two (2) classes of building sewer permits:
(1) for residential and commercial service, and
(2) for service to establishments producing industrial wastes.

In either case, the owner(s) or his or her agent shall make application on a special form furnished by the City. The specifications, or other information considered pertinent in the judgment of the Superintendent. A permit and inspection fee of two hundred (200) dollars for a residential or commercial building sewer permit and two hundred (200) dollars for an industrial building sewer permit shall be paid to the City at the time the application is filed.

Source: 1986 Rev. Ord. 36, 12/18/86; Ord. 50, Art. III, Sec. 2, 11/29/89; **Authority:** SDCL 9-48-2.

5-2-10 SEWER CONNECTION PERMITS - COSTS – DAMAGES – LIABILITY

All costs and expense incidental to the installation and connection of the building sewer shall be borne by the owner(s). The owner(s) shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

Source: 1986 Rev. Ord. 36, 12/18/86; Ord. 50, Art. III, Sec. 3, 11/29/89; **Authority:** SDCL 9-48-2.

5-2-11 SEPARATE CONNECTION - FOR EACH BUILDING – EXCEPTIONS

A separate and independent building sewer shall be provided for every building; except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer, but the City does not and will not assume any obligation or responsibility for damage caused by or resulting from any such single connection aforementioned.

Source: 1986 Rev. Ord. 36, 12/18/86; Ord. 50, Art. III, Sec. 4, 11/29/89; **Authority:** SDCL 9-48-2.

5-2-12 EXISTING CONNECTIONS ON PRESENT SYSTEM – INSPECTION

Old building sewers and connections may be used in connection with new buildings only when they are found, on examination and test by the superintendent, to meet all requirements of this Chapter. If, upon inspection, it is not feasible to use the existing sewer tap and connection, the existing sewer tap or connection will be removed and capped at the sewer main. Once the

existing sewer tap is capped, a new tap can be made with a new sewer connection permit and fee. All costs and expenses incidental to the removal and capping of the existing building sewer connections and taps that fail inspection shall be borne by the owner(s). "Sewer tap" means the action of the City in installing an opening in the sewer main to accommodate a building sewer connection.

Source: 1986 Rev. Ord. 36, 12/18/86; Ord. 50, Art. III, Sec. 5, 11/29/89; Ord. 178, Sec. 1, 2/14/12; **Authority:** SDCL 9-48-2.

5-2-13 CONSTRUCTION OF SEWERS - COMPLIANCE WITH CODES & RULES

(1) The size, slope, alignment, materials of construction of all sanitary sewers including building sewers, and the methods to be used in excavating, placing of the pipe, jointing, testing, and back filling the trench, shall all conform to the requirements of the building and plumbing code or other applicable rules and regulations of the City and State of South Dakota. In the absence of suitable code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the A.S.T.M. and W.P.C.F. Manual of Practice No. 9 shall apply.

(2) The size, slope, alignment, materials of construction of all sanitary sewers and sewer connections, and the methods to be used in excavating, placing of the pipe, jointing, testing, back filling the trench, shall all conform to the requirements of the building and plumbing code or other applicable rules and regulations of the City and the State of South Dakota. In the absence of code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the latest edition of the AS.T.M. and Water Pollution Control Federation (W.P.C.F.) Manual of Practice No.9 shall apply.

Source: 1986 Rev. Ord. 36, 12/18/86; Ord. 50, Art. III, Sec. 6, Att. A, Sec. 12, 11/29/89; **Authority:** SDCL 9-48-2.

5-2-14 ELEVATION OF SEWER - DRAINAGE

Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the public sewer. The owner shall be responsible for all installation, operation, and maintenance costs.

Source: 1986 Rev. Ord. 36, 12/18/86; Ord. 50, Art. III, Sec. 7, 11/29/89; **Authority:** SDCL 9-48-2.

5-2-15 GROUNDWATER CONNECTIONS TO SEWER SYSTEM PROHIBITED - EXCEPTION

No person(s) shall make connection of roof downspout, foundation drains, areaway drains, or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer, unless such connection is approved by the Council for purposes of disposal of polluted surface drainage.

Source: 1986 Rev. Ord. 36, 12/18/86; Ord. 50, Art. III, Sec. 8, 11/29/89; **Authority:** SDCL 9-48-2.

5-2-16 PROHIBITION OF CLEAR WATER CONNECTIONS

No person shall make connection of roof downspout, exterior foundation drains, areaway drains, or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer.

Source: 1986 Rev. Ord. 36, 12/18/86; Ord. 50, Art. III, Att. A, Sec. 11, 11/29/89; **Authority:** SDCL 9-48-2.

5-2-17 CONNECTION OF BUILDING SEWER WITH PUBLIC SEWER – COMPLIANCE WITH CODE & RULES

The connection of the building sewer into the public sewer shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the City, or the procedures set forth in appropriate specifications of the A.S.T.M. and W.P.C.F. Manual of Practice No. 9. All such connections shall be made gas tight and water tight and verified by proper testing. Any deviations from the prescribed procedures and materials must be approved by the Superintendent before installation.

Source: 1986 Rev. Ord. 36, 12/18/86; Ord. 50, Art. III, Sec. 9, 11/29/89; **Authority:** SDCL 9-48-2.

5-2-18 INSPECTION OF BUILDING SEWER BEFORE CONNECTION TO SYSTEM

The applicant for the building sewer permit shall notify the Superintendent when the building sewer is ready for inspection and connection to the public sewer. The connection and testing shall be made under the supervision of the Superintendent or his or her representative.

Source: 1986 Rev. Ord. 36, 12/18/86; Ord. 50, Art. III, Sec. 10, 11/29/89; **Authority:** SDCL 9-48-2.

5-2-19 STREET EXCAVATIONS FOR SEWER WORK - HAZARD WARNINGS – RESTORATION OF STREETS & PUBLIC PROPERTY

All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the works shall be restored in a manner satisfactory to the City.

Source: 1986 Rev. Ord. 36, 12/18/86; Ord. 50, Art. III, Sec. 11, 11/29/89; **Authority:** SDCL 9-48-2.

5-2-20 WATER RUNOFF PROHIBITED IN SEWER - EXCEPTION

No person(s) shall discharge or cause to be discharged any unpolluted waters such as storm water, surface water, groundwater, roof runoff, subsurface drainage, or cooling water to any sewer, except storm water runoff from limited areas, which storm water may be polluted at times, may be discharged to the sanitary sewer by permission of the superintendent.

Source: 1986 Rev. Ord. 36, 12/18/86; Ord. 50, Art. IV, Sec. 1, 11/29/89; **Authority:** SDCL 9-48-2.

5-2-21 STORM WATER TO BE DISCHARGED TO DESIGNATED SEWERS

Storm water other than that exempted under Section 5-2-20 of this Code and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as combined sewers or storm sewers, or to a natural outlet approved by the Superintendent and other regulatory agencies. Unpolluted industrial cooling water or process waters may be

discharged, on approval of the superintendent, to a storm sewer, combined sewer, or natural outlet.

Source: 1986 Rev. Ord. 36, 12/18/86; Ord. 50, Art. IV, Sec. 2, 11/29/89; **Authority:** SDCL 9-48-2.

5-2-22 PROHIBITED DISCHARGES INTO SEWER SYSTEM

No person(s) shall discharge or cause to be discharged any of the following described water or wastes to any public sewers:

- (1) Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid, or gas.
- (2) Any waters containing toxic or poisonous solids, liquids, or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the waste water treatment plant.
- (3) Any waters or wastes having a pH lower than 5.5, or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the waste water works.
- (4) Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the waste water facilities such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, milk containers, etc. either whole or ground by garbage grinders.

Source: 1986 Rev. Ord. 36, 12/18/86; Ord. 50, Art. IV, Sec. 3, 11/29/89; **Authority:** SDCL 9-48-2.

5-2-23 CERTAIN DISCHARGES TO SEWER SYSTEM - LIMITATION IN QUANTITY - APPROVAL OF CITY-- LOWER LIMITS AUTHORIZED

The following described substances, materials, waters, or waste shall be limited in discharges to municipal systems to concentrations or quantities which will not harm either the sewers, waste water treatment process or equipment, will not have an adverse effect on the receiving stream, or will not otherwise endanger lives, limb, public property, or constitute a nuisance. The Superintendent may set limitations lower than the limitations established in the regulations below if in his or her opinion such more severe limitations are necessary to meet the above objectives. In forming his or her opinion as to the acceptability, the Superintendent will give consideration to such factors as the quantity of subject waste in relation to flows and velocities in the sewers, materials of construction of the sewers, the waste water treatment process employed, capacity of the waste water treatment plant, degree of treatability of the waste in the waste water treatment plant, and other pertinent factors. The limitations or restrictions on materials or characteristics of waste or waste waters discharged to the sanitary sewer which shall not be violated without approval of the Superintendent are as follows:

- (1) Waste water having a temperature higher than 150 degree Fahrenheit (65 degrees Celsius).
- (2) Waste water containing more than 25 milligrams per liter of petroleum oil, non-biodegradable cutting oils, or product of mineral oil origin.
- (3) Waste water from industrial plants containing floatable oils, fat, or grease.

(4) Any garbage that has not been properly shredded (See Code §5-2-2). However, garbage grinders may be connected to sanitary sewers from homes, hotels, institutions, restaurants, hospitals, catering establishments, or similar places where garbage originates from the preparation of food in kitchens for the purpose of consumption on the premises or when served by caterers.

(5) Any waters or wastes containing iron, chromium, copper, zinc and similar objectionable or toxic substances to such degree that any such material received in the composite waste water at the waste water treatment works exceeds the limits established by the Superintendent for such materials.

(6) Any waters or wastes containing odor-producing substances exceeding limits which may be established by the superintendent.

(7) Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Superintendent in compliance with applicable state or federal regulations.

(8) Quantities of flow, concentrations, or both which constitute a "slug" as defined herein.

(9) Waters or wastes containing substances which are not amenable to treatment or reduction by the waste water treatment processes employed, or are amenable to treatment only to such degree that the waste water treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.

(10) Any water or wastes which, by interaction with other water or wastes in public sewer system, release obnoxious gases, form suspended solids which interfere with the collection system, or create a condition deleterious to structures and treatment processes.

Source: 1986 Rev. Ord. 36, 12/18/86; Ord. 50, Art. IV, Sec. 4, 11/29/89; **Authority:** SDCL 9-48-2; **Cross-Ref:** Code 5-2-22.

5-2-24 REMEDIES OF CITY FOR IMPROPER DISCHARGE OF WASTES - FACTORS TO BE CONSIDERED

If any water or wastes are discharged, or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in Section 5-2-22 of this Code and which in the judgment of the superintendent, may have a deleterious effect upon the waste water facilities, processes, equipment, or receiving waters, or which otherwise create a hazard to life or waters, or which otherwise create a hazard to life or constitute a public nuisance, the Superintendent may:

- (1) Reject the wastes;
- (2) Require pretreatment to an acceptable condition for discharge to the public sewers;
- (3) Require control over the quantities and rates of discharge; and/or
- (4) Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges under the provisions of Section 5-2-28 of the Code.
- (5) Pursue any other legal remedies.

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

Source: 1986 Rev. Ord. 36, 12/18/86; Ord. 50, Art. IV, Sec. 5, 11/29/89; 2016 Rev. Ord. 203, 6/15/2016; **Authority:** SDCL 9-48-2; **Cross-Ref:** Code 5-2-22, 5-2-28.

5-2-25 USE OF GREASE, OIL, SAND INTERCEPTORS - WHEN REQUIRED

Grease, oil, and sand interceptors shall be provided when, in the opinion of the superintendent, they are necessary for the proper handling of liquid wastes containing floatable grease in excessive amounts as specified in Code Section 5-2-22 or any flammable wastes, sand, or other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the superintendent, and shall be located as to be readily and easily accessible for cleaning and inspection. In the maintaining of these interceptors, the owner(s) shall be responsible for the proper removal and disposal by appropriate means of the captivated material and shall maintain records of the dates and means of disposal which are subject to review by the superintendent. Any removal and hauling of the collected materials not performed by owner(s) personnel must be performed by currently licensed waste disposal firms.

Source: 1986 Rev. Ord. 36, 12/18/86; Ord. 50, Art. IV, Sec. 6, 11/29/89; **Authority:** SDCL 9-48-2; **Cross-Ref:** Code 5-2-22.

5-2-26 PRETREATMENT OR OTHER FACILITIES - COSTS BORNE BY USER

Where pretreatment or flow-equalizing facilities are provided or required for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner(s) at his or her expense.

Source: 1986 Rev. Ord. 36, 12/18/86; Ord. 50, Art. IV, Sec. 7, 11/29/89; **Authority:** SDCL 9-48-2; **Cross-Ref:** Code 5-2-22.

5-2-27 OWNER TO PROVIDE SAMPLING FACILITIES AT CITY REQUEST - PLANS

When required by the superintendent, the owner(s) of any property serviced by a building sewer carrying industrial wastes shall install a suitable structure together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling, and measurement of the wastes. Such structures, when required, shall be accessible and safely located, and shall be constructed in accordance with plans approved by the superintendent. The structure shall be installed by the owner at his or her expense, and shall be maintained by him so as to be safe and accessible at all times.

Source: 1986 Rev. Ord. 36, 12/18/86; Ord. 50, Art. IV, Sec. 8, 11/29/89; **Authority:** SDCL 9-48-2.

5-2-28 SEWER USAGE DATA TO BE PROVIDED CITY UPON REQUEST- DATA REQUIRED

The Superintendent may require a user of sewer services to provide information needed to determine compliance with this Title. These requirements may include:

- (1) Waste waters discharge peak rate and volume over a specified time period;
- (2) Chemical analyses of waste waters;
- (3) Information on raw materials, processes, and products affecting waste water volume and quality;
- (4) Quantity and disposition of specific liquid, sludge, oil, solvent, or other materials important to sewer use control;
- (5) A plot plan of sewers of the user's property showing sewer and pretreatment facility location;

- (6) Details of waste water pretreatment facilities; and
- (7) Details of systems to prevent and control the losses of materials through spills to the municipal sewer.

Source: 1986 Rev. Ord. 36, 12/18/86; Ord. 50, Art. IV, Sec. 9, 11/29/89; **Authority:** SDCL 9-48-2.

5-2-29 ANALYSIS OF SEWERAGE - STANDARDS USED

All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this Chapter shall be determined in accordance with the latest edition of "Standard Methods for the Examination of Water and Waste water," published by the American Public Health Association. Sampling methods, location, times, durations, and frequencies are to be determined on an individual basis subject to approval by the superintendent.

Source: 1986 Rev. Ord. 36, 12/18/86; Ord. 50, Art. IV, Sec. 10, 11/29/89; **Authority:** SDCL 9-48-2.

5-2-30 VARIANCES TO QUANTITY AND QUALITY OF DISCHARGE – APPROVAL OF CITY REQUIRED

No statement contained in this Chapter shall be construed as preventing any special agreement or arrangement between the City and industrial concern whereby an industrial waste of unusual strength or character may be accepted by the City for treatment.

Source: 1986 Rev. Ord. 36, 12/18/86; Ord. 50, Art. IV, Sec. 11, 11/29/89; **Authority:** SDCL 9-48-2.

5-2-31 DAMAGE TO SEWER FACILITIES - VIOLATION AS CRIMINAL OFFENSE

No person(s) shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenances or equipment which is a part of the waste water facilities.

Source: 1986 Rev. Ord. 36, 12/18/86; Ord. 50, Art. V, Sec. 1, 11/29/89; **Authority:** SDCL 9-19-3, 9-48-2.

5-2-32 INSPECTION BY CITY OF FACILITIES CONNECTED TO SYSTEM

The Superintendent and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all private properties for the purposes of inspection, observation, measurement, sampling, and testing pertinent to discharge to the municipal sewer system in accordance with the provisions of this Chapter.

Source: 1986 Rev. Ord. 36, 12/18/86; Ord. 50, Art. VI, Sec. 1, 11/29/89; **Authority:** SDCL 9-19-3, 9-48-2.

5-2-33 RELEASE OF DATA TO CITY CONCERNING DISCHARGES TO SYSTEM EXCEPTIONS

The Superintendent or other duly authorized employees are authorized to obtain information concerning industrial processes which have a direct bearing on the kind and source of discharge to the waste water collection system. The user may withhold information considered confidential. The user must establish that the revelation to the public of the information in question might result in an advantage to competitors.

Source: 1986 Rev. Ord. 36, 12/18/86; Ord. 50, Art. VI, Sec. 2, 11/29/89; **Authority:** SDCL 9-19-3, 9-48-2.

5-2-34 GATHERING OF DATA BY CITY EMPLOYEES - USER HELD HARMLESS EXCEPTION

While performing the necessary work on private properties referred to in Section 5-2-32 above, the Superintendent or duly authorized employees of the City shall observe all safety rules applicable to the premises established by the company, and the company shall be held harmless for injury or death to the City employees and against liability claims and demands for personal injury or property damage asserted against the company growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions as required in Code Section 5-2-26.

Source: 1986 Rev. Ord. 36, 12/18/86; Ord. 50, Art. VI, Sec. 3, 11/29/89; **Authority:** SDCL 9-19-3, 9-48-2; **Cross-Ref:** Code 5-2-32 & 5-2-26.

5-2-35 RIGHT OF ENTRY BY CITY THROUGH EASEMENTS FOR INSPECTION PURPOSES

The Superintendent and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all private properties through which the City holds a duly negotiated easement or duly executed facilities agreement, for the purposes of but not limited to, inspection, observation, measurement, sampling, repair and maintenance of any portion of the waste water facilities appurtenant to said easement or facilities of any, on said easement, shall be done in full accordance with the terms of the duly negotiated easement or other agreement pertaining to the private property involved.

Source: 1986 Rev. Ord. 36, 12/18/86; Ord. 50, Art. VI, Sec. 4, 11/29/89; **Authority:** SDCL 9-19-3, 9-48-2.

5-2-36 COMMERCIAL WASTE WATER PUMPERS USING CITY FACILITIES - LICENSE REQUIRED -- FEES

Any person or persons, or partnership, or corporation acting as commercial pumpers of septic tank, cesspools, portable toilets, or similar facilities and who wish to use city's waste water stabilization ponds (sewage lagoons) shall be required to procure a license from the City, which will be available at City Hall. Said license fee shall be Two-hundred Sixty dollars (\$260.00) per year, payable by January 31 of each year at City Hall, which licenses entitles the bearer to haul fifty-two (52) loads a year.

Source: Ord. 81, Sec. 1, 10/26/84; **Authority:** SDCL 9-48-2.

5-2-37 COMMERCIAL WASTE WATER PUMPERS - EXCESS LOADS - SURCHARGE

Any loads in excess of fifty-two (52) loads a year shall be charged at the rate of five dollars (\$5.00) per load payable in cash at the time the load is dumped, at the City Office.

Source: Ord. 81, Sec. 2, 10/26/84; **Authority:** SDCL 9-48-2.

5-2-38 COMMERCIAL WASTE WATER PUMPERS – LOGBOOKS - SPILLS

The licensee will be required to maintain a log which will contain the time, the date, the approximate volume and the type of effluent being deposited in the primary pond at the sewer lagoon. Effluent will only be discharged into the primary ponds. Any accidental spillage of

effluent on or around the structure shall be cleaned up by the licensee. The licensee must contact the City Hall for access through the gates of the stabilization ponds. The City foreman or his or her designee will sign off on the log book to insure compliance with this Chapter.

Source: Ord. 81, Sec. 3, 10/26/84; **Authority:** SDCL 9-48-2.

5-2-39 COMMERCIAL WASTE WATER PUMPER - BOND REQUIRED

The licensee shall be required to post a One Thousand Dollar (\$1,000.00) bond in favor of the City to insure proper performance.

Source: Ord. 81, Sec. 5, 10/26/84; **Authority:** SDCL 9-48-2.

5-2-40 COMMERCIAL WASTE WATER PUMPER - OFF HOUR OPENING OF SEWER LAGOONS - FEE THEREFORE

The sewer lagoons may be unlocked on Saturday, Sunday, or holidays provided the person requesting this service shall pay to the City the attending employee's wages at the rate of time and one-half plus benefits. The minimum charge of this service shall be fifty dollars (\$50.00).

Source: Ord. 81, Sec. 6, 10/26/84; **Authority:** SDCL 9-48-2.

5-2-41 VIOLATION OF CHAPTER - NOTICE OF VIOLATIONS

Any person found to be violating any provision of this Chapter shall be served by the City with written notice stating the nature of the violation and providing reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.

Source: 1986 Rev. Ord. 36, 12/18/86; Ord. 50, Art. VII, Sec. 1, 11/29/89; **Authority:** SDCL 9-48-2.

5-2-42 PENALTIES OF VIOLATION OF CHAPTER – FINES -- EACH DAY AS CONTINUING OFFENSE

Any person who shall continue any violation beyond the time limit provided for in 5-2-41 shall be guilty of a misdemeanor, and on conviction thereof shall be fined in the amount not exceeding two hundred (200) dollars for each violation. Each day in which any such violation shall continue shall be deemed a separate offense.

Source: 1986 Rev. Ord. 36, Sec. 12, 12/18/86; Ord. 50, Art. VII, Sec. 2, 11/29/89; **Authority:** SDCL 9-48-2; **Cross-Ref:** 5-2-35.

5-2-43 LIABILITY TO CITY FOR VIOLATION OF CHAPTER - ADDITIONAL PENALTIES

Any person violating any of the provisions of this Chapter shall become civilly liable to the City for any expense, loss, or damage occasioned the City by reason of such violation. Such remedies may be in addition to any other criminal or civil penalties sought by the City.

Source: 1986 Rev. Ord. 36, 12/18/86; Ord. 50, Art. VII, Sec. 3, 11/29/89; **Authority:** SDCL 9-48-2; **Cross-Ref:** Code Ch. 2-1.

5-2-44 CITY SHALL NOT BE LIABLE FOR DAMAGE

The city shall not be liable for any damage to the property of any customer of any utility service furnished by the city due to backflow of the wastewater system, failure of water supply, interruption of service or any cause outside the direct control of the city. Should the City provide any devices for the customer to install in furtherance of the effective use of the utility service, the City shall not be liable for device failure, malfunction, improper installation, or any damage and loss derived from use of the device.

Source: 2020 Ord. 221, 9/09/20; **Authority:** SDCL 9-48-2; **Cross-Ref:** Code Ch. 2-1.

5-2-45 RULES AND REGULATIONS

The rules and regulations prescribed by this chapter shall not be considered as a contract between the City and any parties affected thereby in a manner as to prohibit the Council from altering or amending the same, or from establishing such additional and reasonable regulations as may from time to time appear to be necessary.

Source: 2020 Ord. 222, 9/09/20; **Authority:** SDCL 9-48-2; **Cross-Ref:** Code Ch. 2-1.

Chapter 5-3

SEWER SYSTEM RATES & CHARGES

Sections:

- 5-3-1 General Rates – Residential Users – Average Strength Waste
- 5-3-2 General Rates – Residential Users – Multiple Users
- 5-3-3 No Proration of Sewer Service Fees
- 5-3-4 Multiple Resident or Commercial Rates
- 5-3-5 General Rates – Commercial Users
- 5-3-6 Commercial Users – WGH Strength Waste – Surcharge
- 5-3-7 Residential Users – High Strength Waste- Surcharge
- 5-3-8 Rate Surcharge – Findings
- 5-3-9 Rate Variance – Application to and Consideration by Council
- 5-3-10 Billing of Charges by City
- 5-3-11 Establishment of Replacement Fund – Deposits thereto
- 5-3-12 Purpose of Rate Structure
- 5-3-13 Determination of Rates – By Engineer and City
- 5-3-14 Determining Each User’s Waste Water Contribution Percentage
- 5-3-15 Establishing Surcharge for Excess BOD & TSS
- 5-3-16 Determining Each User’s Waste Water Service Charge
- 5-3-17 Payment of the User’s Waste Water Service Charge and Penalties
- 5-3-18 Review of Each User’s Waste Water Service Charge
- 5-3-19 Wastes not to be Discharged into Waste Water Treatment System – Liability for Improper Discharge
- 5-3-20 Prohibition of Clear Water Connections
- 5-3-21 City Shall Not be Liable for Damage
- 5-3-22 Rules and Regulations

5-3-1 GENERAL RATES - RESIDENTIAL USERS - AVERAGE STRENGTH WASTE

Residential users are considered to be one class of user and are assessed a charge of \$11.00 per month. Non-residential users with flows no greater than 2,000 gallons per month and with BOD and TSS no greater than the average residential user's strength of 250 ppm BOD and 250 ppm TSS will pay the same charge of \$11.00 per month as the average residential user.

Source: 1986 Rev. Ord. 36, 12/18/86; Ord. 50, Appx. B., 11/29/89; Ord. 76, 11/17/93; Ord. 96, 11/13/96;

Authority: SDCL 9-48-26.

5-3-2 GENERAL RATES - RESIDENTIAL USERS - MULTIPLE USERS

It is further provided that where more than one residence is serviced through a single water meter, even though such additional residences may be metered separately and billed separately for water service, that each such separate residence shall be charged separate sewer collection fee, and that non-payment of the sewer bill for any one of the houses or living quarters may be used as the basis for disconnecting the water service to said units. Trailer houses in a trailer park shall be considered as separate residences, as are apartment houses, motels, etc. They

are subject to the provisions of this Chapter, as are single-family houses with apartments and separate rooms, or duplexes.

Source: Ord. 97(A) and 97(B), 4/9/97; **Authority:** SDCL 9-48-26.

5-3-3 NO PRORATION OF SEWER SERVICE FEES

If water service is turned on for any single day or more per month, a full month's charge shall be assessed for sewer service.

Source: Ord. 97(A) and 97(B), 4/9/97; **Authority:** SDCL 9-48-26.

5-3-4 MULTIPLE RESIDENT OR COMMERCIAL RATES

If a building is housing two commercial businesses or a house has an apartment within, with only one water line, one water service fee will be charged, but there will be two sewer and two garbage service fees charged.

Source: Ord. 97(A) and 97(B), 4/9/97; **Authority:** SDCL 9-48-26.

5-3-5 GENERAL RATES - COMMERCIAL USERS

Non-residential (commercial) users with volumes greater than the average residential user will pay an additional charge of \$1.00 per 1,000 gallons per month for all flows greater than the average residential user's flow of 2,000 gallons per month.

Source: 1986 Rev. Ord. 36, 12/18/86; Ord. 50, Appx. B., 11/29/89; Ord. 76, 11/17/93; Ord. 96, 11/13/96;
Authority: SDCL 9-48-26.

5-3-6 COMMERCIAL USERS - WGH STRENGTH WASTE - SURCHARGE

Any non-residential (commercial) user with BOD and TSS greater than the average residential user's strength of 250 ppm BOD and 250 ppm TSS will pay a surcharge in accordance with the rates shown in the surcharge rate schedule.

Source: 1986 Rev. Ord. 36, 12/18/86; Ord. 50, Appx. B., 11/29/89; **Authority:** SDCL 9-48-26.

5-3-7 RESIDENTIAL USERS - HIGH STRENGTH WASTE - SURCHARGE

A residential owner or occupant with a premise situated outside of the City limits of Martin, which has been authorized and is being serviced by the City for water and sewer service shall be assessed a sewer service charge of \$16.00 per month.

Source: 1986 Rev. Ord. 36, 12/18/86; Ord. 50, Appx. B., 11/29/89; Ord. 76, 11/17/93; Ord. 96, 11/13/96;
Authority: SDCL 9-48-26.

5-3-8 RATE SURCHARGE - FINDINGS

The City of Martin, or its Engineer, has determined that the average Total Suspended Solids (TSS) and 5-day Biochemical Oxygen Demand (BOD) daily loadings for the average residential user are 250 ppm BOD and 250 ppm TSS. The City of Martin, or its Engineer, has assessed a surcharge rate for all non-residential (commercial) users discharging wastes with BOD and TSS strengths greater than the average residential user. The surcharge will be sufficient to cover the costs of treating such users' above normal strength wastes. Such users will

pay an additional service charge of 25 cents per 1,000 gallons for each 25 ppm over 250 ppm of BOD and 25 cents per 1,000 gallons for each 25 ppm over 250 ppm TSS.

Source: 1986 Rev. Ord. 36, 12/18/86; Ord. 50, Appx. B., 11/29/89; **Authority:** SDCL 9-48-26.

5-3-9 RATE VARIANCE - APPLICATION TO AND CONSIDERATION BY COUNCIL

The owner or occupant of any commercial premise who, by reason of special circumstances, finds the foregoing rates unjust or inequitable as applied to his or her premises, may make written application to the governing body stating such circumstances and requesting a different basis of charges for sewer service to his or her premises; and if such application be approved, the governing body shall by resolution fix and establish fair and equitable rates for such premises during the period of such special circumstances.

Source: 1986 Rev. Ord. 36, 12/18/86; Ord. 50, Appx. B., 11/29/89; **Authority:** SDCL 9-48-26.

5-3-10 BILLING OF CHARGES BY CITY

The City Office shall prepare monthly duplicate statements of charges for each customer and mail on the first of the month. Sewer charge bills are due by the 20th of the month.

Source: 1986 Rev. Ord. 36, 12/18/86; Ord. 50, Appx. B., 11/29/89; **Authority:** SDCL 9-48-26.

5-3-11 ESTABLISHMENT OF REPLACEMENT FUND - DEPOSITS THERETO

A reserve fund called the Waste Water Facilities Replacement Fund is hereby established within the waste water utility fund for the purpose of providing sufficient funds to be expended for obtaining and installing equipment, accessories and appurtenances during the useful life (20 years) of the waste water treatment facilities necessary to maintain the capacity and performance for which such facilities are designed and constructed. The reserve fund called the Waste Water Treatment Facilities Replacement Fund established within the waste water utility fund as an interest-bearing account shall be funded by a deposit of at least \$700.00.

Source: 1986 Rev. Ord. 36, 12/18/86; Ord. 50, Appx. C, Att. A, Sec. 5, 11/29/89; **Authority:** SDCL 9-48-26.

5-3-12 PURPOSE OF RATE STRUCTURE

The purpose of this Title shall be to generate sufficient revenue to pay all cost for the operation and maintenance of the complete waste water system. The costs shall be distributed to all users of the system in proportion to each user's contribution to the total loading of the treatment works. Factors such as strength Biochemical Oxygen Demand and Total Suspended Solids (BOD and TSS), volume, and delivery flow rate characteristics shall be considered and included as the basis for the user's contribution to ensure a proportional distribution for operation and maintenance costs to each user (or user class).

Source: 1986 Rev. Ord. 36, 12/18/86; Ord. 50, Att. A, Sec. 1, 11/29/89; **Authority:** SDCL 9-48-26.

5-3-13 DETERMINATION OF RATES - BY ENGINEER AND CITY

The City of Martin or its Engineer, shall determine the total annual costs of operation and maintenance of the waste water system which are necessary to maintain the capacity and performance, during the service life of the treatment works, for which such works were designed and constructed. The total annual cost of operation and maintenance shall include, but need not

be limited to, labor, repairs, equipment replacement, maintenance, necessary modifications, power, sampling, laboratory test, and a reasonable contingency fund.

Source: 1986 Rev. Ord. 36, 12/18/86; Ord. 50, Att. A, Sec. 2, 11/29/89; **Authority:** SDCL 9-48-26.

5-3-14 DETERMINING EACH USER'S WASTE WATER CONTRIBUTION PERCENTAGE

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

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

Source: 1986 Rev. Ord. 36, 12/18/86; Ord. 50, Att. A, Sec. 3, 11/29/89; **Authority:** SDCL 9-48-26.

5-3-15 ESTABLISHING SURCHARGE FOR EXCESS BOD & TSS

The City of Martin, or its Engineer, will assess a surcharge rate for all non-residential (commercial) users discharging wastes with BOD and TSS strengths greater than the average residential user. Such users will be assessed a surcharge sufficient to cover the cost of treating their above normal strength wastes. Normal strength wastes are considered to be 250 ppm BOD and 250 ppm TSS.

Source: 1986 Rev. Ord. 36, 12/18/86; Ord. 50, Att. A, Sec. 4, 11/29/89; **Authority:** SDCL 9-48-26.

5-3-16 DETERMINING EACH USER'S WASTE WATER SERVICE CHARGE

Each non-residential (commercial) user's waste water treatment cost contributions as determined in this Chapter shall be added together to determine such user's annual waste water service charge. Residential users may be considered to be one class of user and an equitable service charge may be determined of each user based on an estimate of the total waste water contribution of this class of user. The governing body may classify industrial, commercial, and other nonresidential establishments as a residential user, provided that the wastes from these establishments are equivalent to the wastes from the average residential users with respect to volume, TSS, and BOD.

Source: 1986 Rev. Ord. 36, 12/18/86; Ord. 50, Att. A, Sec. 4, 11/29/89; **Authority:** SDCL 9-48-26.

5-3-17 PAYMENT OF THE USER'S WASTE WATER SERVICE CHARGE AND PENALTIES

The City shall submit a monthly statement to the user for the user's monthly waste water service charge. The City shall add a penalty of 10% per month if payment is not received by the City by the 20th of the month. Should any user fail to pay the user waste water service charge and penalty within two months of the due date, the City may stop the waste water service to the property. Each user will be notified, at least annually, in conjunction with a regular bill, of the rate and that portion of the user charges which are attributable to waste water treatment services.

Source: 1986 Rev. Ord. 36, 12/18/86; Ord. 50, Att. A, Sec. 7, 9, 11/29/89; **Authority:** SDCL 9-48-26.

5-3-18 REVIEW OF EACH USER'S WASTE WATER SERVICE CHARGE

The City shall review the total annual cost of operation and maintenance as well as each user's waste water Contribution Percentage not less often than every two years and will revise the system as necessary to assure equity of the service charge system established herein and to assure that sufficient funds are obtained to adequately operate and maintain the waste water treatment works. The City shall apply excess revenues collected from a class of users to the costs of operation and maintenance attributable to that class for the next year and adjust the rate accordingly. If a significant user, such as an industry, has completed in-plant modification which would change that user's waste water contribution percentage, the user can present, at a regularly scheduled meeting of the governing body, such factual information and the City shall then determine if the user's waste water contribution percentage is to be changed. The City shall notify the user of its findings and decision as soon as possible.

Source: 1986 Rev. Ord. 36, 12/18/86; Ord. 50, Att. A, Sec. 8, 11/29/89; **Authority:** SDCL 9-48-26.

5-3-19 WASTES NOT TO BE DISCHARGED INTO WASTE WATER TREATMENT SYSTEM - LIABILITY FOR IMPROPER DISCHARGE

(1) The discharge of any waters containing toxic or poisonous solids, liquids, or gases in sufficient quantity, either singly, or by interaction with other wastes, to contaminate the sludge of any municipal systems, or to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in or have any adverse effect on the waters receiving any discharge from the treatment works is hereby prohibited.

(2) Each user which discharges any toxic pollutants which cause an increase in the cost of managing the effluent or the sludge of the City's waste water treatment works shall pay for such increased costs.

Source: 1986 Rev. Ord. 36, 12/18/86; Ord. 50, Att. A, Sec. 10, 11/29/89; **Authority:** SDCL 9-48-26.

5-3-20 PROHIBITION OF CLEAR WATER CONNECTIONS

No person shall make connection of roof downspout, exterior foundation drains, areaway drains, or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer.

Source: 1986 Rev. Ord. 36, 12/18/86; Ord. 50, Att. A, Sec. 11, 11/29/89; **Authority:** SDCL 9-48-26.

5-3-21 CITY SHALL NOT BE LIABLE FOR DAMAGE

The city shall not be liable for any damage to the property of any customer of any utility service furnished by the city due to backflow of the wastewater system, failure of water supply, interruption of service or any cause outside the direct control of the city. Should the City provide any devices for the customer to install in furtherance of the effective use of the utility service, the City shall not be liable for device failure, malfunction, improper installation, or any damage and loss derived from use of the device.

Source: 2020 Ord. 221, 9/09/20; **Authority:** SDCL 9-48-26.

5-3-22 RULES AND REGULATIONS

The rules and regulations prescribed by this chapter shall not be considered as a contract between the City and any parties affected thereby in a manner as to prohibit the Council from altering or amending the same, or from establishing such additional and reasonable regulations as may from time to time appear to be necessary.

Source: 2020 Ord. 222, 9/09/20; **Authority:** SDCL 9-48-26.

Chapter 5-4

MUNICIPAL GARBAGE COLLECTION

Sections:

- 5-4-1 Definitions
- 5-4-2 Classification of Premises – Request to Council - Variance
- 5-4-3 Use of Garbage Cans or Containers
- 5-4-4 Burning of Garbage and Rubbish
- 5-4-5 Garbage Containers – Duty of Residents to Provide
- 5-4-6 Garbage Containers for Commercial Establishments
- 5-4-7 Accumulation of Non-food Wastes – Use of Garbage Containers
- 5-4-8 Placement of Paper Wastes
- 5-4-9 Excessive Accumulation of Rubbish – Action by Council to Discontinue Service – Resolution Required.
- 5-4-10 Accumulation of Bulk Wastes – Disposition of
- 5-4-11 Collection of Garbage – Times set by Council
- 5-4-12 Municipal Landfill – Designation of – Certain Dumping or Scavenging Prohibited
- 5-4-13 Municipal Landfill – Requirement of Operation
- 5-4-14 Municipal Landfill – Waste Reduction Targets – Local Option
- 5-4-15 Municipal Landfill – Usage Rates Set by Council
- 5-4-16 Garbage Collection Rates
- 5-4-17 Requirement of Garbage Service with Water Service – Exception
- 5-4-18 Billing and Collection of Garbage Fees – Discontinuance of Service
- 5-4-19 Garbage Collection Fees – Additional Water Meters – Separate Residences – Trailer Homes and Trailer Parks
- 5-4-20 No Proration of Garbage Collection Service Fees
- 5-4-21 Multiple Resident or Commercial Rates
- 5-4-22 Establishment and Maintenance of Sanitation Fund – Fines and Fees
- 5-4-23 Inspection of Alleys, Buildings, and Other Areas Served by City
- 5-4-24 Penalties

5-4-1 DEFINITIONS

The terms as used in this Chapter are defined as follows:

(1) “**Garbage**” shall mean all animal and vegetable wastes resulting from the handling, cooking and consumption of foods originating in kitchens, stores, markets, restaurants, hotels, and other places where food is stored, cooked and consumed.

(2) “**Rubbish**” shall mean all combustible and non-combustible waste materials from households, stores and institutions consisting of tin cans, bottles, papers, straw, leaves, ashes, lawn cuttings and tree limbs from any premises within the City limits.

(3) “**Refuse**” shall be interpreted to mean all solid wastes including garbage-and rubbish.

(4) “**Premises**” shall be taken to mean business houses, boarding houses, offices, theaters, hotels, restaurants, cafes, eating houses, tourist courts, apartment buildings, sanitariums, rooming houses, schools, rest homes, private residences, vacant lots and other places within the City limits where refuse, either garbage or rubbish accumulates.

(5) “**Owner**” shall mean the actual owner of the buildings, either individual, partnership or corporation, the agent of the owner in charge of said buildings, or the person to whom the rental upon said building is paid.

(6) “**Occupant**” shall mean the individual, partnership or corporation that has the use of or occupies any building or lot, or a portion thereof, whether the actual owner, tenant or subtenant. In the case of vacant buildings or lots, or any portion thereof, the owner, agents or other person having custody of said building or lot shall have the responsibility of the occupant of said building or lot.

(7) “**City Health Officer**” shall mean the duly appointed City Health Officer or their duly authorized representative.

(8) “**Single Family Residence**” shall be taken to mean the premises providing living quarters for one family, including full kitchen facilities for such single family.

(9) “**Multiple Family Residence**” shall be taken to mean those premises providing living quarters for more than one family with full kitchen facilities for each such family residing therein.

(10) “**Commercial Premises**” shall mean those premises used as a business house, boarding house, theater, hotel, restaurant, cafe, eating house, tourist court, apartment building, sanitarium, rooming house, school, rest home or any building or enclosure in which the retail or wholesale selling of any goods wares or merchandise is made available to the public generally.

Source: 1986 Rev. Ord. 37, Secs. 1-7, 9-11, 12/18/86; **Authority:** SDCL 9-32-11; Cross-Ref: Code Sec. 1-1-1

5-4-2 CLASSIFICATION OF PREMISES - REQUEST TO COUNCIL - VARIANCE

Provided further that if there is presented any situation which does not clearly fall in either the single family residence, multiple family residence or commercial premises classification, or if a question arises as to such proper classification, the person so affected shall make a written or verbal application to the governing body stating such circumstance, and the governing body by resolution shall fix and establish the proper determination and classification of such premise.

Source: 1986 Rev. Ord. 37, Sec. 12, 12/18/86; **Authority:** SDCL 9-32-11.

5-4-3 USE OF GARBAGE CANS OR CONTAINERS

All refuse which originates on the residential or commercial premises shall be placed in containers not to exceed 30 gallons in capacity, unless approved by the City Council. There shall be sufficient number of containers to avoid overfilling between pick-up times. Multiple Family Units and Commercial accounts (premises) may use large containers approved by the City Council. Refuse containers shall be confined or tied down so as to prevent them from tipping over or allowing loose trash to blow onto city streets or for containers to blow over city streets.

Source: 1986 Rev. Ord. 37, Sec. 8; Ord. 90, 8/30/95; Ord. 132, 5/5/04; **Authority:** SDCL 9-32-11.

5-4-4 BURNING OF GARBAGE OR RUBBISH

Unless approved by the City Council, no garbage or rubbish shall be burned, either inside or outside of a structure, within the City Limits.

Source: 1986 Rev. Ord. 37, Sec. 15, 12/18/86; **Authority:** SDCL 9-32-11, 34A-1-18; see also 34A-6-1.4 and SDCL Title 34.

5-4-5 GARBAGE CONTAINERS - DUTY OF RESIDENTS TO PROVIDE

Every person in possession of any residence, apartment or rooming house in the City, shall furnish and provide for use in connection therewith, containers as heretofore described, as may be necessary to hold the accumulating garbage therefrom between collection periods. All refuse shall be well drained before placing the same in the containers above-described. Articles such as stones, gravel, wire or scrap metal other than tin cans, lawn refuse, including but not limited to leaves, grass clippings, tree branches and ashes, shall not be placed in refuse containers. A violation of this section shall be punishable by a fine as specified in Chapter 1-5 the Fine and Bond Schedule.

Source: 1986 Rev. Ord. 37, Sec. 17; Ord. 132, 5/5/04; Ord. 240, 11/15/22; Ord. 244, 12/13/2022. **Authority:** SDCL 9-32-11.

5-4-6 GARBAGE CONTAINERS FOR COMMERCIAL ESTABLISHMENTS

Every owner or person in charge of any business establishment or commercial premise having garbage or rubbish as defined by this title, shall furnish and provide for use in connection therewith, a garbage or reuse container large enough to hold one day accumulation of such material. Such container shall be constructed of metal or masonry and shall have metal covers for all openings and shall be emptied often enough to prevent the same from giving off any odor or stench.

Source: 1986 Rev. Ord. 37, Sec. 18; **Authority:** SDCL 9-32-11.

5-4-7 ACCUMULATION OF NON-FOOD WASTES - USE OF GARBAGE CONTAINERS

All ordinary accumulations of rubbish such as tree limbs or scrap lumber which cannot be conveniently placed in the containers required under this Title, shall be gathered together, tied or stacked into compact bundles, by the premises occupant, and placed in a location easily accessible to the garbage collector, adjacent to the garbage cans, bags, or other garbage containers.

Source: 1986 Rev. Ord. 37, Sec. 20; **Authority:** SDCL 9-32-11.

5-4-8 PLACEMENT OF PAPER WASTES

Cardboard boxes, waste papers, and other paper products or packaging and like materials awaiting pickup, shall be placed in such condition and in such manner that the same will not blow or scatter about.

Source: 1986 Rev. Ord. 37, Sec. 21; **Authority:** SDCL 9-32-11.

5-4-9 EXCESSIVE ACCUMULATION OF RUBBISH - ACTION BY COUNCIL TO DISCONTINUE SERVICE - RESOLUTION REQUIRED

Any premises or lot where excessive accumulations of garbage may be found so as to make it unfeasible for the collector to pick up during his/her regular rounds, either due to the quantity or nature of the refuse may be rejected for pickup by the City. Before the City collection will cease at such lot or premises, the Council, by resolution, shall state the specific reasons, in writing, of the factors which prevent the City from providing such service to the lot or premises, and such accumulation shall then be removed and disposed of at the expense of the owner or person having same in charge under permission and direction of the City Council.

Source: 1986 Rev. Ord. 37, Sec. 22; **Authority:** SDCL 9-32-11.

5-4-10 ACCUMULATION OF BULK WASTES - DISPOSITION OF

Heavy accumulations such as brush, broken concrete, ashes, sand or gravel, automobile, frames, dead trees and other bulky, heavy materials shall be disposed of at the expense of the owner or person controlling same under the direction of the City Council.

Source: 1986 Rev. Ord. 37, Sec. 23; **Authority:** SDCL 9-32-11.

5-4-11 COLLECTION OF GARBAGE - TIMES SET BY COUNCIL

The City of Martin will endeavor to provide the service for the collection from the residential and business areas of the City at times and in such fashion as may be fixed by resolution of the City Council, all garbage and rubbish. It shall be the duty of the person in possession or control of any premises to place the containers required hereunder in a location easily accessible for the collectors as directed by the City Council, or its authorized representative.

Source: 1986 Rev. Ord. 37, Sec. 24; Ord. 90; 8/30/95; **Authority:** SDCL 9-32-11.

5-4-12 MUNICIPAL LANDFILL - DESIGNATION OF - CERTAIN DUMPING OR SCAVENGING PROHIBITED

The City will endeavor to dispose of all garbage and rubbish collected under this program by an approved method of sanitary landfill and cover or other methods approved at such site or sites as selected and approved by resolution of the City Council. No dumping of garbage or rubbish shall be at any other place than that designated by the City Council. No scavenging shall be permitted at the place of disposal.

Source: 1986 Rev. Ord. 37, Secs. 25-27, 12/18/86; Initiated Ord. 77, approved in special election - 123 Y, 101 N, Publ. 12/8/93; Ord. 90, 8/30/95; **Authority:** SDCL 9-32-11.

5-4-13 MUNICIPAL LANDFILL- REQUIREMENT OF OPERATION

The City of Martin shall continue to operate the municipal landfill until April 9, 1994, and shall close the municipal landfill on April 9, 1994, provided further that if the United States of America and the State of South Dakota grant further extensions of the applicable closure date of the municipal landfill, the municipal landfill shall be operated until the end of the last extension granted.

Source: Initiated Ord. 77, approved in special election - 123 Y, 101 N, Publ. 12/8/93; **Authority:** SDCL 9-32-11.

5-4-14 MUNICIPAL LANDFILL - WASTE REDUCTION TARGETS – LOCAL OPTION¹

(1) The City having reviewed and documented that the cost of recycling office paper products will cost more than the true and total cost of non-subsidized land-filling of office paper products and having followed the designated opt-out procedure will be opting out of the waste reduction target scheduled to go into effect on July 1, 1996. The City of Martin will review its determination for this specific waste reduction target at least once every two years starting with the effective date of this subsection.

(2) The City having reviewed and documented that the cost of recycling all paper products will cost more than the true and total cost of non-subsidized land-filling of all paper products and having followed the designated opt-out procedure will be opting out of the waste reduction target scheduled to go into effect on January 1, 1997. The City of Martin will review its determination for this specific waste reduction target at least once every two years starting with the effective date of this subsection.

(3) The City having reviewed and documented that the cost of recycling all aluminum, steel plastic and glass products will cost more than the true and total cost of unsubsidized landfilling of all of the aforementioned products, and having followed the designated opt-out procedure will be opting out of the waste reduction target scheduled to go into effect on July 1, 1997. The City will review its determination for this specific waste reduction target at least once every two years starting with the effective date of this subsection.

Source: 1986 Rev. Ord. 94, 5/22/96; Ord. 95, 11/13/96; Ord. 98, 5/21/97; **Authority:** SDCL 34A-6-67; see also SDCL 9-32-11.

5-4-15 MUNICIPAL LANDFILL -- USAGE RATES SET BY COUNCIL

The rates for the dumping of garbage, rubbish, or other wastes at the municipal landfill shall be set by resolution of the Council.

Source: 1986 Rev. Ord. 37, Sec. 33(b), 12/18/86; Ord. 90, 8/30/95; **Authority:** SDCL 9-32-11.

5-4-16 GARBAGE COLLECTION RATES

Where garbage and rubbish are deposited in regulation containers as herein provided, there shall be charges, assessed and collected from each residential or commercial premises within the City limits. The rates will be set by resolution of the City Council, with the idea that the rates must cover the actual cost of collection and disposal of city garbage and rubbish.

Source: 1986 Rev. Ord. 37, Sec. 29, 12/18/86; Ord. 78, 1/5/94; Ord. 82, 9/7/94; Ord. 90, 8/30/95; **Authority:** SDCL 9-32-11.

5-4-17 REQUIREMENT OF GARBAGE SERVICE WITH WATER SERVICE – EXCEPTION

(1) All persons who maintain a water service connection within the city limits of the City of Martin, and in connection therewith receive their water supply from the City of Martin water

¹ There were two Sections 5-4-14 – the above 5-4-14 and the above 5-4-15 were both 5-4-14. As part of this codification, this was corrected and the sections were renumbered starting with the above Section 5-4-15.

mains, are hereby required to receive and pay the established charge for city garbage collection service, subject only to the hereinafter specified exceptions:

- (2) (A) A vacant lot;
- (B) A lot on which there is no residence as defined by Section 5-4-1 of the Code;
- (C) Lots that are devoted solely to gardening or agricultural purposes; are hereby specifically exempt and are not required to receive and pay the charge for the city garbage collection service.

Source: 1986 Rev. Ord. 37, Sec. 30, 12/18/86; **Authority:** SDCL 9-32-11; **Cross-Ref:** Code Sec. 5-4-1.

5-4-18 BILLING AND COLLECTION OF GARBAGE FEES - DISCONTINUANCE OF SERVICE

The billing and collection of garbage collection fees shall be established by the Council, but not less than on a monthly basis, and that nonpayment of any part of such total bill may, at the direction of the Council, be used as a basis for discontinuing both the garbage and rubbish collection service and the furnishing and providing of water for said premises.

Source: 1986 Rev. Ord. 37, Sec. 30, 12/18/86; **Authority:** SDCL 9-32-11; **Cross-Ref:** Code Sec. 5-4-1.

5-4-19 GARBAGE COLLECTION FEES - ADDITIONAL WATER METERS AND – SEPARATE RESIDENCES - TRAILER HOMES AND TRAILER PARKS

It is further provided that where more than one residence is serviced through a single water meter, even though such additional residences may be metered separately and billed separately for water service, that each such separate residence shall be charge a separate garbage collection fee, and that nonpayment of the garbage bill for any one of the houses may be used as the basis for disconnecting the water service to said units. Trailer houses in a trailer park shall be considered as separate residences, and thereby subject to the provisions of this Chapter.

Source: 1986 Rev. Ord. 37, Sec. 30, 12/18/86; **Authority:** SDCL 9-32-11; **Cross-Ref:** Code Sec. 5-4-1.

5-4-20 NO PRORATION OF GARBAGE COLLECTION SERVICE FEES

If water service is turned on for any single day or more per month, a full month's charge shall be assessed for garbage collection service.

Authority: SDCL 9-32-11.

5-4-21 MULTIPLE RESIDENT OR COMMERCIAL RATES

If a building is housing two commercial businesses or a house has an apartment within, with only one waterline, one water service will be charged, but there will be two sewer and two garbage service fees charged.

Authority: SDCL 9-32-11.

5-4-22 ESTABLISHMENT AND MAINTENANCE OF SANITATION FUND - FINES AND FEES

A fund to be known as the Sanitation Fund shall be established for accounting purposes within the General Fund. All money and credits collected under this Chapter including fines and fees for violations of the same shall be credited to the Sanitation Fund.

Source: 1986 Rev. Ord. 37, Sec. 31, 12/18/86; **Authority:** SDCL 9-32-11.

5-4-23 INSPECTION OF ALLEYS, BUILDINGS, AND OTHER AREAS SERVED BY CITY

The City Council or its representatives or agents may from time to time make inspections of all alley ways, buildings and premises for the sole purpose of determining compliance with this Chapter, and if a violations of provisions of this Chapter is found, they or the authorized person making such inspection shall notify in writing the owner, tenant or agent of such premises of such violation, and the owner, tenant or agent shall have 10 days in which to correct the violation, and if the violation is not within the time limit fixed herein corrected, such owner, tenant or agent shall become liable for the prosecution and penalties herein provided.

Source: 1986 Rev. Ord. 37, Sec. 32, 12/18/86; **Authority:** SDCL 9-32-11.

5-4-24 PENALTIES

Any person violating any of the provisions of this Chapter, in addition to any penalties as allowed elsewhere in this Code, shall be subject to the refusal of continued garbage collection services from the City. Any garbage left on the street that is in a plastic bag and not in a container shall have such garbage classed as litter and penalized as stated in Chapter 2-2 "Littering in Public Places" 2-2-6a.

Any littering of less than 1 pound will be fined a minimum of \$25.00.

Any littering of 1 pound to less than 2 pounds will be fined a minimum of \$50.00.

Any littering of 2 pounds to less than 3 pounds will be fined a minimum of \$75.00.

Any littering of 3 pounds to less than 4 pounds will be fined a minimum of \$100.00.

Any littering over 4 pounds will be fined \$200.00.

Source: Ord. 132, 5/5/04; **Authority:** SDCL 9-19-3; **Cross Ref:** Code 1-1-6.

**TITLE SIX
PUBLIC PLACES**

Chapters:

- 6-1 Streets**
- 6-2 Pedestrian Crosswalks**
- 6-3 Municipal Park**
- 6-4 Curfew for Minors**
- 6-5 Snow & Ice**
- 6-6 Nuisances**

Chapter 6-1

STREETS

Sections:

- 6-1-1 Designation of Street Names**
- 6-1-2 Numbering of Buildings and Houses Fronting Streets**
- 6-1-3 Posting Designated Addresses**
- 6-1-4 Construction of Streets, Sidewalks, Curbs, and Gutters – Definitions**
- 6-1-5 Construction of Streets & Sidewalks – Permit Required.**
- 6-1-6 Construction of Streets & Sidewalks – Excavation**
- 6-1-7 Construction of Streets & Sidewalks – Excavation Barriers**
- 6-1-8 Construction of Streets & Sidewalks – Driveway Approaches**
- 6-1-9 Construction of Streets & Sidewalks – Ramps**
- 6-1-10 Construction of Streets & Sidewalks – Sidewalks, When and Where Required**
- 6-1-11 Construction of Streets & Sidewalks – Defective Sidewalks**
- 6-1-12 Construction of Streets & Sidewalks – Construct Sidewalk**
- 6-1-13 Construction of Streets & Sidewalks – Nuisances**
- 6-1-14 Construction of Streets & Sidewalks – When Notice Waived**
- 6-1-15 Construction of Streets & Sidewalks – Sidewalk Grades and Width**
- 6-1-16 Construction of Streets & Sidewalks – Construction of Streets, Curbs, and Gutters – Limitations**
- 6-1-17 Construction of Streets & Sidewalks – City may Construct or Supervise**
- 6-1-18 Construction of Streets & Sidewalks – Payment**
- 6-1-19 Construction of Streets & Sidewalks – When Curb & Gutter is Required**
- 6-1-20 Construction of Streets & Sidewalks – Cost of Relocating Sidewalks**

6-1-1 DESIGNATION OF STREET NAMES

The names of all streets and avenues in the City shall be fixed and adopted in accordance with the official map of the City on file in the Finance Office. Any such act of naming, establishing, or vacating any street, alley or other public way in the City shall be so designated on the map.

Source: 1986 Rev. Ord. 26, Sec. 1-2, 12/18/86; Ord. 183, Sec. 1, 6/12/12; **Authority:** SDCL 9-45-2.

6-1-2 NUMBERING OF BUILDINGS AND HOUSES FRONTING STREETS

A street numbering plan for residences and businesses shall be maintained by the City. A listing of the assigned numbers and a map showing the location of addresses shall be maintained and filed with the Finance Officer. The Finance Officer shall be responsible for assigning new numbers and updating the listing of such numbers and the location map.

Source: 1986 Rev. Ord. 26, Sec. 3, 12/18/86; Ord. 183, Sec. 1, 6/12/12; **Authority:** SDCL 9-45-2.

6-1-3 POSTING DESIGNATED ADDRESSES

(1) It shall be the duty of the owner or person in charge of the structure to which an address has been assigned or the occupant to affix the assigned building number (address) to the structure. Where the home or structure has a driveway of more than seventy-five feet (75') and/or the building is not visible from the public way, the assigned address must be posted where the driveway leading to the addressed structure intersects with the named road. The property owner, occupant or person in charge of the structure shall pay for costs and installation of the numbers.

(2) It shall be the duty of such owner, occupant or person in charge thereof, upon affixing the new number, to remove any different number(s) which might be mistaken for, or confused with, the number assigned to said structure.

(3) Each character of the posted structure number shall be a minimum of four (4) inches in height by three (3) inches in width and must be of a contrasting color to the background.

(4) The posted structure number must be placed in such a way as to ensure its visibility year-round and not be obstructed by such things as, but not limited to, snow or vegetation, to provide for emergency identification at all times.

Source: 1955 Rev. Ord. 19; 1986 Rev. Ord. 27, Sec. 1, 12/18/86; Ord. 183, Sec. 1, 6/12/12; Ord. 247, 1/11/2023.

Authority: SDCL Ch. 9-45.

6-1-4 CONSTRUCTION OF STREETS, SIDEWALKS CURBS, AND GUTTERS - DEFINITIONS

Definitions. As used in this code the following definitions shall apply:

(1) “**Premises**”: A lot or parcel of land, improved or unimproved, parking areas thereon, walkways, and sidewalks.

(2) “**Sidewalk**”: A strip of property lying in front of and between the curb line and property line of the adjoining or abutting lot, piece, or parcel of land within the City.

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

Source: 1955 Rev. Ord. 19; 1986 Rev. Ord. 27, Sec. 2, 12/18/86; Ord. 183, Sec. 1, 6/12/12; **Authority:** SDCL Ch. 9-45.

6-1-5 CONSTRUCTION OF STREETS & SIDEWALKS – PERMIT REQUIRED

Before any sidewalk or private driveway approach is constructed within the streets by any contractor or person for the owners of abutting property, the contractor or person must first secure a permit therefore from the municipal finance officer and must comply with all of the provisions of this chapter.

Source: 1955 Rev. Ord. 19; 1986 Rev. Ord. 27, Sec. 3, 12/18/86; Ord. 183, Sec. 1, 6/12/12; **Authority:** SDCL Ch. 9-45.

6-1-6 CONSTRUCTION OF STREETS & SIDEWALKS – EXCAVATION

No person shall make or cause to be made any excavation except as hereafter provided, in or under any street, sidewalk, alley, or public ground or remove any earth, soil, paving, gravel or materials therefrom without first having obtained approval from the City Council. Application for such approval shall state where such excavation is to be made, the extent thereof, and the purpose of such excavation.

Source: 1955 Rev. Ord. 19; 1986 Rev. Ord. 27, Sec. 4, 12/18/86; Ord. 183, Sec. 1, 6/12/12; **Authority:** SDCL Ch. 9-45.

6-1-7 CONSTRUCTION OF STREETS & SIDEWALKS – EXCAVATION BARRIERS

Any person receiving approval to make excavations in or upon any street, alley, sidewalk or public ground shall, during the progress and continuance of the work, erect and maintain around the same both day and night suitable guards, fences, flares, and signals so as to prevent injury to person, animals, or vehicles on account of such excavations. No open trench shall be left open for any more time than considered absolutely necessary or reasonable.

Source: Ord. 152, 3/20/07; Ord. 183, Sec. 1, 6/12/12; **Authority:** SDCL Ch. 9-45.

6-1-8 CONSTRUCTION OF STREETS & SIDEWALKS – DRIVEWAY APPROACHES

No driveway approaches shall protrude or extend in to the streets beyond the curb line, unless otherwise so authorized by the City Council. Concrete driveway approaches shall be constructed as set forth in this chapter, with the slope gradual to accommodate modern vehicles. On gravel thoroughfares driveway approaches constructed shall permit flow of surface water without drainage interference and shall permit proper blading and maintaining of streets.

Source: Ord. 152, 3/20/07; Ord. 183, Sec. 1, 6/12/12; **Authority:** SDCL Ch. 9-45.

6-1-9 CONSTRUCTION OF STREETS & SIDEWALKS – RAMPS

Whenever any person, firm or corporation makes new installations of sidewalks, curbs or gutters, in both business and residential areas, it shall be required that they install ramps at crosswalks, so as to make the transition from wheelchairs and for blind persons. All such ramps shall be constructed or installed in accordance with state law. (SDCL 9-46-1.2)

Source: Ord. 152, 3/20/07; Ord. 183, Sec. 1, 6/12/12; **Authority:** SDCL Ch. 9-45; see also 9-46-4 AND 9-46-1.2.

6-1-10 CONSTRUCTION OF STREETS & SIDEWALKS – SIDEWALKS, WHEN AND WHERE REQUIRED

It is the policy of the City that there are many areas of the City where a sidewalk is not practical, not possible and not necessary, and therefore shall not be required along all public street rights of way. Sidewalks may be required only along those specific streets, where, following study, it is reasonably determined by the City Council that, due to the increased vehicular traffic, increased pedestrian traffic, or close proximity to any school, that sidewalks would provide more than minimal safeguard for pedestrians walking along those specific street rights of way.

Source: Ord. 152, 3/20/07; Ord. 183, Sec. 1, 6/12/12; **Authority:** SDCL Ch. 9-45.

6-1-11 CONSTRUCTION OF STREETS & SIDEWALKS – DEFECTIVE SIDEWALK

Any curb, driveway, parkway or sidewalk which has been deemed defective, hazardous or unsafe by the City Council is hereby declared a nuisance. It shall be the duty of the owner of the property abutting on any curb, driveway or sidewalk to make all improvements stated in the notice by the City within thirty days from the receipt of the notice.

Source: Ord. 152, 3/20/07; Ord. 183, Sec. 1, 6/12/12; **Authority:** SDCL Ch. 9-45.

6-1-12 CONSTRUCTION OF STREETS & SIDEWALKS – CONSTRUCT SIDEWALK

Whenever the City Council shall deem it necessary to construct, rebuild or repair any sidewalk or driveway, then it shall notify all owners of lots abutting and adjoining such sidewalk or driveway to construct, rebuild or repair the same at their own expense within the time designated. Such notice shall be in writing and either be served personally on each said owner or by publication once each week for two consecutive weeks in the official newspaper for the City. The notice shall set forth the character of the work and the time within which it shall be completed. The notice may be general as to the owners, but must be specific as to the description of such lots, parts of lots or parcels of land.

The failure of any owner to construct, reconstruct or repair any such sidewalk or driveway shall be deemed a misdemeanor and permit the City to proceed with a resolution of necessity for sidewalk improvements in accordance with State statutes. The City may recover the expenses incurred by sidewalk improvements made by taxing the cost thereof by special assessment against the real property on which the construction occurred.

Source: Ord. 152, 3/20/07; Ord. 183, Sec. 1, 6/12/12; **Authority:** SDCL Ch. 9-45.

6-1-13 CONSTRUCTION OF STREETS & SIDEWALKS – NUISANCES

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

(1) Failing, refusing, or neglecting to keep the sidewalk in front of a house, place of business, or premises in a clean and safe condition. Any owner who shall fail to keep in repair the sidewalk when notified shall be liable to the City for any damage caused by neglect.

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

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

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

(5) A violation of this section shall be punishable by a fine as specified in Chapter 1-5 the Fine and Bond Schedule.

Source: Ord. 183, Sec. 1, 6/12/12; 2016 Rev. Ord. 203, 6/15/2016; Ord. 241, 10/12/2022; Ord. 245, 11/14/2022

Authority: SDCL Ch. 9-45. Cross-Ref. 2-1.

6-1-14 CONSTRUCTION OF STREETS & SIDEWALKS – WHEN NOTICE WAIVED

Whenever the owner, occupant or agent of any premises in or upon which any nuisance may be found is unknown or cannot be found, the building official shall proceed to abate the nuisance without notice. In either case, the expense of such abatement shall be collected from the person who may have created, caused or suffered such nuisance to exist.

Source: Ord. 183, Sec. 1, 6/12/12; **Authority:** SDCL Ch. 9-45.

6-1-15 CONSTRUCTION OF STREETS & SIDEWALKS – SIDEWALK GRADES AND WIDTH

The sidewalk grades are established and fixed to be 3" above the curb grade. If no curb grade has been established, then the sidewalk shall be at least 3" above the natural level of the ground and in all cases sufficiently above the level of the ground to drain well. Additionally, the width of all sidewalks shall be established by the City Council before any construction commences.

Source: Ord. 183, Sec. 1, 6/12/12; **Authority:** SDCL Ch. 9-45.

6-1-16 CONSTRUCTION OF STREETS & SIDEWALKS – CONSTRUCTION OF STREETS, CURBS, AND GUTTERS – LIMITATIONS

The building of wooden sidewalks in the City is hereby prohibited. All sidewalks built hereafter in the City shall be built of cement as specified hereinafter except that a sidewalk may be built of brick or stone when specifically authorized by a resolution passed by the City Council. The specifications for the use of cement are as follows:

The concrete used in the construction of alleys, gutters, sidewalks and street crossings shall conform in all respects to the South Dakota Department of Transportation (SDDOT) Standard Specifications for Roads and Bridges. The concrete shall conform to SDDOT Class M 6, except as modified herein. The concrete aggregate mixture shall contain a minimum of 50 percent coarse aggregate by weight. The mixture shall contain at least 6 bags of cement per cubic yard. The minimum 28 day compressive strength shall be 4000 psi. The concrete shall contain between 5.0 and 8.0 percent entrained air with a maximum slump of 4-inches. The concrete shall be a minimum of 4-inches thick. Concrete subjected to vehicular traffic shall be reinforced with No.4 (1/2-inch) reinforcing bars, 12-inches on center, both ways. The concrete shall be placed on a prepared base course. The base course shall conform to SDDOT "Base Course Aggregate." The base course shall be a minimum of 2-inches thick under sidewalks that are not subject to vehicular traffic and 6-inches thick under alleys, gutters and sidewalks subjected to vehicular traffic.

Source: Ord. 183, Sec. 1, 6/12/12; **Authority:** SDCL Ch. 9-45.

6-1-17 CONSTRUCTION OF STREETS & SIDEWALKS – CITY MAY CONSTRUCT OR SUPERVISE

The City Council shall have authority to order the construction or repair of any alley, gutter, sidewalk or street crossing when the need for such construction or repair exists in its discretion or opinion, and when not constructed or repaired within the time fixed by law, then the

City may construct or repair same and the cost thereof shall be charged to the owner of the property as provided by law. Furthermore, the City Council shall have authority to supervise the construction of all alleys, sidewalks and street crossings by the appointment of an engineer or superintendent for that purpose, and when such appointment is made, then such engineer or superintendent shall have the authority to test all materials used in the construction thereof, and must approve such construction both as to materials and workmanship.

Source: Ord. 183, Sec. 1, 6/12/12; **Authority:** SDCL Ch. 9-45.

6-1-18 CONSTRUCTION OF STREETS & SIDEWALKS – PAYMENT

The City shall pay for the construction of a new sidewalk in all cases where the City orders the construction of new sidewalks for the reason that the curb grade or street grade of the City was changed after the sidewalk was constructed provided the curb or street was constructed according to the original required grade or before there was any established grade, but the owner of the adjoining property shall pay for the construction or repair of any sidewalk if required for any other reason.

Source: Ord. 183, Sec. 1, 6/12/12; **Authority:** SDCL Ch. 9-45.

6-1-19 CONSTRUCTION OF STREETS & SIDEWALKS – WHEN CURB & GUTTER IS REQUIRED

Any newly-constructed sidewalk along Main Street or along First, Second, Third, Fourth, and Fifth Streets within the span from Pugh Street to State Street shall also include construction of curb and gutter. The cost of such curb and gutter construction shall be paid in the same manner the adjacent sidewalk construction is paid as indicated in this chapter.

Source: Ord. 183, Sec. 1, 6/12/12; **Authority:** SDCL Ch. 9-45.

6-1-20 CONSTRUCTION OF STREETS & SIDEWALKS – COST OF RELOCATING SIDEWALKS

Where, in the process of widening a public way, it is necessary to relocate sidewalks, the City shall share with the abutting property owner 50% of the assessed cost for replacement of all sidewalks which were not in a highly deteriorated condition prior to such widening of the public way.

Source: Ord. 183, Sec. 1, 6/12/12; **Authority:** SDCL Ch. 9-45.

Chapter 6-2

PEDESTRIAN CROSSWALKS IN CITY

Sections:

6-2-1 Designation of Pedestrian Crosswalks

6-2-2 Building Specifications – Use of Pedestrian Crosswalks – Vehicle Travel Signs

6-2-3 Pedestrian Crosswalks – Stop Signs

6-2-1 DESIGNATION OF PEDESTRIAN CROSSWALKS

There are hereby established pedestrian crosswalks within the City in the following designated areas:

(1) East and West from Lot 1, Blk. 12 TO (formerly, Legion Property) East across First Avenue to Out lot 6 Eastman's Subdivision of an Annex (high school property).

(2) From Lot 1, Blk. 11, TO (formerly, General Store) North across Main Street to Lot 24, Blk. 8, TO (Courthouse) East across Second Street to Lot 15, Blk. 7, TO (Country Market); thence South across Main Street from said location to Lot 12, Blk. 12, TO (Legion Memorial Bldg.); thence West to Lot 1, Blk. 11, TO as above described. (across Second Street).

(3) From Lot 1, Blk. 10, TO (Circle H) North across Main Street to Lot 26, Blk. 9, TO (Coast to Coast); thence East from said location across Third Street to Lot 15, Blk 8, TO (Geo's) thence South across Main Street to Lot 25, Blk. 11, TO (Luck's TV); thence West across Third Street to Lot 1, Blk 10, as hereinabove described.

(4) From Lot 25, Blk. 12, First Addition (Old Fire Hall) across Main Street to Lot 26, Blk. 7, First Addition (Church Property); thence East across Fourth Street to Lot 16, Blk. 9, TO (formerly, BeeGee's) thence South across Main Street to Lot 13, Blk. 10, TO (Jack & Jill); thence West across Fourth Street to Lot 25, Blk. 12 as hereinabove described.

Source: 1986 Rev. Ord. 28, 12/18/86; **Authority:** SDCL 9-45-5.

6-2-2 BUILDING SPECIFICATIONS - USE OF PEDESTRIAN CROSSWALKS – VEHICLE TRAVEL

That said pedestrian crosswalk shall be six feet wide; their exact location shall be fixed by the painting of a yellow line. That whenever a pedestrian is walking in said crosswalks, they are hereby declared to have the right-of-way, and all vehicle travel shall come to a stop at such yellow line or at a safe distance from the vehicle in front to fit, as the case may be, until such pedestrian shall have crossed the lane of traffic of such vehicle.

Source: 1986 Rev. Ord. 28, 12/18/86; **Authority:** SDCL 9-45-5.

6-2-3 PEDESTRIAN CROSSWALKS - STOP SIGNS

It is recognized that as concerns certain of the East-West pedestrian crosswalks that are hereby established, that there are stop signs which required vehicles to stop at such intersection, and this Chapter in no way is intended to limit or change the effect of such stop signs, but are in addition to any stop sign requirements that may heretofore be in existence.

Source: 1986 Rev. Ord. 28, 12/18/86; **Authority:** SDCL 9-45-5.

Chapter 6-3

MUNICIPAL PARK

Sections:

6-3-1 Park Closure Hours

6-3-2 Basketball Court – Rules of Conduct

6-3-3 Basketball Court – Rules of Conduct - Enforcement

6-3-4 Violation of Chapter – Penalties

6-3-1 PARK CLOSURE HOURS

No person shall enter, remain, stay or loiter in any park between the hours of 9:00 p.m. and 6:00 a.m. of the following day unless there is a special event, show, tournament or camping where designated.

Source: Ord. 136, 8/24/04; Ord. 174, 11/8/11; **Authority:** SDCL 9-30-2; **Cross-Ref:** Code. Ch. 6-4.

6-3-2 BASKETBALL COURT - RULES OF CONDUCT

That those persons utilizing the basketball court at Brooks Municipal Park shall observe the following rules of conduct:

(1) They shall wear smooth-bottom tennis shoes only; no knobby or black soled athletic shoes are permitted.

(2) No skateboards, bikes, roller-skates, or roller-blades shall be worn or used on the basketball court area.

(3) Persons using the court shall not bring food or drinks on to the court area; such items shall be left outside of the concrete court area.

(4) If there are a large number of persons waiting to use the court, the person utilizing the court shall limit their play to one hour, so as to permit others to also have the opportunity to use the court. Persons utilizing the court shall observe the general rules of sportsmanship and common courtesy toward other persons using the court and shall refrain from the use of obscene language.

Source: Ord. 66, Sec. 1, 11/18/92; Ord. 136, 8/24/04; Ord. 174, 11/8/11; **Authority:** SDCL 9-30-2.

6-3-3 BASKETBALL COURT - RULES OF CONDUCT - ENFORCEMENT

Enforcement of these rules of conduct may be accomplished by any police officer, or any city employee.

Source: Ord. 66, Sec. 2, 11/18/92; Ord. 174, 11/8/11; **Authority:** SDCL 9-30-2.

6-3-4 VIOLATION OF CHAPTER – PENALTIES

Every person violating any of the provisions of this Chapter shall be subject to informal reprimand by the observing officer or City employee, which informal reprimand may include impounding the violator's equipment (skateboard, bike, roller-blades, or roller-skates), for a period not to exceed one week, or being prohibited from playing on the court area for a period

not to exceed one week, or both. After a person has been involved in three informal reprimands, then normal court procedures are to be employed; and upon conviction of violating any of the provisions of this Chapter maybe fined in any amount of not more than \$200.00, or have the violating equipment impounded for a period of not to exceed one week, or be banned from utilizing the facility for up to six months or all of such penalties.

Source: Ord. 66, Sec. 3, 11/18/92; Ord. 174, 11/8/11; **Authority:** SDCL 9-30-2, SDCL 9-19-3; **Cross-Ref:** Code Sec. 1-1-6.

Chapter 6-4

CURFEW FOR MINORS

Sections:

6-4-1 Curfew for Minors Under Eighteen Years

6-4-2 Procedures; Notice to Parents

6-4-3 Duty of Parents or Guardians

6-4-4 Violation of Chapter

6-4-1 CURFEW FOR MINORS UNDER EIGHTEEN YEARS

No person under eighteen years of age shall be or remain in or upon the streets, alleys, or public places in the city, at night from the hours of 11:00 p.m. to 6:00 a.m. unless such person is accompanied by a parent, guardian, or other person having legal custody of such person; or whose employment or reasonable necessity, or emergency makes it necessary to be upon said streets, alleys, or public places at night after said hours, provided that such exceptions shall not apply when such person is playing or loitering in or upon such streets, alleys, or public places while alone and unaccompanied by a parent or guardian. For the purposes of this Section, **emergency** means an unforeseen combination of circumstances or the resulting state that calls for immediate action. The term includes, but is not limited to, a fire, natural disaster, or automobile accident, or any situation requiring immediate action to prevent serious bodily injury or loss of life.

Source: 1986 Rev. Ord. 6, Sec. 1, 12/18/86; Ord. 91, Sec. 1, 9/25/95; Ord. 137, 8/24/04; Ord. 173, 11/8/08; 2014 Ord. 193, 4/22/14; **Authority:** SDCL 9-29-1.

6-4-2 PROCEDURES; NOTICE TO PARENTS

Law enforcement officers are directed to follow the following procedures in enforcing the ordinance codified in this section:

(1) A law enforcement officer, upon finding a person under the age of eighteen in a public place during the prohibited hours, shall ascertain the name and address of the person under the age of eighteen, shall warn the person that he or she is in violation of this section, and shall direct the person to proceed directly and at once to his or her home or usual place of abode. The law enforcement officer shall make a written record of the contact and warning and shall notify the parent, guardian or custodian of the curfew violation by telephone, in person, electronically, or letter of the warning.

(2) If a person under the age of eighteen refuses to comply with the direction of the law enforcement officer, or refuses to give the law enforcement officer his or her correct name and address, or if the juvenile has been warned on a previous occasion, the person shall be taken into custody. The parent, guardian or custodian of the person under the age of eighteen shall be notified to come and take custody of the minor. If the parent, guardian or custodian cannot be located or fails or refuses to take custody of the juvenile, the person under the age of eighteen shall be remanded to the juvenile authorities.

Source: 1986 Rev. Ord. 6, Sec. 1, 12/18/86; Ord. 91, Sec. 2, 9/25/95; Ord. 137, 8/24/04; 2013 Ord. 189, 4/16/13. **Authority:** SDCL 9-29-1.

6-4-3 DUTY OF PARENTS OR GUARDIANS

It is unlawful for any parent, guardian, or other person having the legal custody of any person under eighteen years of age to allow or permit any such child, ward or other person under such age, while in his or her legal custody, to go or be upon any street, alleys, or other public places in said City within the time as prohibited by 6-4-1 and 6-4-2 of the Code, unless there exists a reasonable necessity therefore.

Source: 1986 Rev. Ord. 6, Sec. 2, 12/18/86; Ord. 91, Sec. 3, 9/25/95; **Authority:** SDCL 9-29-1.

6-4-3.1 PRESUMPTION

If at any time following the giving of notice to the parent, guardian, or custodian of the person under the age of eighteen as provided in Section 6-4-2(1), the person under the age of eighteen to whom said notice related or applied again violates this Chapter, it shall be rebuttably presumed that the parent, guardian, or custodian having legal custody of the person under the age of eighteen knowingly permitted or allowed the person under the age of eighteen to be or remain upon the city streets, alleys, or public places in violation of this Chapter, and the parent shall thereupon be charged with a violation of this Chapter.

It shall be an affirmative defense to be proved by parent by clear and convincing evidence that the juvenile was not in violation of this Chapter on the dates specified.

Source: 2013 Ord. 189, 4/16/13. **Authority:** SDCL 9-29-1.

6-4-4 VIOLATION OF CHAPTER - PENALTY

A violation of this Chapter is a petty offense. A person under the age of eighteen shall be fined \$25.00 plus court costs for a violation of this chapter. A parent, guardian, or custodian shall be fined \$25.00 plus court costs for a violation of this Chapter. Any person under the age of eighteen who violates any of the provisions of this Chapter more than three times shall be reported by the Chief of Police to the appropriate authorities as a child in need of supervision or delinquent child as those terms are defined in the South Dakota Codified Laws.

Source: 1986 Rev. Ord. 6, Secs. 1-2, 12/18/86; Ord. 91, Secs. 1-3, 9/25/95; 2013 Ord. 189, 4/16/13. **Authority:** SDCL 9-29-1, SDCL 9-19-3; **Cross Ref:** Code Sec. 1-1-6

Chapter 6-5

SNOW REMOVAL

Sections:

6-5-1 Duty to Remove Snow and Ice

6-5-2 Disposal of Snow and Ice

6-5-3 Special Assessment for Snow and Ice Removal

6-5-1 DUTY TO REMOVE SNOW AND ICE

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

Source: Ord. 183, Sec. 1, 6/12/12; **Authority:** SDCL 9-30-5; see also SDCL Ch. 9-46.

6-5-2 DISPOSAL OF SNOW AND ICE

It shall be the duty of the property owner, tenant, or person in possession of any public or private driveway, parking lot or parking area to dispose of accumulated snow upon such property in such manner that any snow when removed shall not be deposited upon any sidewalk, within or upon any public street or alley, after such public street or alley has been cleared of snow by the grading of such snow away from the curb or the picking up and carrying away of such snow by the City or in a manner that will obstruct or interfere with the passage or vision of vehicle or pedestrian traffic.

Source: Ord. 183, Sec. 1, 6/12/12; **Authority:** SDCL 9-30-5; see also SDCL Ch. 9-46.

6-5-3 SPECIAL ASSESSMENT FOR SNOW AND ICE REMOVAL

In the event any owner, tenant, or person in possession of any property shall neglect or fail to or refuse to remove such snow or ice within the time provided, any authorized officer of the City may issue a citation for such violation and the City Council may authorize such removal with the costs to be assessed against the abutting property owner.

Source: Ord. 183, Sec. 1, 6/12/12; **Authority:** SDCL 9-30-5; see also SDCL Ch. 9-46.

Chapter 6-6

NUISANCES

Sections:

- 6-6-1 Disturbing the Peace**
- 6-6-2 Discharging Firearms**
- 6-6-3 Discharging Weapons**
- 6-6-4 Public Begging Unlawful**
- 6-6-5 Trespass and Unauthorized Use of Property Prohibited**
- 6-6-6 Disorderly Assemblies**
- 6-6-7 Public Intoxication or Possession of Alcoholic Beverages in Public Places**

6-6-1 DISTURBING THE PEACE

It shall be unlawful to disturb or aid in disturbing the peace of others by tumultuous, offensive, or obstreperous conduct, and no person shall knowingly permit such conduct upon any property owned by him or under his control or supervision.

It shall be unlawful for any person to make, continue or cause to be made, any loud or unusual noise which either annoys, disturbs, injures, or endangers the comfort, repose, health, peace or safety of others. Unlawful noise shall include but shall not be limited to the following:

(1) **Horns and Signal Devices.** The sounding of any horn or signaling device of any vehicle on any street or public place except as a danger warning; the creation by means of any such signaling devices of any unreasonable, loud, or harsh sound; the sounding of such devices for any unnecessary and unreasonable period of time other than by accident or mechanical, electrical or other difficulty or failure; and the use of any such signaling device where traffic is held up.

(2) **Radios and Phonographs.** The use or operation of any radio, phonograph or other sound producing machine in such a manner as to disturb the peace and quiet of others.

(3) **Yelling or Shouting.** Yelling, shouting or creating other loud noises which annoy or disturb the quiet, comfort or repose of persons in any office, dwelling, hotel, or residence, or of any other persons in the vicinity.

(4) **Animals .** The keeping of any animals, which, by causing frequent or long continuous noise, shall disturb the comfort or repose of any persons in the vicinity.

(5) **Schools, Courts, Churches, Hospitals, Office & Businesses.** The creating of any excessive noise on any street adjacent to any hospital, school, institution of learning, church or court which interferes with the workings of such institution, or which disturbs or annoys patients in a hospital.

(6) **Construction.** Pounding or hammering or operating loud machinery in such a manner as to disturb the peace of a residential area during the nighttime.

Source: Ord. 144, 12/21/05; **Authority** SDCL 9-29-3, SDCL 9-29-4.

6-6-2 DISCHARGING FIREARMS

It is unlawful for any person to discharge or shoot off any gun, pistol, rifle or other firearm, within the corporate limits of the city, within one mile surrounding city limits, or in any public park belonging to the city. This section shall not apply to B-B guns or to any duly authorized shooting gallery or firing range in the city or within one mile of the city; or to sheriffs or their deputies, or police officers of the city while engaged in the lawful conduct of their duties; or to any citizen discharging a firearm or other weapon when lawfully defending his or her person or property; or at a time, at a place, or in a manner specifically approved by the City Council.

Source: Ord. 144, 12/21/05; Ord. 147, 4/18/06; Ord. 175, 5/2012; Ord. 184, 6/2012; **Authority** SDCL 9-29-1, 9-29-3, SDCL 9-29-4.

6-6-3 DISCHARGING WEAPONS

It shall be unlawful for anyone to shoot or discharge within city limits any air rifle, air gun, BB gun, sling shot, bow and arrow, or any missile propelling device in a reckless or careless manner, or with the intent to cause intentional damage to property or persons.

Source: Ord. 144, 12/21/05; Ord. 147, 4/18/06; Ord. 175, 5/2012; Ord. 184, 6/2012; **Authority** SDCL 9-29-1, 9-29-3, SDCL 9-29-4.

6-6-3.1 DISCHARGING FIREARMS & WEAPONS WITHIN ONE MILE OF CITY LIMITS

It shall be unlawful for anyone to shoot or discharge any gun, pistol, rifle or any other firearm within one mile of the corporate limits of the City in a reckless or careless manner, or with the intent to cause intentional damage to property and persons, except to shoot dogs that are a public nuisance.

Source: Ord. 175, 5/2012; Ord. 184, 6/2012; **Authority** SDCL 9-29-1, 9-29-3, SDCL 9-29-4.

6-6-3.2 RECKLESS AND CARELESS DEFINED

The words “reckless, recklessly” and all derivatives thereof, import a conscious and unjustifiable disregard of a substantial risk that the offender’s conduct may cause a certain result or may be of a certain nature. A person is reckless with respect to circumstances when he/she consciously and unjustifiably disregards a substantial risk that such circumstances may exist.

The words “careless, carelessly” and all derivatives thereof, import an indifferent or unconcerned attitude of the consequences of an action.

Source: Ord. 175, 5/2012; Ord. 184, 6/2012; **Authority** SDCL 9-29-1, 9-29-3, SDCL 9-29-4.

6-6-4 PUBLIC BEGGING UNLAWFUL

It is unlawful to detain or attempt to detain any person in a public place or to go door to door at residences or places of business, for the purpose of begging for money or other valuable consideration without giving valuable consideration in return. Solicitation consists of communication by words, signs, or other conduct of a desire to receive charity.

Begging shall not include solicitations by a bona fide nationally chartered veterans, religious, charitable, educational or fraternal organization, local civic or service club, political

party or volunteer fire department or political committee which is duly existing under the laws of the State of South Dakota; provided, however, that the proceeds therefrom do not inure to the benefit of any individual, and the person making the solicitation identifies, prior to the solicitation, the organization for which he is soliciting.

It shall be unlawful for any person to falsely identify himself as soliciting on behalf of any bona fide organization as designated above.

Source: Ord. 144, 12/21/05; **Authority** SDCL 9-29-1, 9-29-3, SDCL 9-29-10.

6-6-5 TRESPASS AND UNAUTHORIZED USE OF PROPERTY PROHIBITED

(1) It shall be unlawful for any person to knowingly lodge, use or occupy any barn, garage, shed, shop, or other house, building structure or vacant lot or any automobile, truck, railroad car, or other vehicle without permission of the owner or person entitled to possession.

(2) It shall be unlawful for any person to knowingly lodge in any public way, park, or place, except in authorized camping areas, or to lodge or sleep in any public restroom or public building lobby.

(3) It shall be unlawful for any person to knowingly in the nighttime enter upon any privately owned real property which is not open to the use of the public unless he has first obtained the consent of the owner or person in possession or control thereof.

Source: Ord. 144, 12/21/05; **Authority** SDCL 9-29-1, 9-29-3, SDCL 9-29-4.

6-6-6 DISORDERLY ASSEMBLIES

A disorderly assembly of persons is hereby prohibited and the police department or any law enforcement officer shall have the authority to disperse those persons and to require them to remove themselves from the place of assembly. Any person participating in a disorderly assembly who fails, refuses to disperse or vacate such place after having been commanded to do so by a law enforcement officer shall be guilty of disorderly assembly.

For purposes of this Section, a "disorderly assembly" shall mean an assembly of two (2) or more persons, some or all of whom are engaged in conduct which threatens the public peace or safety through fighting or violent or threatening behavior, loud or profane language, unreasonable noise, obstructing vehicular or pedestrian traffic or by littering or breakage.

Source: Ord. 144, 12/21/05; **Authority** SDCL 9-29-1, 9-29-3, SDCL 9-29-13, 9-29-16.

6-6-7 PUBLIC INTOXICATION OR POSSESSION OF ALCOHOLIC BEVERAGES IN PUBLIC PLACES

It shall be unlawful for any person to appear in a public place under the influence of alcohol, narcotics or other drug to the degree that he endangers himself or another person or property, or by boisterous and offensive conduct annoys another person in his vicinity.

It shall be unlawful for any person to possess an alcoholic beverage, in an unsealed container or in an open receptacle, in any vacant building or in any public place other than upon the premises of a licensed on-sale dealer where such alcoholic beverage was purchased from such dealer for on-sale purposes; except, malt beverages in parks.

For purposes of this Section, "public place" shall mean any place, whether within or without a building, commonly and customarily open to or used by the general public and any sidewalk, street or highway. Nothing in this Section shall be construed to prohibit the

possession of malt beverages on ball field premises which are leased to a concessionaire and said concessionaire has an appropriate malt beverage license .

Source: Ord. 144, 12/21/05; **Authority** SDCL 9-29-1.

6-6-8 PENALTY

A violation of any provision of this chapter shall be punishable by a fine as specified in Chapter 1-5 the Fine and Bond Schedule. When applicable, each day of violation of any provision of this chapter shall constitute a separate offense.

Source: Ord. 175, 5/2012; Ord. 184, 6/2012; 2016 Rev. Ord. 203, 6/15/2016; Ord. 242, 11/15/2022. **Authority** SDCL 9-29-1, 9-29-3, SDCL 9-29-4. Cross-Ref. Ch. 2-1.

TITLE SEVEN COMMERCE

Chapters:

- 7-1 Trade Licenses**
- 7-2 Sales & Use Tax**
- 7-3 Alcohol**
- 7-4 Pawn Brokers**

Chapter 7-1

TRADE LICENSES

Sections:

- 7-1-1 Trade License Required**
- 7-1-2 Trade License – Application Procedure – Fees - Duration**
- 7-1-3 Posting of Trade License**
- 7-1-4 Trade License Rates – Various Occupations**
- 7-1-5 Trade Licenses – Waiver of Fees for Non-Profit Groups or Rummage Sales - Exception**
- 7-1-6 Revocation of Trade License – Grounds – Hearing before Council – Procedure**
- 7-1-7 Violation of Chapter – Penalties – Daily Violation Separate Offense**

7-1-1 TRADE LICENSE REQUIRED

It shall be unlawful for any person within the City to engage in, pursue or transact any business, trade, calling, profession, occupation or avocation, or to do any act or make any exhibition, hereinafter named or described without first having obtained a license therefore and having complied with the regulations as hereinafter provided.

Source: Rev. Ord. 9, Sec. 1, 12/18/86; Ord. 86, Sec. 1, 2/22/95; **Authority:** SDCL Ch. 9-34.

7-1-2 TRADE LICENSE - APPLICATION PROCEDURE – FEES - DURATION

Any person wishing to obtain a license under and by virtue of this Chapter unless otherwise specified, shall pay to the City the amount provided by ordinance or resolution for such license, for which the City shall give a receipt, designating the kind of business and license applied for. Upon presentation of receipt and proof of a sales tax license to the City, the City shall forthwith issue such license to the person named in such receipt, unless otherwise provided, any license issued pursuant to this Chapter for a term of one year shall take effect as of January 1st, or when issued and terminate on December 31st of each year in which such license is issued. All licenses must be paid for in advance, and be deposited in the City General Fund.

Source: Rev. Ord. 9, Sec. 1, 12/18/86; Ord. 86, Sec. 2, 2/22/95; **Authority:** SDCL Ch. 9-34.

7-1-3 POSTING OF TRADE LICENSE

Every person to whom a license is issued under this Chapter shall keep the same posted in a conspicuous place at their place of business or keep it upon their person, if they have no place of business. Every person to whom a license or permit is issued under this Chapter shall at any time exhibit such license or permit to any person in authority when required to do so.

Source: Rev. Ord. 9, Sec. 3, 12/18/86; Ord. 86, Sec. 3, 2/22/95; **Authority:** SDCL Ch. 9-34.

7-1-4 TRADE LICENSE RATES - VARIOUS OCCUPATIONS

The rates of license for the businesses, trades, callings, professions, occupations or avocations hereinafter named shall be, and the same are hereby fixed and established according

to the following schedule, and the same shall be paid by all persons engaged in or pursuing such businesses, trades, callings, professions, occupations, or avocations, as follows, to-wit:

(1) Every peddler or hawker and every person who sells or solicits the sale of any goods, wares, merchandise, books, pictures, or any articles of commerce or trade, from house to house, from place to place, or upon the streets or in public places in the City of Martin, shall pay a license fee of \$25.00 per day or \$100.00 per year.

(2) Any person or corporation who holds an on-sale, airport on-sale, convention facility on-sale, on-sale Sunday wine, or malt beverage license and is issued a video lottery establishment license, shall pay a license fee of \$50.00 per machine, per year, which fee shall be paid when billed by the City of Martin.

(3) Any person who shall give or exhibit in the City of Martin any circus, or menagerie, or any wild west show shall pay a license fee of \$50.00 per day.

(4) Any person or persons owning or operating a carnival or other exhibitions given under canvas where a separate admission is charged for different exhibitions, the license fee shall be as follows: less than 5 separate admissions, \$50.00 per day; more than 5 separate admissions, \$100.00 per day. For the purpose of this Section a separate admission will be deemed to be admission fee charged for any exhibition given in a tent or other enclosure, but under the same management. If a general admission fee is charged admitting to all exhibitions, the license fee shall be the same as for circuses.

(5) For all shows, entertainments, exhibitions, or performance, not otherwise specified, and given for reward or profit in any place other than in a regularly licensed opera house, \$50.00 per day; provided that no license fee shall be required for any lectures or exhibition of a purely literary or scientific character, nor any concert or entertainment given for charity or for public benefit.

Source: Rev. Ord. 9, Sec. 4, 12/18/86; Ord. 86, Sec. 4, 2/22/95; Ord. 87A, 7/12/95; **Authority:** SDCL Ch. 9-34.

7-1-5 TRADE LICENSES -WAIVER OF FEES FOR NON-PROFIT GROUPS OR RUMMAGE SALES - EXCEPTION

License fee will be waived if activity is for the benefit of a nonprofit group within the City of Martin or a citizen having a rummage sale, except for Code 7-1-4(3),(4).

Source: Ord. 86, Sec. 4, 2/22/95; **Authority:** SDCL 9-34-1.

7-1-6 REVOCATION OF TRADE LICENSE - GROUNDS - HEARING BEFORE COUNCIL -PROCEDURE

(1) The City Council may, whenever it shall be made to appear to their satisfaction, that any person or persons operating or conducting any of the foregoing businesses, trades, professions, occupations, or callings under the licenses herein provided, is not conducting the same in an orderly manner or whenever such person or persons have been convicted of a violation of any ordinance of the City of Martin, or laws of the State of South Dakota, or of the United States, revoke any license then held by such person or persons for the operating of such business, trade, profession, occupation or calling.

(2) The Council shall give written notice, at least ten days before any hearing is held on the question of the revocation of the license. The written notice shall state the specific grounds sought upon which to revoke the license. The licensee may appear with any representative of his or her choice to contest the notice of revocation of license. The City attorney or his or her

designee shall appear at such hearing. It shall be necessary for a majority of council members present and voting to revoke a license under this Chapter.

Source: Rev. Ord. 9, Sec. 5, 12/18/86; Ord. 86, Sec. 5, 2/22/95; **Authority:** SDCL Ch. 9-34.

7-1-7 VIOLATION OF CHAPTER – PENALTIES - DAILY VIOLATION AS SEPARATE OFFENSE

Any person who shall violate any of the provisions of this Chapter shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not to exceed \$200.00 for each offense, together with the costs of prosecution. Each day while so engaged shall be and constitute a separate offense.

Source: Rev. Ord. 9, Sec. 6, 12/18/86; Ord. 86, Sec. 6, 2/22/95; **Authority:** SDCL 9-19-3, SDCL Ch. 9-34; **Cross-Ref:** Code Sec. 1-1-6.

Chapter 7-2

SALES & USE TAX

Sections:

- 7-2-1 Purpose**
- 7-2-2 Effective Date – Enactment of Tax**
- 7-2-3 Use Tax**
- 7-2-4 Collection**
- 7-2-5 Interpretation**
- 7-2-6 Use of Revenue**
- 7-2-7 Repeal Exemptions**
- 7-2-8 Penalty**
- 7-2-9 Separability**
- 7-2-10 Bed, Board, Booze, and Ticket Sales Tax**

7-2-1 PURPOSE

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

Source: 1986 Rev. Ord. 33, Sec. 1, 12/18/86; Ord. 44, Sec. 1, 9/28/88; Ord. 46, Sec. 1, 11/15/88; Ord. 61, Sec. 1, 1/10/90; Ord. 87, Sec. 1, 4/12/95; Ord. 128, 8/20/03; Ord. 142, 11/23/05; **Authority:** SDCL Ch. 10-45, Ch. 10-46, Ch. 10-52.

7-2-2 EFFECTIVE DATE - ENACTMENT OF TAX

From and after the first day of January 2006, there is hereby imposed as a municipal retail occupational sales and service tax upon the privilege of engaging in business a tax measured by two percent (2%) on the gross receipts of all persons engaged in business within the jurisdiction of the City of Martin, Bennett County, South Dakota, who are subject to the South Dakota Retail Occupational Sales and Service Tax, SDCL Ch. 10-45 and acts amendatory thereto.

Source: 1986 Rev. Ord. 33, Sec. 2, 12/18/86; Ord. 44, Sec. 2, 9/28/88; Ord. 46, Sec. 2, 11/15/88; Ord. 61, Sec. 2, 1/10/90; Ord. 87, Sec. 2, 4/12/95; Ord. 128, 8/20/03; Ord. 142, 11/23/05; **Authority:** SDCL Ch. 10-45, Ch. 10-46, Ch. 10-52.

7-2-3 USE TAX

In addition there is hereby imposed an excise tax on the privilege of the use, storage and consumption within the jurisdiction of the municipality of tangible personal property or services purchased from and after the 1st day of January, 2006, at the same rate as the municipal sales and service tax upon all transactions or use, storage and consumption which are subject to the South Dakota Use Tax Act, SDCL Ch.10-46, and acts amendatory thereto.

Source: 1986 Rev. Ord. 33, Sec. 5, 12/18/86; Ord. 44, Sec. 5, 9/28/88; Ord. 46, Sec. 5, 11 /15/88; Ord. 87, Sec. 3, 4/12/95; Ord. 128, 8/20/03; Ord. 142, 11/23/05; **Authority:** SDCL Ch. 10-45, Ch. 10-46, Ch. 10-52.

7-2-4 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.

Source: 1986 Rev. Ord. 33, Sec. 3, 12/18/86; Ord. 44, Sec. 3, 9/28/88; Ord. 46, Sec. 3, 11 /15/88; Ord. 61, Sec. 6, 1/10/90; Ord. 87, Sec. 4, 4/12/95; Ord. 128, 8/20/03; Ord. 142, 11/23/05; **Authority:** SDCL Ch. 10-45, Ch. 10-46, Ch. 10-52.

7-2-5 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 Section of the South Dakota Retail Occupational Sales and Service Act, SDCL 10-45 and acts amendatory thereto, and the South Dakota Use Tax, SDCL 10-46, and acts amendatory thereto, and that this shall be considered a similar tax except for the rate thereof to that tax.

Source: 1986 Rev. Ord. 33, Sec. 6, 12/18/86; Ord. 44, Sec. 6, 9/28/88; Ord. 46, Sec. 6, 11 /15/88; Ord. 61, Sec. 7, 1/10/90; Ord. 87, Sec. 5, 4/12/95; Ord. 128, 8/20/03; Ord. 142, 11/23/05; **Authority:** SDCL Ch. 10-45, Ch. 10-46, Ch. 10-52.

7-2-6 USE OF REVENUE

Fifteen percent (15%) of the gross revenues generated from the tax increase received under this ordinance may be used for capital improvements as authorized under SDCL 10-52-2.

Source: Ord. 44, Sec. 8, 9/28/88; Ord. 46, Sec. 8, 11 /15/88; Ord. 61, Sec. 5, 1/10/90; Ord. 87, Sec. 6, 4/12/95; Ord. 128, 8/20/03; Ord. 142, 11/23/05; **Authority:** SDCL Ch. 10-45, Ch. 10-46, Ch. 10-52.

7-2-7 REPEAL OF EXEMPTIONS

Effective January 1, 2006, items specifically exempt under SDCL 10-52-2.6, 10-52-12 and 10-52-14 shall no longer be exempt and upon those previously exempted there is hereby imposed as a municipal retail occupational sales and service tax upon the privilege of engaging in business within the jurisdiction of the Municipality of Martin, Bennett County, South Dakota, who are subject to the South Dakota Retail Occupational Sale and Service Tax, SDCL 10-45 and acts amendatory thereto.

Source: Ord. 128, 8/20/03; **Authority:** SDCL Ch. 10-45, Ch. 10-46, Ch. 10-52.

7-2-8 PENALTY

Any person failing or refusing to make reports on payments prescribed by this Chapter and the rules and regulations relating to the ascertainment and collection of the tax herein levied shall be guilty of a misdemeanor and upon conviction shall be fined not more than \$200.00 or imprisoned in the municipal jail for thirty (30) days or both such fine and imprisonment. In addition, all such collection remedies authorized by SDCL Ch. 10-45, and acts amendatory thereto, and SDCL Ch. 10-46, and acts amendatory thereto, are hereby authorized for the collection of these excise taxes by the Department of Revenue.

Source: Source: 1986 Rev. Ord. 33, Sec. 7, 12/18/86; Ord. 44, Sec. 7, 9/28/88; Ord. 46, Sec. 7, 11 /15/88; Ord. 61, Sec. 8, 1/10/90; Ord. 87, Sec. 7, 4/12/95; Ord. 128, 8/20/03; Ord. 142, 11/23/05; **Authority:** SDCL Ch. 10-45, Ch. 10-46, Ch. 10-52.

7-2-9 SEPARABILITY

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

Source: Source: Ord. 128, 8/20/03; Ord. 142, 11/23/05; **Authority:** SDCL Ch. 10-45, Ch. 10-46, Ch. 10-52.

7-2-10 BED, BOARD, BOOZE AND TICKET SALES TAX

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

(2) **Effective Date and Enactment of Tax.** It is recognized that the municipality of Martin has heretofore had in effect a Special Bed, Board, Booze and Ticket Sales Tax, and that the only purposes of this amendment is to comply with a recent change in State Law, which suggests that this type of tax should in a separate provision, apart from other sales and use tax provisions; and the intention of this Ordinance is to continue the imposition of a Special Bed, Board, Booze and Ticket Sales Tax without interruption, and at the same level and in the same manner as had previously been done. The purpose of this amendment being to do what the new law requires and have a separate Ordinance for this tax.

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

(4) **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 Section of the South Dakota Retail Occupational Sales and Service Act, SDCL 10-45 and acts amendatory thereto, and that this shall be considered a similar tax except for the rate thereof to that tax.

(5) **Use of Revenue.** Any revenues received under this Ordinance may be used only for the purpose of land acquisition, architectural fees, construction costs, payment for a civic center, auditoriums or athletic facility buildings, including the maintenance, staffing and operations of such facilities, and the promotion and advertising of the municipality, its facilities, attractions and activities.

(6) **Penalty.** Any person failing or refusing to make reports on payments prescribed by this Chapter and the rules and regulations relating to the ascertainment and collection of the tax herein levied shall be guilty of a misdemeanor and upon conviction shall be fined not more than \$200.00 or imprisoned in the municipal jail for thirty (30) days or both such fine and imprisonment. In addition, all such collection remedies authorized by SDCL Ch. 10-45, and acts amendatory thereto, and SDCL Ch. 10-46, and acts amendatory thereto, are hereby authorized for the collection of these excise taxes by the Department of Revenue.

(7) **Separability.** If any provision of this Ordinance is declared unconstitutional or the application thereof to any person or circumstance is held invalid, the constitutionality of the remainder of the Ordinance and applicability thereof of other persons or circumstances shall not be affected thereby.

Source: Ord. 125, 7/15/02; **Authority:** SDCL Ch. 10-45, Ch. 10-46, Ch. 10-52, Ch. 10-52A.

Chapter 7-3

ALCOHOL

Sections:

7-3-1 Municipal Liquor Store – Establishment of

7-3-2 Municipal Liquor Store - Operation of – Disposition of Sale Proceeds

7-3-3 Sunday Off – Sale of Liquor

7-3-4 Special Event License

7-3-5 Number of Malt Beverage Licenses

7-3-1 MUNICIPAL LIQUOR STORE - ESTABLISHMENT OF

Pursuant to SDCL Ch. 35-3, and a local option election held, with the electors of the City of Martin agreeing to the procurement by the City of Martin, of an off-sale alcoholic beverage license, a municipal off-sale liquor (package) store is hereby established, to be operated by the City, and controlled and operated by the Council. At the option of the Council, however, the Council may pass a resolution to enter into an operating agreement with a manager of a legitimate operating business located within the City of Martin for the purpose of operating the off-sale establishment for the City.

Source: Local option election held on 4/18/50 - Vote: 424 yes, 262 no; Ord. 168, 5/10/11; **Authority:** SDCL 35-3-7, 35-3-18.

7-3-2 MUNICIPAL LIQUOR STORE - OPERATION OF - DISPOSITION OF SALE PROCEEDS

The City shall be directly responsible for the operation of the store and the gross receipts of such store shall be deposited by an authorized City employee, who shall also be responsible for the disbursement of such funds, pursuant to law.

Authority: SDCL 35-3-19.

7-3-3 SUNDAY OFF - SALE OF LIQUOR

It is hereby specifically authorized that alcoholic beverages may be sold by license off-sale dealers in the City of Martin on Sundays between the hours of noon and 12:00 p.m.

Source: Ord. 48, 7/11/89; **Authority:** SDCL 35-3-1.

7-3-4 SPECIAL EVENT LICENSE

(1) **Special Event License.** For purposes of this ordinance, a special event within the municipality is defined as an event or activity conducted by any generally recognized civic, charitable, educational, fraternal, or veteran's organization with an active chapter located within the City, or a wedding reception or other private family gatherings, or an event at a specified location within the City. To obtain the Special Event License the civic, charitable, educational, fraternal or veterans organization, or for use at a specified location within the City or a hotel-conventional facility a license holder having a license already issued by the City pursuant to SDCL 35-4-2(4), (12), or (16), shall submit an application stating their qualifications for a Special Event License on a form consistent with the requirements of SDCL 35-4-124 and

providing all additional information required by the City Finance Office to meet the requirements of this ordinance.

(2) A special malt beverage retailer's license may be issued in conjunction with a special event, as defined at Section 7-3-4(1) herein, within the City to any qualified civic, charitable, educational, fraternal, or veterans organization or any qualified licensee licensed pursuant to SDCL §35-4-2(4), (6), or (16) in addition to any other licenses held by the special events license applicant;

(3) A special on-sale wine retailer's license may be issued in conjunction with a special event, as defined in Section 7-3-4(1) herein, within the City to any qualified civic, charitable, educational, fraternal, or veterans organization or any qualified licensee licensed pursuant to SDCL §35-4-2(4), (6), or (12) or SDCL Ch. 35-12 in addition to any other licenses held by the special events license applicant;

(4) A special on-sale license may be issued in conjunction with a special event, as defined in Section 7-3-4(1) herein, within the City to any qualified civic, charitable, educational, fraternal, or veterans organization or any qualified licensee licensed pursuant to SDCL §35-4-2(4), (6), or (16) in addition to any other licenses held by the special events license applicant; or

(5) A special off-sale package wine dealer's license may be issued in conjunction with a special event, as defined in Section 7-3-4(1) herein, within the City to any qualified civic, charitable, educational, fraternal, or veterans organization or any qualified licensee licensed pursuant to SDCL §35-4-2(3), (5), (12), (17A), or (19) or SDCL Ch. 35-12 in addition to any other licenses held by the special events license applicant. A special off-sale package wine dealer's licensee may only sell wine manufactured by a farm winery that is licensed pursuant to chapter 35-12.

(6) The fee for each special malt beverage retailer's license, special on-sale wine retailer's license, on-sale liquor license, and special off-sale package wine dealer's license will be fifty dollars (\$50.00) per day.

(7) A public hearing is required before approval and issuance of any license under this Section.

(8) Any licenses issued pursuant to this Section may be issued for a period of time established by the city council not exceeding fifteen (15) consecutive days.

(9) Any non-profit licensee under this Section may not be issued more than five (5) Special Event Licenses for a total of fifteen (15) days during a single calendar year.

(10) This license may be issued pursuant to all additional requirements of SDCL § 35-4-124, including the procedural regulations adopted by a Resolution of the Council.

Source: Ord. 180, 4/25/12; **Authority:** SDCL Ch. 35-4-124.

7-3-5 NUMBER OF MALT BEVERAGE LICENSES

(1) The total number of licenses for "on/off sale" malt beverages that may be issued to the City of Martin shall not exceed eight licenses.

(2) Nothing in this ordinance shall be construed to prohibit the renewal of any license for the sale of malt beverages regularly issued by the City of Martin prior to November 19, 2008.

(3) This ordinance shall exclude all temporary licenses which are issued for a limited time only.

Source: Ord. 2021-2, 5/18/21; Ord. 158, 12/17/08; **Authority:** SDCL Ch. 35-3.

Chapter 7-4

PAWNBROKERS

Sections:

7-4-1 Definition of Pawnbroker

7-4-2 Pawnbroker's License Required

7-4-3 Licensing Procedure for Pawnbrokers – Contents of Application

7-4-4 Investigation of Applicant by City Council

7-4-5 License Fees – Payable in Advance – Effective Date

7-4-6 Revocation of License – Grounds – Procedure

7-4-7 Penalties – Revocation or Cancellation of License

7-4-1 DEFINITION OF PAWNBROKER

A pawn broker, as the term is used in this Chapter, shall be construed to mean any person, who has his or her principal business or as any side line thereto, to whatever degree whatsoever, shall receive goods in pledge for any loans exchange of consideration, or as a part of any transaction whatsoever.

Source: 1986 Rev. Ord. 10, Sec. 1, 12/18/86; **Authority:** SDCL 9-34-8; see also SDCL Ch. 37-16.

7-4-2 PAWNBROKER'S LICENSE REQUIRED

It shall be unlawful for any person to conduct, operate, maintain, or manage a pawn broker business within the corporate limits of the City; or within one mile of the corporate limits of the City, without first obtaining a license therefore from the City Council of the City of Martin.

Source: 1986 Rev. Ord. 10, Sec. 2, 12/18/86; **Authority:** SDCL 9-34-8; see also SDCL Ch. 37-16.

7-4-3 LICENSING PROCEDURE FOR PAWNBROKERS - CONTENTS OF APPLICATION

(1) Any person desiring to conduct a pawn broker's business within the City or within one mile of the corporate limits thereof, shall make application in writing to the City Council, and file the same with the City Finance Officer, setting forth:

(A) the name of the person, firm; association, or corporation intending to operate the same,

(B) the place or location of the room, place, hall or building in which said business is to be conducted; and

(C) as a further part of said application such applicant must agree in writing that proper records shall be maintained of each and every person or persons pledging or offering for pledge any article in pawn, together with a description of such article, the amount of loan or consideration given or granted therefore, and the amount of interest, service charge, or other consideration charged therefore, this being the redeemed value of said item offered in pledge.

(2) Further, that such applicant shall agree in writing that the premises upon which such business is conducted, the records maintained in connection therewith, and each and every item, article or thing received in pledge in connection with the operation of such pawn brokerage business shall be open and available for inspection by any police officer.

Source: 1986 Rev. Ord. 10, Sec. 3, 12/18/86; **Authority:** SDCL 9-34-8; see also SDCL Ch. 37-16.

7-4-4 INVESTIGATION OF APPLICANT BY CITY COUNCIL

The City Council shall investigate the applicant and the proposed locations, and ascertain if, in its judgment, the person, firm, partnership, corporation, organization or association desiring said permit or license is a suitable person to maintain and operate such pawn brokerage business, and if satisfied after such investigation that such permit or license should be issued, they shall issue an Order to the City Finance Officer to issue such license to such application upon payment of the license fee herein provided.

Source: 1986 Rev. Ord. 10, Sec. 4, 12/18/86; **Authority:** SDCL 9-34-8; see also SDCL Ch. 37-16.

7-4-5 LICENSE FEES - PAYABLE IN ADVANCE - EFFECTIVE DATE

The amount required to be paid for a permit or license for conducting, maintaining or operating a pawn brokerage business as herein specified is to be fixed by resolution of the City Council. It shall be paid in advance before the issuance of such license. Unless otherwise provided, any license issued pursuant to this Chapter shall take effect as of January 1st or when issued, and terminate on the following December 31st.

Source: 1986 Rev. Ord. 10, Secs. 5-6, 12/18/86; **Authority:** SDCL 9-34-8; see also SDCL Ch. 37-16.

7-4-6 REVOCATION OF LICENSE – GROUNDS - PROCEDURE

(1) The City Council may, whenever it shall be made to appear to their satisfaction, that any person or persons operating or conducting any pawn shop under the license herein provided, is not conducting the same in an orderly manner or whenever such person or persons have been convicted of a violation of any ordinance of the City of Martin, or laws of the State of South Dakota, or of the United States, revoke any pawnbroker's license then held by such person or persons for the operating of a pawnshop business.

(2) The Council shall give written notice, at least ten days before any hearing is held on the question of the revocation of the license. The written notice shall state the specific grounds sought upon which to revoke the license. The licensee may appear with any representative of his/her choice to contest the notice of revocation of license. The City attorney or his or her designee shall appear at such hearing. It shall be necessary for a majority of council members present and voting to revoke a license under this Chapter.

Authority: SDCL 9-34-8.

7-4-7 PENALTIES - REVOCATION OR CANCELLATION OF LICENSE

Any person, firm, partnership, or corporation, organization, or association who violates any of the provisions of this Chapter shall be deemed guilty of a misdemeanor and upon conviction shall be fined as established in Code § 1-1-6. In the event of a conviction under this Chapter, the City Council may revoke and cancel any license issued under the provisions hereof.

Authority: SDCL 9-34-8; see also SDCL 9-19-3; **Cross-Ref:** Code Sec. 1-1-6.

**TITLE EIGHT
APPROPRIATIONS & BUDGET**

Table 1: Appropriations Ordinances

Ordinance #	Date	Title
99	9/17/97	Fiscal Year (FY) 1998 Appropriation Ord.
101	12/17/97	FY1998 Supplemental Appropriation Ord.
102	6/17/98	FY 1998 Supplemental Appropriation Ord.
103	9/23/98	FY 1999 Appropriation Ord.
109	12/9/98	FY 1999 Supplemental Appropriation Ord.
111	9/15/99	FY 2000 Appropriation Ord.
113	12/30/99	FY 2000 Supplemental Appropriation Ord.
114	9/20/00	FY 2001 Appropriation Ord.
116	11/8/00	FY 2001 Supplemental Appropriation Ord.
118	9/19/01	FY 2002 Appropriation Ord.
126	9/18/02	FY 2003 Appropriation Ord.
127	12/31/02	FY 2003 Supplement Appropriation Ord.
129	9/17/03	FY 2004 Appropriation Ord.
138	9/22/04	FY 2005 Appropriation Ord.
139	12/22/04	FY 2005 Supplemental Appropriation Ord.
141	10/5/05	FY 2006 Appropriation Ord.
143	12/21/05	FY 2006 Supplemental Appropriation Ord.
151	9/27/06	FY 2007 Appropriations Ord.
153	9/26/07	FY 2008 Appropriations Ord.
156	6/09/08	FY 2008 Appropriations Ord.
157	10/1/2008	FY 2009 Appropriations Ord.
159	1/14/09	FY 2009 Supplemental Appropriations Ord.
163	10/7/09	FY 2010 Appropriations Ord.
164	9/22/10	FY 2011 Appropriations Ord.
166	2/29/10	FY 2011 Supplemental Ord.
172	9/14/11	FY 2012 Appropriations Ord.
176	1/24/12	FY 2011 Supplemental Appropriations Ord.
209	10/17/17	FY 2018 Appropriation Ord.
210	12/13/17	FY 2017 Supplemental Appropriation Ord.
211	9/12/18	FY 2019 Appropriation Ord.
213	12/13/18	FY 2018 Supplemental Appropriation Ord.
215	10/15/19	FY 2020 Appropriations Ord.
216	12/11/19	FY 2019 Supplemental Appropriation Ord.
229	11/10/21	FY 2021 Supplemental Appropriation Ord.
243	11/09/22	FY 2022 Supplemental Appropriation Ord.

TITLE NINE
CABLE FRANCHISE ORDINANCES (Ord. 117, 145, 167)
ESTABLISH AIRPORT FBO (Ord. 119)
FINE AND BOND SCHEDULE (Ord. 234)

Table 2: Cable Franchise Ordinances

117	3/28/01	Golden West Cablevision Inc. Franchise Ord.
145	4/4/06	Golden West Cablevision, Inc., Franchise Renewal
167	5/10/11	Golden West Cablevision, Inc., Renewal and Amendment Ord.

Table 3: Airport FBO

119	12/19/01	Establish FBO at Airport
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Table 4: Fine and Bond Schedule

119	12/19/01	Establish FBO at Airport
181	4/25/12	Fine & Bond Schedule
219	6/10/2020	Fine & Bond Schedule
234	10/11/2022	Fine and Bond Schedule

TITLE TEN
MEDICAL MARIJUANA

Chapter:
10-1 Medical Marijuana Dispensaries

Chapter 10-1

MEDICAL MARIJUANA DISPENSARIES

Sections:

- 10-1-1 Purpose and Intent
- 10-1-2 Definitions
- 10-1-3 License Required
- 10-1-4 License Application
- 10-1-5 Issuance of License
- 10-1-6 City Neutrality as to Applicants
- 10-1-7 Number of Cannabis Dispensaries
- 10-1-8 Expiration of License and Renewal
- 10-1-9 Suspension
- 10-1-10 Revocation
- 10-1-11 Suspension and Revocation Process
- 10-1-12 Appeal
- 10-1-13 Licenses Not Transferrable
- 10-1-14 Hours of Operation for Dispensaries
- 10-1-15 Liability for Violations
- 10-1-16 Penalties
- 10-1-17 Severability

10-1-1: PURPOSE AND INTENT

The City Council of the City of Martin 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.

Source: Ord. 228, 10/5/2021.

10-1-2: 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 *et. seq.*

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 *et. seq.*, 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 *et. seq.*, 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 *et. seq.*, 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 *et. seq.*, 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.

Knowingly: knowledge, knowingly, and all derivatives thereof, means a knowledge that the facts exist which bring the act or omission within the provisions of any Ordinance, statute, or regulation. An actor has knowledge if that actor is aware that the facts exist which bring the act or omission within the provisions of any Ordinance. Knowledge of the unlawfulness of such act or omission under statute, regulation, or Ordinance is not required to meet the “knowingly” standard.

Source: Ord. 228, 10/5/2021.

10-1-3: LICENSE REQUIRED

- (a) 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 Ordinance 10-1-16 or the fine and bond schedule, Chapter 1-5, as applicable. Each day of the violation constitutes a separate offense.

- (b) 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-1 *et. seq.* A violation of this provision is subject to the general penalty provision in Ordinance 10-1-16 or the fine and bond schedule, Chapter 1-5, as applicable. Each day of the violation constitutes a separate offense.

Source: Ord. 228, 10/5/2021.

10-1-4: LICENSE APPLICATION

- (a) An application for a cannabis establishment license must be made on a form provided by the City at the Martin City Office. No other application form will be considered.
- (b) The applicant must submit the following:
1. An application fee of \$5000.00 in the form of a certified check made out to the City of Martin. The City will reimburse \$2500.00 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 or d/b/a of the prospective cannabis establishment's owner, entity, or trust;
 - ii. The physical address of the prospective cannabis establishment that meets the location requirements found herein, as well as any location requirements pursuant to SDCL § 34-20G-1 *et. seq.* 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 copy of the entity's Articles of Organization or Articles of Incorporation, and all Annual Reports, if the applicant is an entity;
 - v. A certificate of trust if the applicant is a trust or trustee of a trust;
 - vi. A map showing the location of the proposed cannabis establishment;
 - vii. 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 and;
 - viii. Any additional information requested by the City.

Source: Ord. 228, 10/5/2021.

10-1-5: 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 officers, trustees, employees, agents, or board member of the applicant is under the age of twenty-one (21) years; or
3. Any owners, principal officers, trustees, employees, agents, or board member of the applicant has been convicted of a violent felony offense in the previous ten (10) years in any jurisdiction; or
4. The proposed location is within 150 feet of any private residence or home;
5. The proposed location is within 1000 feet of any building or location where private or public school activities are held; or
6. The proposed location does not meet all location requirements under SDCL § 34-20G-1 *et. seq.* and the administrative rules promulgated thereunder; or
7. The license is to be used for a business prohibited by state or local law, statute, rule, Ordinance, or regulation; or
8. Any owner, principal officer, trustee, agent, 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
9. An applicant, or an owner, principal officer, trustee, agent, 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
10. The applicant will not be operating the business for which the license would be issued; or
11. There exists another reason not listed above, but for which denial of a license would not be arbitrary, capricious, or discriminatory under federal law.

(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 and publicly accessible location at or near the entrance to the cannabis establishment so that it may be easily read at any time.

Source: Ord. 228, 10/5/2021.

10-1-6: 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.

Source: Ord. 228, 10/5/2021.

10-1-7: NUMBER OF CANNABIS DISPENSARIES

- (a) No more than one cannabis dispensaries shall be allowed to operate in the City at any time.

Source: Ord. 228, 10/5/2021.

10-1-8: EXPIRATION OF LICENSE AND RENEWAL

- (a) Each license expires one year from the date of issuance and may be renewed only by making application as provided in Ordinance 10-1-4. An application for a renewal must contain all of the same information for an application for an initial license as provided in Ordinance 10-1-4. An 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 \$5,000.00. The City will reimburse \$2,500 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, penalties, or fines. 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.

Source: Ord. 228, 10/5/2021.

10-1-9: 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 Ordinance in this Title.
 - 2. Consumes or smokes or knowingly 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.

Source: Ord. 228, 10/5/2021.

10-1-10: REVOCATION

- (a) A license may be revoked if the license is suspended under Ordinance 10-1-9 and the cause for the suspension is not remedied.
- (b) A license may be revoked if the license is subject to suspension under Ordinance 10-1-10 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 or agent of a license holder:
1. Gives 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 Ordinance while the license was suspended;
 4. Has engaged in repeated violations of any applicable Ordinance, statute, or regulation;
 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, board member, agent, employee, or trustee 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 officer, board member, agent, employee, or trustee 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-1(11); or

8. The license holder has its Department-issued registration certificate suspended, revoked, or not renewed or the registration certificate is expired; or

9. The license holder allows a public nuisance to continue after notice from the City.

Source: Ord. 228, 10/5/2021.

10-1-11. 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, or sent by email with a read receipt requested.

(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 a quorum of the Martin City Council. Failure to request a hearing results in a waiver of the same.

(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.

Source: Ord. 228, 10/5/2021.

10-1-12. 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 and request for a hearing 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, 101 Main Street, Martin, South Dakota, 57551. The appeal will be considered by the City Council at the next regularly scheduled monthly meeting or a specially scheduled hearing. Failure to request a hearing or submit a written appeal results in a waiver of the same.

Source: Ord. 228, 10/5/2021.

10-1-13. LICENSES NOT TRANSFERRABLE

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.

Source: Ord. 228, 10/5/2021.

10-1-14: HOURS OF OPERATION FOR DISPENSARIES

A cannabis dispensary may only operate between the hours of 10 AM and 6 PM, Monday through Friday. The term “operate” refers to the dispensing of cannabis to members of the public with proper licenses. Administrative work, shipping, stocking, inventorying of cannabis, and other work required to keep the dispensary operative may take place between 8 AM and 8 PM, Monday through Friday.

Source: Ord. 228, 10/5/2021.

10-1-15: LIABILITY FOR VIOLATIONS

Notwithstanding anything to the contrary, for the purposes of this Title and these ordinances, an act by an employee, trustee, 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.

Source: Ord. 228, 10/5/2021.

10-1-16: PENALTIES

Any person, entity, trust, or any agents thereof who operate or cause to be operated a cannabis establishment without a valid license or in violation of any ordinance is subject to a suit for injunction as well as prosecution for ordinance violations. The person, entity, or trust shall be liable for all attorneys’ fees incurred by the City of Martin with regard to enforcement of this Title, and whether or not litigation results. Such violations are punishable by a maximum fine of five hundred dollars (\$500.00) or as otherwise provided in the fine and bond schedule, Chapter 1-5, if applicable. Each day a cannabis establishment so operates without a license or in violation of any ordinance is a separate offense or violation.

Source: Ord. 228, 10/5/2021.

10-1-17: SEVERABILITY

The provisions of this Title 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 these Ordinances which can be given effect without the invalid provision or application.

Source: Ord. 228, 10/5/2021.