

**REVISED**

**MUNICIPAL ORDINANCES**

**CITY OF HURLEY, SOUTH DAKOTA**

Ordinance No. 14-01

Effective Date: June 18, 2014

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

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

ORDINANCE NO. 14-01

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

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

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

First Reading:	April 14, 2014
Second Reading and Adoption:	May 12, 2014
Publication Dates:	May 22, 2014 and May 29, 2014
Effective Date:	June 18, 2014

  
Linda Nelson, Mayor

ATTEST:

  
Marcy Hillman, Finance Officer

Seal

**AFFIDAVIT OF PUBLICATION**  
STATE OF SOUTH DAKOTA)

COUNTY OF TURNER )

Allyson M. Hill, being first duly sworn, on oath says the VIBORG ENTERPRISE is a WEEKLY newspaper published in VIBORG in said county of TURNER, State of South Dakota; and that she is authorized to and does make this affidavit on behalf of said VIBORG ENTERPRISE; that affiant has personal knowledge of all facts stated in this affidavit; that said newspaper is a legal newspaper as defined by SDCL 17-2-2.1 through 17-2-2.4 inclusive as amended, has a bona fide circulation of at least two hundred copies WEEKLY, has been published in the English language within said county and has been admitted to the United States mail under the second class mailing privilege, for at last one year continuously next prior to the publication of the notice herein mentioned and was and is printed wholly or in part in an office maintained at said place of publication; that said notice, a printed copy of which taken from the paper in which the same was published is hereto attached and is made part of this affidavit, was published in said newspaper

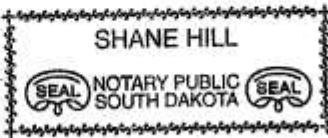
2 time(s) as follows: that the first publication of said notice in said newspaper aforesaid was on Thursday the 22 day of May, 2014, and that the succeeding publications were severally on Thursday, the 29 day of May, 2014; on Thursday, the \_\_\_ day of \_\_\_\_\_, 2014; on Thursday, the \_\_\_ day of \_\_\_\_\_, 2014; on Thursday, the \_\_\_ day of \_\_\_\_\_, 2014;

Affiant further says that the full amount of the fees charged for the publication of said notice inures to the benefit of the publishers of said newspaper; that no agreement of understanding for the division thereof has been made with any other person, that no part therefore has been agreed to be paid to any person whomsoever; and that the fees charged for the publication thereof are:

DOLLARS (\$) 18.46  
(x) Allyson M Hill Allyson M. Hill

Subscribed and sworn to before me this 31 day of May, 2014

[Signature]  
Notary Public  
My commission expires 11/14/2018



**NOTICE OF ADOPTION**  
AN ORDINANCE IN REVISION OF THE MUNICIPAL ORDINANCES OF THE CITY OF HURLEY, SOUTH DAKOTA

Notice is hereby given Ordinance No. 1401, an Ordinance in Revision of the Municipal Ordinances of the City of Hurley, was duly adopted by the City Council on May 12, 2014, and shall become effective June 18, 2014, according to South Dakota law.

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

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

Marcy Hillman, Finance Officer  
Published twice at the approximate cost of \$18.46.

# TABLE OF CONTENTS

	Page #
TITLE 1 - ADMINISTRATIVE CODE	
<u>Chapter 1.01 - Municipal Employees.....</u>	<u>1</u>
<u>Chapter 1.02 - Mayor and City Council.....</u>	<u>1</u>
<u>Chapter 1.03 - Fire Department .....</u>	<u>2</u>
<u>Chapter 1.04 - Finance Regulations .....</u>	<u>3</u>
TITLE 2 - BOUNDARIES, WARDS AND VOTING PRECINCTS	
<u>Chapter 2.01 - Boundaries.....</u>	<u>4</u>
<u>Chapter 2.02 - Wards and Voting Precincts .....</u>	<u>4</u>
TITLE 3 - HEALTH AND SANITATION	
<u>Chapter 3.01 - Nuisances .....</u>	<u>5</u>
<u>Chapter 3.02 - Collection of Garbage .....</u>	<u>12</u>
TITLE 4 - LICENSES	
<u>Chapter 4.01 - General Provisions .....</u>	<u>15</u>
<u>Chapter 4.02 - Peddlers.....</u>	<u>15</u>
<u>Chapter 4.03 - Alcoholic Beverages .....</u>	<u>18</u>
TITLE 5 - OFFENSES	
<u>Chapter 5.01 - Offenses Against Public Welfare .....</u>	<u>20</u>
<u>Chapter 5.02 - Animals .....</u>	<u>21</u>
<u>Chapter 5.03 - Fireworks and Firearms.....</u>	<u>28</u>
<u>Chapter 5.04 - Minors .....</u>	<u>29</u>
TITLE 6 - STREETS, SIDEWALKS AND PUBLIC PLACES	
<u>Chapter 6.01 - Street Names and Addresses .....</u>	<u>31</u>
<u>Chapter 6.02 - Streets, Sidewalks, Curb and Gutter.....</u>	<u>32</u>
<u>Chapter 6.03 - Snow Removal .....</u>	<u>33</u>
<u>Chapter 6.04 - Moving Buildings.....</u>	<u>34</u>
<u>Chapter 6.05 - Municipal Trees .....</u>	<u>35</u>
<u>Chapter 6.06 - Municipal Parks .....</u>	<u>36</u>
TITLE 7 - TRAFFIC CODE	
<u>Chapter 7.01 - General Provisions .....</u>	<u>38</u>
<u>Chapter 7.02 - Operation of Vehicles .....</u>	<u>40</u>
<u>Chapter 7.03 - Vehicle Equipment.....</u>	<u>42</u>

	<a href="#"><u>Chapter 7.04 - Speed Restrictions .....</u></a>	<a href="#"><u>43</u></a>
	<a href="#"><u>Chapter 7.05 - Parking, Stopping .....</u></a>	<a href="#"><u>44</u></a>
	<a href="#"><u>Chapter 7.06 - Trucks.....</u></a>	<a href="#"><u>47</u></a>
	<a href="#"><u>Chapter 7.07 - Snowmobiles .....</u></a>	<a href="#"><u>48</u></a>
	<a href="#"><u>Chapter 7.08 - Miscellaneous Provisions.....</u></a>	<a href="#"><u>51</u></a>
	<a href="#"><u>Chapter 7.09 - Golf Carts .....</u></a>	<a href="#"><u>51</u></a>
<b>TITLE 8 -</b>	<b>MUNICIPAL UTILITIES</b>	
	<a href="#"><u>Chapter 8.01 - General Provisions .....</u></a>	<a href="#"><u>53</u></a>
	<a href="#"><u>Chapter 8.02 - Water Provisions .....</u></a>	<a href="#"><u>56</u></a>
	<a href="#"><u>Chapter 8.03 - Sewer Provisions.....</u></a>	<a href="#"><u>57</u></a>
<b>TITLE 9 -</b>	<b>PLANNING, ZONING AND BUILDING REGULATIONS</b>	
	<a href="#"><u>Chapter 9.01 - Planning Commission .....</u></a>	<a href="#"><u>66</u></a>
<b>TITLE 10 -</b>	<b>TAXATION</b>	
	<a href="#"><u>Chapter 10.01 - Municipal Sales and Service Tax and Use Tax .....</u></a>	<a href="#"><u>68</u></a>
	<a href="#"><u>Chapter 10.02 - Gross Receipts Tax .....</u></a>	<a href="#"><u>68</u></a>
	<a href="#"><u>Chapter 10.03 - Urban and Rural Service Districts.....</u></a>	<a href="#"><u>69</u></a>
<b>TITLE 11 -</b>	<b>CITY CEMETERY</b>	
	<a href="#"><u>Chapter 11.01 - Cemetery Operations.....</u></a>	<a href="#"><u>71</u></a>
<b>TITLE 12 -</b>	<b>GENERAL PROVISIONS</b>	
	<a href="#"><u>Chapter 12.01 - Penalties and Repealing Clause.....</u></a>	<a href="#"><u>72</u></a>

# TITLE 1 - ADMINISTRATIVE CODE

- Chapter 1.01 - Municipal Employees**
- Chapter 1.02 - Mayor and City Council**
- Chapter 1.03 - Fire Department**
- Chapter 1.04 - Finance Regulations**

## CHAPTER 1.01 - MUNICIPAL EMPLOYEES

- 1.0101 Appointive Officers, Method of Appointment. All appointive officers shall be appointed by the Mayor with the majority vote of the City Council and shall hold office until their successor shall be appointed and qualified. (SDCL 9-14-3)
- 1.0102 Appointive Officers, Salaries, Bonds. The following offices or positions of the City, as hereinafter created, are continued, and the amounts of salaries to and bonds to be furnished by them shall be fixed by resolution of the City Council and shall be adjusted as deemed necessary by resolution of the City Council of the City of Hurley and said amounts shall be on file at the office of the Finance Officer: Finance Officer, Attorney and such other officers as may be prescribed by ordinance or state statute.
- The salaries of such designated officers or employees shall be paid bi-weekly except that of the City Attorney shall be paid an hourly rate on a monthly basis.
- 1.0103 Employees Other Than Appointive. In addition to appointive officers, the Mayor with the majority vote of the City Council shall hire such other personnel, professional and otherwise, required and necessary for municipal purposes. The compensation of such employees shall be fixed by resolution at anytime regardless of the time when any City employee may have been hired.
- 1.0104 Personnel Policies. Vacation, sick leave and other employment policies in effect are on file in the office of the City Finance Officer.

## CHAPTER 1.02 - MAYOR AND CITY COUNCIL

- 1.0201 Composition. The City Council shall consist of the Mayor elected at large, who shall hold office for four years, and six aldermen, two elected from each ward, who shall hold office for three years. (SDCL 9-8-1 and 9-8-4)
- 1.0202 Regular Meetings. On the second Monday of each month at 7:00 p.m., the City Council shall meet at City Hall or other designated place, to consider, take under advisement, and act upon such business as may come before it. If a regular meeting day falls upon a City observed holiday, the regular meeting shall be held on the following day. (SDCL 9-8-8)
- 1.0203 Mayor - Duties. The Mayor shall preside at all meetings of the City Council, but shall have no vote except in case of a tie. The Mayor shall perform such other duties as may be prescribed by laws and ordinances and ensure that such laws and ordinances are faithfully

executed, and shall have the power to veto any part or item of an ordinance or resolution appropriating money. (SDCL 9-8-3).

- 1.0204 President and Vice-President of Council. At the first regular meeting after the annual election in each year and after the qualification of the newly elected aldermen, the City Council shall elect from among its own members a president and vice-president, who shall hold their respective offices for the municipal year.
- 1.0205 Compensation - Mayor and City Council. The Mayor and Councilmen are to be allowed compensation as set by resolution of the City Council. Compensation of the Mayor and Councilmen as herein set forth shall be paid at such times as may be decided upon by the Council.
- 1.0206 Special Meetings of City Council. Special meetings of the City Council may be held at any time on call of the Mayor, or in case of absence or inability to act, then by the President of the City Council; or by three (3) of the Aldermen.

It shall be the duty of the Finance Officer to contact the Aldermen before the time specified for such meetings, and this may be done by telephone.

### **CHAPTER 1.03 - FIRE DEPARTMENT**

- 1.0301 Establishment. There shall be established for the City a Volunteer Fire Department which shall consist of a Chief, Assistant Chief, Secretary-Treasurer, and such other members as may be from time to time determined by the Fire Department. (SDCL 9-33-13)
- 1.0302 Constitution and Bylaws. The Fire Department may adopt such constitution and bylaws and rules for its regulation and government, subordinate to the ordinances of the City, as it may deem best calculated to accomplish the object of its organization.
- 1.0303 Members. The members of the Fire Department shall be able-bodied persons of good moral character, duly elected by a majority of the active members of the Fire Department.
- 1.0304 Terms of Office. The Chief, Assistant Chief, and Secretary-Treasurer shall be the head of the Fire Department and shall hold office for a term of one year and until their successors shall be appointed and qualified.
- 1.0305 Appointment of Officers. The officers shall be nominated by the active members of the Fire Department and elected by a majority of members present at the annual meeting of the Fire Department in December of each year; the names of such officers shall be reported to the City Council and confirmed by them.
- 1.0306 Meetings. The Fire Department shall meet at least once a month upon call of the Fire Chief and any member not responding to such call unless absent from the City, or upon other good cause shown to the satisfaction of the Chief of the Fire Department may be dismissed from said Department.
- 1.0307 Appropriation. The City Council shall in its annual appropriation, appropriate such amounts as they may deem necessary for the purpose of maintaining such Fire Department including

equipment, ladders, trucks, hoses and other apparatus, and providing such necessary articles of clothing as they may deem necessary for the members of said Department. (SDCL 9-33-12)

- 1.0308 Equipment. The equipment, trucks, implements and all apparatus, shall be kept at such place as may be provided and directed by the City Council and shall at all times be ready for immediate use. (SDCL 9-33-11)
- 1.0309 Duties of Chief. The Fire Chief shall have sole charge and control over all members of the Fire Department and fires. The Chief shall, at all times, have the general direction and management of all hoses, chemicals, engines, and other apparatus belonging to the Department.
- 1.0310 Fire Zone. The Chief, or acting Chief in command, may prescribe limits around any fire, and it shall be unlawful for any person, except those who reside therein, or firemen, law enforcement officers and those given admission by any officer of the Fire Department, to enter therein.
- 1.0311 Investigation of Cause of Fire. The Chief shall inquire into and investigate the cause of each fire that occurs in the City as soon as possible, and make a record of such proceedings and file the same or a copy thereof with the Secretary of the Fire Department.
- 1.0312 Financial Estimate. The Chief shall prepare in detail and submit to the Finance Officer on or before the first day of August in each year, an estimate of the entire cost and expense of providing and maintaining the Fire Department during the current fiscal year, and shall present such estimate to the City Council with an annual budget estimate for the following year.
- 1.0313 Command in Absence of Chief. If the Chief is absent from any fire call, the Assistant Chief, then the Secretary-Treasurer (in that order) shall take charge of the organization and shall have and exercise all the powers of Chief.
- 1.0314 Vacancy. In case of a vacancy occurring in the office of Chief, the Assistant Chief shall discharge the duties of the Chief until such vacancy is filled.

## **CHAPTER 1.04 - FINANCE REGULATIONS**

- 1.0401 Revenues and Special Funds. All money belonging to the City from taxation, licenses, fines, permits, the operation of utilities, or from any other source, shall be paid into the City treasury, and the City Council shall designate by ordinance to what fund or funds such money shall be applied. The Finance Officer shall keep full, true and just accounts of all financial affairs of such form and in such manner from time to time as required by the South Dakota Department of Revenue. (SDCL 9-14-18)
- 1.0402 Records Retention and Destruction. The Records Retention and Destruction Schedule Manual, authorized for South Dakota municipalities by the Office of Records Management, Bureau of Administration, State of South Dakota, shall be adopted by the City Council, and a printed copy of such manual shall be filed with the Finance Officer.

## TITLE 2 - BOUNDARIES, WARDS, AND VOTING PRECINCTS

### Chapter 2.01 - Boundaries

### Chapter 2.02 - Wards and Voting Precincts

#### CHAPTER 2.01 - BOUNDARIES

- 2.0101 Boundaries. The corporate limits of the City shall be declared to be such as have been legally established and amended by law and ordinances of the City as shown on the official map on file in the office of the Finance Officer. Such map shall be incorporated in this ordinance by reference and adopted as the official map showing the boundaries and limits of the City. (SDCL 9-3-2, SDCL 9-4-1)

#### CHAPTER 2.02 - WARDS AND VOTING PRECINCTS

- 2.0201 Wards and Voting Precincts. The City shall be divided into three wards, which shall be combined and consolidated into one election precinct, and shall be designated respectively as Wards One, Two and Three. The wards shall be described by stating the certain street or avenue designations or other landmarks that divide and border the wards. Any reference to street or avenue below shall mean an imaginary line running down the approximate middle of each street or avenue. The wards of the City of Hurley are as set forth below and on the map thereof on file in the office of the Finance Officer. Any discrepancies shall be resolved by reference to the map rather than the physical descriptions set forth herein.

Ward 1 - South of Center Avenue from SD Hwy 19 West to Main Street; South of Dakota Avenue from Main to Washington Street; South of Montana Avenue from Washington to Park Blvd; all that lying East of Park Blvd.

Ward 2 - North of Center Avenue from SD Hwy 19 west to Monroe, including the block South of Center, West of Main, North of Dakota, and East of Washington; North to Iowa; all that lying North of Iowa and West of Monroe, including the block West of Adams, North of Center and East of Van Buren.

Ward 3 - The blocks which make up the boundary of the park, namely NW of Blackstone, NE of Court, SE of Burns and SW of Byron; all that remains South of Center from Van Buren East to Washington; the area South of Center and west of Washington; from the corner of Montana and Washington, all areas south and west.

## TITLE 3 - HEALTH AND SANITATION

### Chapter 3.01 - Nuisances

### Chapter 3.02 - Collection of Garbage

#### CHAPTER 3.01 - NUISANCES

3.0101 Definitions. For the purpose of this Chapter, the following terms are hereby defined.

- A. “Garbage” – The animal and vegetable waste resulting from the handling, preparation, cooking and serving of foods.
- B. “Solid Waste” – Any garbage, refuse, sludge from a waste treatment plant, water supply treatment plant or air pollution control facility and other discarded materials, including solid, liquid, semisolid or contained gaseous material resulting from industrial, commercial and agricultural operations, and from community activities including, but not limited to wood and other construction materials, appliances, yard waste, tires, scrap iron, chemicals or fuel. (SDCL 34A-6-1.3)
- C. “Wastewater” – The spent water of a community. From the standpoint of source it may be a combination of the liquid and water-carried wastes from residences, commercial buildings, industrial plants and institutions, together with any groundwater, surface water and storm water that may be present.
- D. “Abandoned property” – Any junk car, car bodies or equipment of any type, except in an authorized junk yard, or any accumulations of other unsightly trash or junk which would constitute a health hazard, a rodent harborage, a breeding area for insects or rodents, a dangerous place for children to play in and around or which tends to be unsightly and which does or tends to lower the value of adjacent real property because of its unsightliness.
- E. “Abandoned vehicle” – Any vehicle that is left unattended or stored on any public property in the same or substantially same place within the City for a longer period than 24 hours.
- F. “Inoperable vehicle” – Any vehicle which is not in operating condition due to damage, removal or inoperability of one or more tires and/or wheels, the engine or other essential parts required for the operation of the vehicle, or which does not have lawfully affixed thereto unexpired license plates, or which constitutes an immediate health, safety, fire or traffic hazard.
- G. “Nuisance” – Unlawfully doing an act, or omitting to perform a duty, which act or omission either: (1) annoys, injures, or endangers the comfort, repose, health, or safety of others; (2) offends decency; (3) 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; (4) in any way renders other persons insecure in life, or in the use of property; and in addition the specific acts, conditions and things listed in Section 3.0102 are hereby declared to constitute public

nuisances, but such acts, conditions and things shall not be deemed to be exclusive. (SDCL 21-10-1)

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

3.0102 Acts, Omissions and Conditions Prohibited. No person, whether an owner, occupant, tenant or other person in charge of any real property within the corporate limits of the City shall create, commit, maintain, or permit to be created, committed, or maintained, any public nuisance, to include, without limitation, the following specific acts, conditions and things, each and all of which are hereby declared to constitute a nuisance: (SDCL 9-32-1)

- A. Depositing, accumulating, or permitting to be accumulated upon any public or private property, any household wastewater, sewage, garbage, refuse, rubbish, offal, excrement, decaying fruit, vegetables, fish, meat, bones; any fowl, putrid, or obnoxious liquid substance; any chemical or hazardous material; or putrescible and nonputrescible animal or vegetable wastes or solid wastes, or any other waste material which constitutes or tends to create a danger to public health, safety, and welfare. (SDCL 9-32-10, SDCL 34A-7-9)
- B. The accumulation of manure, garbage, or anything whatsoever which may be breeding areas for flies, mosquitoes, or rodents. (SDCL 9-32-10)
- C. For the owner of a dead animal to permit it to remain undisposed of longer than twenty-four hours after its death. (SDCL 9-29-13)

- D. Any excavation, trench, or open basement in which stagnant water is permitted to collect or which may jeopardize the life, limb, or safety of the general public. (SDCL 9-29-13)
- E. Throwing or letting fall on or permitting to remain on any street, alley, or public ground any manure, garbage, rubbish, filth, fuel or wood while engaged in handling or removing any such substance. (SDCL 9-32-10)
- F. Keeping or maintaining any building or enclosure where livestock or fowl are kept unless a special permit is requested and such is approved by the City Council. (SDCL 9-29-13)
- G. Disposing of garbage, waste, or refuse by open burning, or causing, allowing, or permitting the conducting of a salvage operation by open burning in the City. The following types of open burning shall be permissible for a specific purpose when conducted in conformity with the subsections set forth below:
  - 1. Fires set for the elimination of a fire hazard, which cannot be abated by any other means when authorized by the Fire Chief of the Hurley Fire Department.
  - 2. Fires purposely set by the City employees for the purposes as authorized by the Fire Chief of the Hurley Fire Department.
  - 3. Fires purposely set by the Hurley Fire Department personnel and authorized by the Fire Chief for the purpose of training and conducted in accordance with live fire-training standards.
  - 4. Campfires and other fires used solely for recreational purposes, for ceremonial occasions, and for outdoor preparation of foods.
- H. Maintaining or permitting to be maintained on any private or public property any abandoned property or unsightly trash or junk, abandoned vehicle, or inoperable vehicle or parts thereof. It shall be unlawful to keep or place any of such vehicles or vehicle parts:
  - 1. Upon public streets or property except on an emergency basis.
  - 2. Upon the private property of any person owning, in charge of, or in control of any real property within the City, whether as an owner, tenant, occupant, lessee or otherwise, for longer than fourteen days unless it is within a fully enclosed building or structure. A carport, tarpaulin, tent or other similar temporary structure shall not be deemed to satisfy the requirements of this section.

In no event shall an inoperable vehicle that constitutes an imminent health, safety or fire hazard be kept or located on any real property.
- I. The requirements of paragraph H shall not apply to the following:
  - 1. One inoperable vehicle kept on private property without being shielded from public view if licensed and kept on a private driveway. If this inoperable vehicle

is in a state of externally visible disrepair or disassembly, it shall not be kept on the private driveway longer than fourteen days.

2. Filling stations, automobile repair shops or any other motor vehicle related businesses in compliance with applicable City ordinances may place inoperable vehicles being repaired or offered for sale on the premises.
3. Junkyards operated and maintained in compliance with applicable City ordinances.
4. One vehicle specifically designed and used for operation on drag strips or raceways that remains on private property.
5. Any vehicle in an appropriate storage place or depository maintained in a lawful place and manner by the City or authorized by the City.

3.0103 Diseased Vegetation. Any owner, occupant, or person in charge of any property under the jurisdiction of the City shall remove at his own expense any trees, brush, wood, or debris infected with Dutch Elm disease or other infestations or infectious disease found thereon when so notified by the City to do so. The City Council shall cause to be mailed by certified mail, return receipt requested, or by personal service to such owner, occupant, or person, or by posting on the property, written notice that they may appear before the said City Council at an appointed time not less than fourteen days from the date of mailing or personal service of said written notice to show cause why said trees, brush, wood, or debris should not be declared a public nuisance. Failure by any person to actually receive any document sent to him by certified mail or to sign and return any receipt card acknowledging receipt by certified mail shall not invalidate service made upon such person by certified mail. Such notice is deemed completed at the time it is mailed, hand delivered or posted, and any period to reply or abate begins to run from the date of mailing, personal service or posting.

At said meeting the City Council may resolve and declare the same to be a public nuisance and may order its removal by said owner, occupant, or person within twenty-one days from the date of service of said resolution and order on said owner, occupant, or person.

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

3.0104 Vegetation Nuisance.

A. Definitions. For the purposes of this section, the following terms, phrases, words, and their derivations shall have the meanings given herein.

1. “Developed lot or area” means a lot or area with a finished building or building under construction.
2. “Noxious weeds” means all actively growing plants declared to be statewide noxious weeds by the South Dakota Weed and Pest Control Commission.

3. “Undeveloped lot or area” means a vacant lot or area with no structure on it.
4. “Weeds” means any plants growing uncultivated and out of context with the surrounding plant life when such plant has a seed head formed or forming and with a height of eight inches or more, except as otherwise provided in this section.

B. Nuisances.

1. Each owner and each person in the possession or control of any land shall cut or otherwise destroy, in whatever manner prescribed by the City, all noxious weeds thereon and shall keep said lands free of such growth.
2. Each owner and each person in possession or control of any property shall be responsible to keep said lot, place, or area or upon any sidewalk abutting the same free of any noxious weeds and to keep grasses and weeds on said lot mowed so that grass and weeds are less than eight inches in height. However, grass and weeds located on undeveloped and unplatted property located more than one hundred feet from developed or platted property shall be mowed so that grass and weeds are less than twelve inches in height. This does not apply to vegetation which is being grown as a crop, livestock pasture or wildflower display garden.
3. Each owner and each person in the possession or control of any lands shall not allow any plant growth of any sort to remain in such a manner as to render the streets, alleys or public ways adjoining said land unsafe for public travel or in any manner so as to impede pedestrian or vehicular traffic upon any public place or way.

C. Notice to Abate and Abatement by City. The Finance Officer shall annually on or before May 1<sup>st</sup> of each year publish once a week for two consecutive weeks a Notice to Property Owners generally setting forth the duty to control weeds and other vegetation which might be a nuisance in violation of this Section. The Finance Officer or his or her designee may cause a Notice to Abate Nuisance to be served, by posting of notice on such property within view of the public, upon any property owner who fails to comply with the published notice or any person who at any other time has weeds or other vegetation. Upon failure, neglect or refusal of any owner, agent or occupant so notified to comply with said notice within five days, thereof the Finance Officer or his or her designee is hereby authorized and empowered to provide for the cutting, destroying or removal of the weeds, grass or other noxious matter and stabilize the soil if necessary. The City may defray the cost of the work, including administrative costs, by special assessment against the property as set out in Section 3.0104 (D).

D. Costs Recovered. The Finance Officer shall cause an account to be kept against each lot upon which work is done pursuant to Section 3.0104 (C) and shall after completion of the work, bill the owner of the property for such work and if not paid within thirty days thereafter, the Finance Officer shall thereupon add such assessment to the general assessment against said property. The Finance Officer shall certify such special assessment together with the regular assessment to the Turner County Auditor to be collected as municipal taxes for general purposes.

Said assessment shall be subject to review and equalization the same as assessments or taxes for general purposes. In lieu of special assessment, the City Council may institute a civil action against the owner or occupant of such property to recover said account.

- E. Habitual Violators. If the owner or person in control of any land that has previously received a notice to abate nuisance relating to weeds within the preceding twenty-four months, then, the notice to abate nuisance may include notice that such owner or person in control of said property will be considered to be an habitual violator of this section and that if the nuisance is not abated within the allowed time, the City will consider the property to be subject to having a contract let by the City for mowing property as needed up to a weekly basis for the next following twenty-four month period of time and that the full cost of said contract together with an administrative fee of two hundred dollars will be assessed against the property.

3.0105 Littering in Public Places. No person shall throw or deposit litter in or upon any street, sidewalk, or other public place within the City except in authorized public or private receptacles. The following further identifies acts and conditions that constitute nuisances and are therefore prohibited:

- A. No person shall sweep into or deposit in any gutters, streets, or other public place within the City, the accumulation of litter from any building or lot or from any public or private sidewalk or driveway. Persons owning or occupying property or places of business shall keep the sidewalk in front of such premises free of litter.

For purposes of this Ordinance, a public nuisance shall also include snow and ice when deposited or allowed to accumulate in conflict with the provisions of this Section.

- B. No persons, while a driver or passenger in a vehicle, shall throw or deposit litter or yard waste upon any street or other public place or upon private property within the City. No person shall drive or move any truck or other vehicle within the City unless such vehicle is so constructed or loaded as to prevent any load, contents, or litter from being blown or deposited upon any street, alley, or public place.
- C. No person shall throw or deposit litter on any occupied, open, or vacant private property within the City, whether owned by such person or not, except that the owner or person in control of private property may maintain authorized private receptacles for collection in such a manner that litter will be prevented from being deposited upon any streets, sidewalk, or other public place or upon any private property.

3.0106 Removal of Abandoned or Inoperable Vehicles - Public Property. Whenever the City or any law enforcement officer for the City finds an abandoned or inoperable vehicle on public property within the City, a written notice shall be placed on the vehicle that it will be removed to a garage or place of safety unless the owner removes the vehicle from public property within twenty-four hours of the giving of the notice. After the expiration of the twenty-four hour period, the vehicle may be removed by a removal agency to a garage or place of safety. Nothing in this Section precludes the City or any law enforcement officer for the City from immediately removing a vehicle that constitutes an imminent health, safety or fire hazard.

3.0107 Disposition of Unclaimed Vehicles. The removal agency shall have the rights and obligations conferred upon it by SDCL Ch. 32-36 in regard to titling or disposition of such

unclaimed, abandoned or inoperable vehicle, except that, if not otherwise provided by state law, it shall have a possessory lien upon any vehicle removed under provisions for this article for the costs in taking custody of and storing such vehicles.

- 3.0108 Notice Procedure. A written notice shall be placed on the abandoned or inoperable vehicle by the City or by any law enforcement officer for the City requesting the removal of such motor vehicle in the time specified in this Chapter. Written notice shall also be placed on the front door of any dwelling located on the private property requesting the removal of such motor vehicle in the time specified in this article. In the event the owner and the occupant or tenant of the real property are not the same person, written notice shall be given to the owner by certified mail, return receipt requested, requesting the removal of such motor vehicle in the time specified in this Chapter. In the event the private property is not occupied, written notice shall be given to the owner by certified mail, return receipt requested, requesting the removal of such motor vehicle in the time specified in this Chapter. Failure by any person to actually receive any document sent to him by certified mail or to sign and return any receipt card acknowledging receipt by certified mail shall not invalidate service made upon such person by certified mail. Such notice is deemed completed at the time it is mailed, and any period to reply or abate begins to run from the date of mailing.
- 3.0109 Responsibility for Removal. Upon notice having been given, the owner of the abandoned or inoperable vehicle and the owner or occupant of the private property on which the vehicle is located, either or all of them, shall be responsible for its removal.
- 3.0110 Content of Notice. The notice in section 3.0108 shall request removal of the abandoned or inoperable vehicle within fourteen days after the date of the posting, mailing or personal service of such notice, and the notice shall advise that failure to comply with the notice to remove shall be a violation of this Chapter, that the City may take steps to abate the same, and that in addition to abatement directly or by civil action, the City may pursue criminal fines and penalties against the owner, occupant, tenant or other person in charge of the real property as provided in this Chapter.
- 3.0111 Public and Private Nuisance Defined. A public nuisance is one that affects at the same time an entire community or neighborhood, or any considerable number of persons, although the extent of the annoyance or damage inflicted upon the individuals may be unequal. Every other nuisance is private. (SDCL 21-10-3)
- 3.0112 Remedies Against Nuisances. The remedies against any nuisance shall be: (1) A civil action; (2) Abatement; and (3) In cases of public nuisance only, the additional remedy of indictment or information as prescribed by the Ordinance or by the South Dakota Codified Laws, and the rules relating thereto. (SDCL 21-10-5)
- 3.0113 Abatement. A public nuisance may be abated without civil action by the City Council or by any officer authorized thereto by law. Any private person may likewise abate a public nuisance which is especially injurious to him or her, or any private nuisance injurious to him or her in a manner by removing, or, if necessary, destroying that which constitutes the nuisance, without committing a breach of the peace or doing unnecessary injury. If a private nuisance results from a mere omission of the wrongdoer, and cannot be abated without entering upon his or her land, reasonable notice shall be given to him before entering to abate it. The City may defray the cost of abating a public nuisance by taxing the cost thereof by special assessment against the real property on which the nuisance occurred. When the nuisance abated is an unsafe or dilapidated building, junk, trash, debris or similar nuisance

arising from the condition of the property, the City may commence a civil action against the owner of the real property for its costs of abatement in lieu of taxing the cost by special assessment. (SDCL 21-10-6)

3.0114 Notice.

- A. Initial notice. The Finance Officer or his or her designee, is authorized and empowered to notify, in writing, the owner of any lot, place or area within the City, or the agent of the owner, or the occupant of the premises, to remedy or abate a public nuisance on the property and to prevent future violation of this Chapter. The notice may be hand delivered or sent by certified mail, return receipt requested, addressed to the owner of record, agent or occupant at his or her last known address, and said notice shall notify the owner, agent, or occupant to remedy or abate a public nuisance within fourteen days of the date the notice was hand delivered or mailed. Failure by any person to actually receive any document sent to him by certified mail or to sign and return any receipt card acknowledging receipt by certified mail shall not invalidate service made upon such person by certified mail. Notice is deemed completed at the time it is mailed and said period to reply or abate begins to run from the date of mailing.
- B. Subsequent notices. Upon any subsequent violation of this Chapter in the same calendar year after notice has been given as provided above, notice of a second or subsequent violation of the same or similar nature as the first violation, shall require the owner to remedy the nuisance within three days of personal service or mailing.

3.0115 Public Nuisance Penalty and Remedy. Any person who creates, commits, maintains or fails to abate a public nuisance as required under the provisions of this Ordinance shall be subject to a fine not to exceed the fine established by SDCL 22-6-2(2), by imprisonment not exceeding thirty days, or by both the fine and imprisonment, unless otherwise specifically provided. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues. In addition, the City may also use the remedies of civil action and abatement as set forth in SDCL 21-10-5 through 21-10-9.

## **CHAPTER 3.02 - COLLECTION OF GARBAGE**

3.0201 Private Operators. The collection of garbage and refuse in the City shall be made by private contractors or operators, who shall be subject to all local ordinances as well as all state and federal regulations. Collections shall be made at least once a week, unless otherwise required by the City Council. Garbage collectors shall be under no obligation to remove any garbage unless the payments of the removal of such garbage as provided by contract with the customer shall have been made.

3.0202 Permit Required. Private contractors or operators desiring to collect garbage or refuse in the City shall apply for an annual permit to the City Council. Any permit approved and issued may be revoked by the City Council for violations of laws, regulations or stipulations governing such operations. Such application shall include the operator's permit number for disposal in an approved sanitary landfill.

3.0203 City Not Liable. The City shall not be liable for any expense incurred through the failure of a contractor or operator or his agents and employees, to operate and maintain collection

services in a proper and efficient manner, and for any actions, that may result from, or be attributed to such services performed. (SDCL 9-32-11)

3.0204 Equipment. Every garbage collector shall use equipment which will not permit any leakage or spilling and such truck or trailer shall be covered in a manner so that trash, garbage, rubbish or waste will not be dropped or spilled in transit to any place in the City. Any violation of this Section shall be sufficient cause for revocation of the collector's permit, in addition to the penalty for violation of this ordinance.

3.0205 Vehicles for collection of garbage and recyclables. Licensed commercial garbage collectors shall provide themselves with suitable vehicles which shall be watertight and be permanently covered on top so as to prevent the escape of odors and contents and so as to hide the contents from the public view. Such vehicles shall be kept in a clean and sanitary condition and shall be thoroughly washed at such times and intervals as may be directed by the City or as may be necessary to keep the vehicles in proper sanitary condition. Such vehicles, when conveying garbage, shall be so loaded and unloaded that the contents shall not fall or spill upon the ground. No article or item shall be carried on such vehicles so as to drag upon the street. All vehicles used for the collection of garbage shall be equipped with an all-metal box which shall otherwise comply with the requirements of this Section.

3.0206 Insurance. No permit shall be issued to any garbage hauler until proof of liability insurance is furnished to the City in the following minimum amounts:

\$1,000,000 single limit; and  
\$100,000 property damage.

The liability insurance shall be in force the entire term of the license.

3.0207 Definitions. For the purposes of this Chapter, the following terms are hereby defined:

- A. "Commercial garbage collector" shall mean any person who hauls or transports any garbage or rubbish through or upon the streets or alleys of the City of Hurley for a fee;
- B. "Garbage" shall mean all refuse or accumulation of animal and vegetable matter which attends the preparation, transportation, cooking, eating, sale or storage of meat, fish, vegetables, fruit and all food or food products found within the City which have been condemned by the City as a nuisance or is likely to cause or transmit disease.
- C. "Rubbish" shall mean all combustible inorganic refuse matter such as papers, sweepings, rags, grass, tree branches, wood shavings and the like.
- D. "Waste material" shall mean all noncombustible inorganic matter such as ashes, glass, sand, earth, concrete, mortar, metals and the like.

3.0208 Application for licensure. Each commercial garbage collector shall make annual application on or before January 1<sup>st</sup> or each year upon forms available at the City office and document that the following requirements are met:

- A. Certification and inspection by the SD Dept of Health
- B. Certification and inspection by the landfill.

C. Proof of Insurance in the minimum amounts:

1. \$1,000,000 single limit; and
2. \$100,000 property damage.

D. Copy of landfill contract

E. Proposed rate sheet

F. Application fee of \$100

3.0209 Frequency of collection. The licensed commercial garbage collector shall collect garbage and rubbish at least once in each week.

3.0210 Unlawful Deposits Generally. It shall be unlawful for any person to deposit or cause to be deposited any garbage, rubbish or other waste material in or upon any premises, streets, alleys, gutters or in or upon any other private or public property within the City, or upon any property.

## TITLE 4 - LICENSES

### Chapter 4.01 - General Provisions

### Chapter 4.02 - Peddlers

### Chapter 4.03 - Alcoholic Beverages

#### CHAPTER 4.01 - GENERAL PROVISIONS

- 4.0101 Licenses Required. No person shall engage in any activity for which a license is required, or for which a fee is prescribed, by this Chapter or other ordinance, without first having obtained such license. (SDCL 9-34-1)
- 4.0102 Application for License. Any person, persons, firm or corporation wishing to obtain a license as herein provided, shall make written application to the Finance Officer stating the name of the applicant, address, purpose of the activity, the length of time for which said license is wanted, and the particular place at which said license is to be used.
- Fees for all licenses shall be fixed by the City Council where not specified in this Chapter, and all license fees shall be paid in full at the time of application in such manner as approved by the City Council.
- 4.0103 License Expiration. Unless otherwise provided, all licenses shall take effect when issued and shall terminate on December 31<sup>st</sup> in the year for which issued. Except as otherwise provided, the license fee or charge shall be paid on the basis of a full year. There shall be no rebate made on the termination of said calling, vocation, or kind of business for which said license was issued.
- 4.0104 Revocation. The City Council shall have the authority at any time to suspend or revoke any license granted under the provision of this Chapter whenever the Council shall be satisfied upon written complaint that such calling, vocation, or kind of business for which said license has been issued, has been made or conducted in an improper or illegal manner.
- 4.0105 Issuance of License. Except as otherwise provided, all licenses shall be issued by the Finance Officer after it has been approved by the City Council and the applicant shall have complied with all requirements for issuance of such license. Unless otherwise provided, all licenses shall be signed by the Finance Officer and shall have affixed thereto the official seal of the City.
- 4.0106 Record of Licenses. The Finance Officer shall keep a record of all licenses issued by the City stating when and to whom issued, for what purpose and for what length of time, the amount of money paid for said license, and the place where such activity is to be carried on. (SDCL 9-34-1)

#### CHAPTER 4.02 - PEDDLERS

- 4.0201 Definitions. For the purpose of this Chapter, the following terms are hereby defined:

- A. "Peddler" - any person, whether a resident of this City or not, traveling from place to place, from house to house, or from street to street for the purpose of selling or soliciting for sale of goods, wares, merchandise or services, including food and beverages, and shall also mean and include any person transacting a temporary business within the city.
- B. "Temporary business" - means the sale of goods, wares, merchandise, or services, including food and beverages, sold by a person, business, or other entity for fewer than ninety days within any period of twelve consecutive months, or from a car, truck, other motor vehicle, trailer, or any structure other than a permanent building.

4.0202 Exceptions to Chapter. The provisions of this Chapter shall not apply to the following:

- A. Solicitations, sales or distributions made by charitable, educational, or religious organizations.
- B. Traveling salespersons doing business exclusively with retail merchants, manufacturers, jobbers or public officials.
- C. Persons selling jams, jellies, vegetables, fruits, or flowers grown or produced by them and not purchased by them for resale.
- D. Bona fide garage, rummage, yard, or moving sales which do not occur at the same location more than four times per year, for more than four days each time.

4.0203 Refusing to Leave. It shall be unlawful for any peddler who enters upon premises owned or leased by another to fail to promptly leave the premises after having been notified by the owner or possessor of the premises, or his agent, to leave the premises. (SDCL 22-35-5 and 22-35-6)

4.0204 Entrance to Premises Restricted. It shall be unlawful for any peddler to enter upon any private premises when the premises is posted with a sign stating "No Peddlers Allowed," "No Soliciting," or words to that effect.

4.0205 Misrepresentation. No peddler shall make false or fraudulent statements concerning the quality or nature of their goods, wares, merchandise, or services for the purpose of inducing another to purchase the goods, wares, merchandise, or services.

4.0206 Hours of Operation. No peddler shall peddle door-to-door between the hours of 9:00 p.m. and 9:00 a.m. the following morning, except by specific appointment with or invitation from the prospective customer.

4.0207 Prohibited Conduct. Any peddler selling or soliciting for sale goods, wares, merchandise or services by traveling from place to place, house to house, or street to street shall not remain in any one place for a period longer than necessary to make a sale after having been approached or stopped for that purpose.

4.0208 Permit Required. It shall be unlawful for any person to engage in business as a peddler within this City without first obtaining a permit to do so from the City Finance Officer.

- 4.0209 Application for Permit. The application for a permit required by the provisions of this article shall specify:
- A. A statement as to whether or not the applicant has been convicted of any crime, whether state or federal law or municipal ordinance or code other than minor traffic offenses; the nature of the offense; the punishment or penalty assessed therefore, if previously convicted; and the place of conviction.
  - B. Whether the applicant, upon any sale or order, shall demand, accept or receive payment, or deposit of money in advance of final delivery.
  - C. The period of time the applicant wishes to engage in business within the City.
  - D. The local and permanent addresses of the applicant.
  - E. The local and permanent addresses and the name of the entity, if any, that the applicant represents.
  - F. The kind of goods, wares, merchandise, or services the applicant wishes to peddle within the City.
  - G. The last five cities or towns wherein the applicant has worked before coming to this City.
  - H. The applicant's date of birth and social security account number or other identifying number.
  - I. Proof of a current South Dakota Sales Tax License.
- 4.0210 False Information. No person shall give any false or misleading information in connection with his or her application for a permit required by this chapter.
- 4.0211 Fee. Before any permit shall be issued under the provisions of this Chapter, the applicant shall pay a fee of fifty dollars. This fee may be adjusted by resolution by the City Council.
- 4.0212 Issuance Restricted. No peddler's permit shall be issued to a corporation, partnership or other impersonal legal entity, unless that entity is operating a temporary business at a fixed location, but each individual person engaging in the business of peddling from door-to-door or street-to-street within the City shall be required to have a separate permit, whether acting for himself or herself or as an agent or representative of another.
- 4.0213 Display. Every peddler having a permit issued under the provisions of this chapter and doing business within the City shall display his permit upon the request of any person, and failure to do so shall be a violation of this Chapter.
- 4.0214 Revocation. Any permit issued under the provisions of this chapter may be revoked for the violation by the permittee of any provision of this Title, state law, or City ordinance by the City Finance Officer. Upon such revocation, such permit shall immediately be surrendered, and failure to do so shall be a violation of this Chapter.

## CHAPTER 4.03 - ALCOHOLIC BEVERAGES

4.0301 Definitions. The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Alcoholic beverage, wine, malt beverage and distilled spirits* and other such words and terms mean the same as the definitions given them by SDCL 35-1-1.

4.0302 Traffic in Alcoholic Beverages. No person shall produce, transport, store or sell within the City, or within one mile of its territorial limits, any alcoholic beverage, except as authorized by SDCL Title 35.

4.0303 Application for License to Conduct Business Pursuant to this Chapter. Any person desiring to enter into the alcoholic beverage business in the City shall submit an application for a license under the provisions of SDCL Title 35, Alcoholic Beverages, to the City Finance Officer.

4.0304 Action by City Council. The City Council may approve or disapprove an application for a license depending on whether the City Council deems the applicant a suitable person to hold the license and whether the council considers the proposed location suitable. The City Council may, in their discretion, require the applicant to appear personally at any meeting of the City Council and to answer any question which may be asked pertaining to the applicant or the place of business which may in any way pertain to the carrying on of the business applied for. (SDCL 35-2-1.2)

4.0305 Violation as Ground for Revocation or Suspension of License. The City Council may revoke or suspend any license issued under this chapter and SDCL Title 35 upon proof of violation by the licensee, the licensee's agents or employees, or by the manager or contractual operators of retail establishments and their agents or employees operating under a City license, or any of the following:

- A. Any provision of SDCL Title 35;
- B. Any rule promulgated pursuant to SDCL Title 35; or
- C. Any ordinance or regulation relevant to alcoholic beverage control that has been adopted by the City.

For any licensee with multiple alcoholic beverage licenses for the same premises, upon suspension or revocation of any license issued pursuant to this chapter or SDCL Title 35, such licensee shall cease operation under all alcoholic beverage licenses held by such licensee for the same premises for the same period as the suspension or revocation.

4.0306 On-Sale and Off-Sale Service and Consumption Restricted.

- A. No on-sale or off-sale licensee, licensed under SDCL § 35-4-2(3), (4), (5), (6), (9), (11), (13), or (18), may sell, serve, or allow to be consumed on the premises covered by the license, alcoholic beverages, between the hours of 2:00 a.m. and 7:00 a.m. or at any time on Christmas Day. Such licensees are permitted to sell, serve, or allow to be

consumed alcoholic beverages on Sunday and on Memorial Day, except between the hours of 2:00 a.m. and 7:00 a.m.

- B. No licensee licensed under SDCL 35-4-2(12), (16), (17), (17A), and (19) may sell, serve, or allow to be consumed on the premises covered by the license, any alcoholic beverages between the hours of 2:00 a.m. and 7:00 a.m.

4.0307 Consuming, Blending, Possessing Alcoholic Beverages in Public Places; Disposal of Containers Containing Alcoholic Beverages Restricted.

- A. It is unlawful for any person to consume any alcoholic beverage upon the premises of a licensed on-sale dealer if the alcoholic beverage was not purchased from the on-sale dealer.
- B. It is unlawful for any person to consume any distilled spirits in any public place, other than upon the premises of a licensed on-sale dealer.
- C. For the purposes of this section the term “public place” means any place, whether in or out of a building, commonly and customarily open to or used by the general public, and any street or highway.
- D. Exceptions to this subsection are provided for in Section 4.0308.

4.0308 Open Container Permitted. Notwithstanding anything herein to the contrary:

- A. No regular on-sale malt beverage licensee may sell or allow to be consumed any malt beverage outside the building of the licensed premises unless the licensee’s business operates out of a permanent structure and the consumption of the malt beverage occurs in an outdoor designated area located on the premises of the licensee which is approved by the City Council.
- B. The sales and consumption of alcoholic beverages on a sidewalk or walkway subject to a public right-of-way abutting a licensed premises, provided that the license holder derives more than fifty percent of its gross receipts from the sale of prepared food for consumption on the licensed premises. The sidewalk or walkway subject to a public right-of-way shall be immediately adjacent to and abutting the licensed premises. This provision does not apply to any federal aid-eligible highway unless approved in accordance with the applicable requirements for the receipt of federal aid.
- C. The City Council may, in its discretion, for community designated events, permit open containers in public places upon such terms and conditions the City Council may impose.

## TITLE 5 - OFFENSES

### Chapter 5.01 - Offenses Against Public Welfare

### Chapter 5.02 - Animals

### Chapter 5.03 - Fireworks and Firearms

### Chapter 5.04 - Minors

## CHAPTER 5.01 - OFFENSES AGAINST PUBLIC WELFARE

- 5.0101 Interfering with Public Improvements, Etc. It shall be unlawful for any person to hinder or obstruct the City or any employee or agent of the City in lawfully making any improvements in any street, road, alley or on any other public ground in the City or in performing any other official duty.
- 5.0102 Intentional Damage to Property. Any person who intentionally injures, damages or destroys public property without the lawful consent of the appropriate governing body having jurisdiction thereof, or private property in which other persons have an interest, other than by arson under SDCL 22-23, without the consent of the other person.
- 5.0103 Disorderly Conduct. A person shall be guilty of disorderly conduct if, with the purpose of causing public danger, alarm, disorder, nuisance, or if his conduct is likely to cause public danger, alarm, disorder or nuisance, he willfully does any of the following acts in a public place:
- A. Engages in fighting or in violent or threatening behavior, including, but not limited to, the use of obscene or profane language directed at a person present;
  - B. Makes unreasonable noise;
  - C. Operates amplified sound equipment at an unreasonably high volume;
  - D. Disturbs any lawful assembly or meeting of persons without lawful authority;
  - E. Obstructs vehicular or pedestrian traffic;
  - F. Resists or obstructs the performance of duties by a law enforcement officer or other authorized official;
  - G. Addresses abusive language or threats to any law enforcement officer, or any other authorized official of the City who is engaged in the lawful performance of his duties, or any other person when such words have direct tendency to cause acts of violence. Words merely causing displeasure, annoyance or resentment shall not be prohibited; or
  - H. Commits any act which tends to corrupt the public morals or outrages public decency, is guilty of disorderly conduct which is hereby prohibited.
- 5.0104 Open Containers. It shall be unlawful to consume any beer or alcoholic beverage or to possess any glass, can or other container containing beer or any alcoholic beverage on which

the seal has been broken, in any public place, vacant building, automobile, street, alley, sidewalk or place of amusement or business establishment not authorized to sell beer or alcoholic beverages, unless approved by the City Council. (SDCL 35-1-5.3, SDCL 35-1-9.3)

- 5.0105 Indecency. No person shall willfully and lewdly expose his or her person, or the private parts thereof, in any public place where there are present other persons to be offended or annoyed thereby.
- 5.0106 Public Urination and Defecation Prohibited. Any person who urinates or defecates on any public street, alley, sidewalk, or floor of any public building or of any building where the public gathers or has access, or in any other place, whether public or private, where the act could be observed by any member of the public, except in the place that has been designated as a restroom is guilty of an offense and in violation of this section.
- 5.0107 Roller Skates and Skateboards Prohibited in the Business District. No person shall ride upon, in or by means of roller skates, coasters, go-karts, skateboards or other similar wheeled device upon a sidewalk in any business district. (SDCL 9-32-1)

A. Definition as used in this Section:

"Business District" - An area in which 50% or more of the street footage for a distance of 200 ft. or more is occupied by buildings used for business commercial, educational, governmental or religious purposes and/or is used for parking vehicles either as a parking lot or a parking ramp.

B. Exception. Provisions of this Section do not apply to:

1. Physically handicapped persons who have been disabled in such a manner as to make it difficult and burdensome to walk and who use a wheelchair or other wheeled device on the sidewalk.
2. A wheeled vehicle used to transport a person under five years of age.

## **CHAPTER 5.02 - ANIMALS**

5.0201 Definitions. The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

1. At Large.
  - a. An animal when off or away from the premises and not under the control of the owner, possessor, keeper, agent, servant, or a member of his immediate family by a leash.
  - b. An animal when on the premises of the owner, possessor, keeper, agent, or servant if not attended by a competent person unless the animal is chained, restrained, enclosed, or confined in a manner preventing it from leaving the premises.

2. Leash. A cord, thong, or chain, not to exceed six feet in length, by which an animal is controlled by the person accompanying it.
3. Owner. Any person harboring or keeping an animal and who is the head of the household of the residence or the owner or manager in charge of the establishment or premises at which an animal remains or returns to.

5.0202 Running at Large Prohibited. It shall be unlawful for any person to have any animal which is owned, kept, harbored, or allowed to be habitually in or upon the premises occupied by him or under his or their control to be at large and to go in or upon the private premises of others or upon any public property. The fine for an animal running at large is \$50.00. The owner of the animal found in violation of this Section may, within 72 hours of the time when the notice of violation was given, pay to the office of the City Finance Officer, as fine for and in full satisfaction of the violation, the sum of \$50.00. If the owner fails to pay the sum within the 72-hour period, he or she may pay to the office of the City Finance Officer, within the next two weeks from the date of violation, as a fine for and in full satisfaction of the violation, the sum of \$75.00. Upon failure of the owner to pay either of the sums to the office of the City Finance Officer within the time periods indicated, and upon conviction of a violation of this Section, the owner shall be fined not less than \$100.00 plus court costs, which fine shall be collected by the Magistrate Court. The owner also has the right to contest the charges or plead “not guilty” within the time periods indicated above, and have the matter transferred to Magistrate Court. The penalties in this Section may be adjusted by resolution of the City Council.

Allowing an animal to run at large as defined in the provisions of this section, shall also constitute a violation of this Ordinance, per Section 11.0101. Notwithstanding any other provision, any animal not having a visible tag and running at large may be deemed a stray and destroyed immediately.

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

An owner reclaiming an impounded animal shall pay the actual cost of impoundment plus the following fee: First impoundment shall be \$25.00; second impoundment within a twelve month period shall be \$50.00; any subsequent impoundment within a twelve month period shall be \$100.00. Upon impounding, the owner of such animal may at any time within five working days after the same shall have been impounded, reclaim the animal by paying the expense of keeping such animal in addition to the fee prescribed by this section. If any animal so impounded shall not be reclaimed within five working days and reasonable efforts to locate the owner have failed, the City is authorized to destroy, sell, or otherwise dispose of such animal.

No person shall hinder, delay, or obstruct any law enforcement officer or other authorized official when engaged in capturing, securing or impounding any animal.

5.0204 Compulsory Vaccination of Animals for Rabies. Every dog, cat or other animal susceptible to rabies, held as a domestic pet in the City, six months of age or older, shall be vaccinated against rabies by a licensed veterinarian. Vaccination against rabies shall be given at such intervals that guarantee immunity, and the minimum time period between vaccinations shall be determined by the available vaccine and based upon the recommendations and approval of the State Veterinarian.

Any owner acquiring a dog, cat or other animal by purchase, gift, birth or otherwise, shall have such animal vaccinated against rabies within one month following acquisition or when the animal reaches the age of six months.

Any animal impounded shall not be released to any person until such animal has been vaccinated against rabies; provided, however, no animal so impounded shall be vaccinated if the owner can present a certificate of a current vaccination.

All veterinarians or other qualified persons designated to vaccinate animals against rabies shall provide the owner at the time of vaccination with a certificate or metallic tag showing the date of the vaccination. Whenever metallic tags are so given for vaccination, such metallic tags shall be worn by all animals on a collar, harness, or chain when off the premises of the owner.

5.0205 Responsibility of Owner to Place Animal for Observation. When any person owning or harboring a dog, cat, or other animal has been notified that the animal has bitten or attacked any person, the owner shall within twenty-four hours place the animal under the care and observation of the animal control officer or a licensed veterinarian for a period of not less than ten days.

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

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

No person shall knowingly harbor or keep any animal infected with rabies or any animal known to have been bitten by an animal known to have been infected with rabies.

Any person who shall suspect that any animal in the City is infected with rabies, shall report the animal to the animal control officer, the City, or other health authority, describing the animal and giving the name and address of the owner if known.

Whenever the animal control officer, a law enforcement officer or other authorized official shall have determined that there is danger of the existence or spread of rabies in the City, such facts shall be made known to the City Council in writing. The City Council, upon receipt of said facts, may by proclamation, in the interest of public safety and general welfare of the citizenry, order all animals muzzled when off the premises of the owner. Forty-eight hours after the proclamation is issued, all animals found off the premises of the owner unmuzzled shall be seized and impounded or may be immediately destroyed if all reasonable efforts to seize said animals fail. All animals seized and impounded shall be held for observation as hereinbefore provided for, not less than ten days, and if cleared by a licensed

veterinarian, may be claimed by the owner upon paying the expenses incidental thereto. Any animal not claimed may be disposed of as hereinbefore provided.

5.0206 Vicious Animals.

- A. An animal may be declared to be vicious by the animal control officer, a law enforcement officer or other authorized official, under the following guidelines:
  - 1. An animal which, in a vicious or terrorizing manner approaches in an apparent attitude of attack, or bites, inflicts injury, assaults or otherwise attacks a person or other animal upon the streets, sidewalks, or any public grounds or places; or
  - 2. An animal which, on private property, in a vicious or terrifying manner, approaches in an apparent attitude of attack, or bites, or inflicts injury, or otherwise attacks a mailman, meter reader, serviceman, journeyman, delivery person, or other employed person, or any person or animal who is on private property by reason of permission of the owner or occupant of such property or who is on private property by reason of a course of dealing with the owner of such private property.
  - 3. No animal may be declared vicious if the injury or damage is sustained to any person or animal who is committing a willful trespass or other tort upon premises occupied by the owner or keeper of the animal, or who was teasing, tormenting, abusing or assaulting the animal or was committing or attempting to commit a crime.
- B. When the animal is declared to be vicious, the City shall notify the owner of such declaration in writing. Said notice shall be sent by certified mail, return receipt requested, or by personal service to such owner, occupant or person, or by posting on the property. Failure by any person to actually receive any document sent to him by certified mail or to sign and return any receipt card acknowledging receipt by certified mail shall not invalidate service made upon such person by certified mail. Such notice is deemed completed at the time it is mailed, hand delivered or posted, and any period to reply or abate begins to run from the date of mailing, personal service or posting.
- C. Any mammal, reptile or fowl which is not naturally found in a domestic setting, and because of its size or other characteristic would constitute danger to human life or property is automatically deemed vicious.
- D. The owner of an animal that has been deemed vicious shall comply with the following:
  - 1. Register the animal as vicious with the City and present proof of rabies vaccination within five days of receiving the notice and presenting proof of rabies vaccination on or before March 1<sup>st</sup> of each and every year thereafter.
  - 2. Whenever the animal is outdoors and attended, the animal shall be muzzled, on a leash no longer than six feet, and under the control of a person over sixteen years of age.

3. When the animal will be outdoors and unattended, the animal must be locked in an escape-proof kennel approved by the City. Minimum standards shall include the following:
  - a. Fencing materials shall not have openings with a diameter of more than two inches.
  - b. Any gates within such pen or structure shall be lockable and of such design to prevent the entry of children or the escape of the animal.
  - c. The required pen or structure shall have secure sides and a secure top. If the pen or structure has no permanent bottom secured to the sides, the sides shall be imbedded into the ground or concrete.
  - d. The pen or structure may be required to have double exterior walls to prevent the insertion of fingers, hands or other objects.
4. A universal sign denoting a vicious animal shall be displayed on the kennel or enclosure and on a place visible from the sidewalk or road adjacent to the property where the animal is kept.
- E. The vicious animal shall be impounded by animal control at the owner's expense until all provisions of Section 5.0206(D) are complied with. If the conditions in Section 5.0206(D) are not complied within ten days after receiving notice, the animal shall be euthanized in a humane manner and proof of euthanasia filed with the City.
- F. If a vicious animal has been running at large, or bites a person or bites another animal, the animal control officer, a law enforcement officer or other authorized official shall seize the animal by using such means as are necessary and summon the owner to appear in court to show cause why this animal shall not be destroyed. If the animal cannot be captured, it may be destroyed.

This Section shall not be construed to apply to zoological parks, performing animal exhibitions, or circuses.

- 5.0207 Cruelty to Animals. No person shall maltreat or abuse or neglect any animal or fowl. Any animal control officer, law enforcement officer or authorized official finding an animal or fowl mistreated as described in this section shall have the power to lawfully enter the premises where the animal is kept and demand to examine such animal and to take possession of such animal, when in his opinion, the animal requires humane treatment.
- 5.0208 Poisoning Animals. It shall be unlawful for any person to willfully or maliciously administer or cause to be administered, poison of any sort whatsoever to any animal, the property of another, with the intent to injure or destroy such animal, or to willfully or maliciously place any poison or poisoned food where such is accessible to any such animal. (SDCL 9-29-11)
- 5.0209 Stray, Abandoned, or Unkept Animals. No person shall harbor or keep any stray animals or abandon any animal within the City. Animals known to be strays shall be immediately reported to the animal control officer, a law enforcement officer or authorized official. (SDCL 9-29-12)

- 5.0210 Number of Pets Limited. It shall be unlawful for any person to have or to keep more than five domestic pets over the age of six months, except birds and fish, on any lot or premises in the City, unless such person residing on or in the lot or premises has a valid kennel license issued by the City. Humane societies, veterinarian offices, and retail pet stores are exempt from the provisions of this section.
- 5.0211 Licensing of Dog and Cat Required. Each owner or keeper of a dog or cat of the age of six months or over shall within thirty days after the acquisition of such animal or within thirty days after the time such animal becomes six months old, cause such animal to be licensed by the City.
- 5.0212 Application for License. Every owner or keeper of a dog or cat within the City must submit an application for an animal license for each such animal owned six months old or older and a renewal application within one year and annually from the month of the first license. The application shall be furnished by the Finance Officer. All applications for license certificates must be accompanied by a rabies immunization certificate and the appropriate fee, as shown in Section 5.0213.

A certificate and tag shall be issued upon receipt of a proper application for license. The certificate at all times must be in the possession of the owner. The owner shall contact the Finance Officer to report change of ownership, loss or death of a licensed animal. If a tag or certificate is lost, either may be replaced for a fee of one dollar. The tag must be worn by all dogs and cats.

- 5.0213 License Fee Schedule. The fee for licenses shall be as follows:

Neutered/Spayed dog or cat	\$10.00
Unneutered/Unspayed dog or cat	\$15.00

The most current fee schedule specifically addresses dog and cat licenses. Documentation from a veterinarian or other sufficient medical proof must be provided when licensing a neutered or spayed dog or cat. The City Council may revise any or all license fees by resolution. The City Council may in special instances, after a hearing, exempt the license fee in individual cases.

- 5.0214 License Fee Exemptions. The licensing provisions of this chapter shall not apply to dogs or cats in the custody of a veterinarian, or animal shelter or animal rescuer, or whose owners are nonresidents temporarily within the City for a period not exceeding thirty days. Also, when a blind person, physically disabled or hearing impaired person requests that no fee be charged to license his/her guide dog, or service dog, no fee shall be charged, upon submission of medical documentation attesting to said disability and/or service animal certification from a bona fide and recognized authority.
- 5.0215 Kennel Licenses Issued. The City Finance Officer, upon receipt of an application showing the owner's name and address, the name, breed, age, color and sex of each dog kenneled by the owner, a certificate signed by a qualified veterinarian that each dog has been vaccinated and payment of the appropriate license fee, as established by the City Council, shall issue a kennel license to the owners of dog kennels. All dogs housed in a licensed kennel shall be exempt from the other licensing provision of this ordinance.

5.0216 General Prohibitions and Duties.

- A. No person shall aid or cause any animal, whether owned by such person or not, to escape confinement or impoundment, whether such confinement or impoundment be upon the such person's property or that of another, by opening any gate, door or window, by making an opening in any fence, enclosure or structure, or by unleashing such animal.
- B. It shall be prohibited for any person to permit or allow an animal owned by that person or under that person's custody or control to defecate upon public property, park property, public right-of-way, or the property of another.
- C. It shall be the duty of every person owning or having the custody or control of an animal to clean up, remove and dispose of the feces deposited by such animal upon public property, park property, public right-of way, or the property of another. Anyone walking an animal on public or private property other than his own must carry with him visible means of cleaning up any fecal matter left by the animal. Animals used in parades or involved in law enforcement are exempt from this subsection. The owner or person having custody of the animal found in violation of this Section may, within 72 hours of the time when the notice of violation was given, pay to the office of the City Finance Officer, as fine for and in full satisfaction of the violation, the sum of \$50.00. If the owner or person having custody fails to pay the sum within the 72-hour period, he or she may pay to the office of the City Finance Officer, within the next two weeks from the date of violation, as a fine for and in full satisfaction of the violation, the sum of \$75.00. Upon failure of the owner or person having custody to pay either of the sums to the office of the City Finance Officer within the time periods indicated, and upon conviction of a violation of this Section, the owner or person having custody shall be fined not less than \$100.00 plus court costs, which fine shall be collected by the Magistrate Court. The owner or person having custody also has the right to contest the charges or plead "not guilty" within the time periods indicated above, and have the matter transferred to Magistrate Court. The penalties in this Section may be adjusted by resolution of the City Council.
- D. It shall be the duty of every person owning or having the custody or control of an animal to physically restrain the animal within an enclosure or upon a leash when such animal is left unattended outside or is not at heel. The animal must be restrained so as to prevent the animal from leaving the premises of its owner or from coming in contact with public right-of-way or the property of another.
- E. It is unlawful for a person, owning or having the care or custody or control of an animal to permit such animal to disturb the peace and quiet of the neighborhood by barking, howling, whining, or making any other loud or unusual noise. Leaving an animal unattended who subsequently disturbs the peace and quiet of the neighborhood shall be in violation of this Chapter.
- F. In the event an animal is making any noise to the disturbance of the peace and quiet of the neighborhood and the person owning or having the care or custody or control over the animal cannot be found to remedy the situation or if found refuses to do so, the animal may be impounded. A notice of the impoundment must be left with the person or in an obvious place on the premises where the dog was removed. A written notice of impoundment must also be sent by certified mail, with return receipt requested, as soon

as possible to the licensed owner of the animal if known; or the lessee of the premises upon which the animal was found, if known; or the record owner of the premises. Such notice is deemed completed at the time it is mailed, and any period to reply or abate begins to run from the date of mailing. The animal may be claimed on any regular work day during regular work hours. The impoundment fee will be assessed prior to release of the animal.

- G. It shall be prohibited for any person in any manner to interfere with any employee or designated representative of the City so as to hinder, delay or prevent his or her executing his or her duties pursuant to this Chapter.
- H. No person may set traps in the City for the purpose of apprehending wild or domesticated animals. This section does not prohibit:
  - 1. Trapping mice, rats or other household vermin;
  - 2. The setting of traps to destroy moles and other underground pests so long as the traps used may be triggered only by subsurface action; or
  - 3. The setting of traps in the line of duty by an animal control officer or with written permission from and under supervision of an animal control officer or licensed pest-control operators.
  - 4. The City Council authorizing residents to set traps.

### **CHAPTER 5.03 - FIREWORKS AND FIREARMS**

5.0301 Discharge of Fireworks Prohibited Without Permit. It shall be unlawful for any person to shoot, discharge or explode, or cause to be shot, discharged or exploded, any firecrackers, sky rockets, bottle rockets, blank cartridges, fireworks, or other explosives used for fireworks or fireworks display, in the City of Hurley. Nothing in this section shall prohibit the use of a public display of fireworks in the City, provided that any person responsible for such public display shall, prior thereto, receive a permit from the City Council.

Exception: Unless suspended by the City Council, it shall be lawful for a person to discharge fireworks between the dates of July 3<sup>rd</sup> and July 5<sup>th</sup> of each year, between the hours of 11:00 a.m. to 11:00 p.m.

5.0302 Discharging Weapon. No person shall discharge any pistol, gun, revolver, or other firearm, or any bow and arrow, or any device capable of firing a projectile either by air or compressed gas or any other means which would likely cause injury to any person, or discharge any dangerous weapon, within the City limits.

The following uses are exempt from this section:

- A. Proper use of weapons in a licensed shooting range.
- B. Use by law enforcement or animal control officers in the discharge of their official duties, or to persons who are authorized by the City Council.

- C. Use by persons engaged in instructional courses using air guns, BB guns, or bows and arrows if the course has obtained a permit from the City, is conducted by a certified instructor, is covered by adequate liability insurance, and has been approved by the supervising unit if conducted on City property. The City Council may establish conditions for granting a permit to protect the health, safety, and well-being of the general public.
- D. The owner or inhabitant of a parcel of real estate within the City of Hurley may use air guns or BB guns to control predators or pests on such property, provided all such activities comply with South Dakota Statute.
- E. Use of any air guns, BB guns or bow and arrow to shoot at an object, such as a padded disk with a marked surface, or other objects such as cans, wood, debris or the like, for the purpose of testing a person's skill or accuracy in the use of an air gun, BB gun, bow and arrow, or other weapon or device.

It shall be a defense to a charge of violation of this section that a person was engaged in lawful self defense, as set forth in SDCL 22-5-1, SDCL 22-5-9, and SDCL 22-18-4.

## **CHAPTER 5.04 - MINORS**

5.0401 Imposed. It shall be unlawful for any minor under the age of fifteen years to be on or present upon any streets, avenues, alleys, parks, playgrounds or other public grounds or places of amusements or entertainment, or places of business or vacant lots in the City before 6:00 a.m. or after 10:00 pm. on any days of the week, unless such minor is accompanied by his parent, guardian or other adult person having the care or custody of such minor.

It shall be unlawful for any minor over the age of fourteen years and under the age of eighteen years to be on or present upon any streets, avenues, alleys, parks, playgrounds or other public grounds or places of amusements or entertainment, or places of business or vacant lots in the City on the days and at the times as follows unless such minor is accompanied by his parents, guardian or other adult person having the care or custody of such minor:

- A. Monday through Thursday, both inclusive, before 6:00 a.m. or after 11:00 p.m.;
- B. Friday, before 6:00 a.m.;
- C. Saturday, between the hours of 12:30 a.m. and 6:00 a.m.;
- D. Sunday, between the hours of 12:30 a.m. and 6:00 a.m. or after 11:00 p.m.

5.0402 Parents and Guardians Not to Permit Violations. It shall be unlawful for any parent, guardian or other person having the legal care or custody of any minor under seventeen years of age to allow or permit such minor, while in such legal care, custody or control, to go or be in or upon any of the places and during the hours set forth in Section 5.0401.

5.0403 Owners or Managers of Places of Amusement or Business Not to Permit Violations. It shall be unlawful for the owner, manager or person in charge of any show or other place of

amusement or business to permit any minor under the age of seventeen years to enter or remain in such show or other place of amusement or business during the hours specified in Section 5.0401, unless such minor shall be accompanied by his parent, guardian or other adult person having the care and custody of such minor.

## TITLE 6 - STREETS, SIDEWALKS AND PUBLIC PLACES

### Chapter 6.01 - Street Names and Addresses

### Chapter 6.02 - Streets, Sidewalks, Curb and Gutter

### Chapter 6.03 - Snow Removal

### Chapter 6.04 - Moving Buildings

### Chapter 6.05 - Municipal Trees

### Chapter 6.06 - Municipal Parks

#### CHAPTER 6.01 - STREET NAMES AND ADDRESSES

- 6.0101 Names of Streets and Avenues. The names of all streets and avenues in the City shall be fixed and adopted in accordance with the official map of the City on file in the office of the Finance Officer. Other streets shall be named in accordance with guidelines included in the City subdivision regulations. Any such act of naming, establishing, or vacating any street, alley or other public way in the City shall be so designated on such map. (SDCL 9-45-2)
- 6.0102 Numbering Plan. A numbering plan for residences and businesses shall be maintained by the City Council. A listing of the assigned numbers and a map showing the location of addresses shall be maintained and filed in the office of the Finance Office. The Finance Officer shall be responsible for assigning new numbers and updating the listing of such numbers and the location map. (SDCL 9-45-2)
- 6.0103 Duty of Numbering. That all houses and lots within the corporate limits of City of Hurley, South Dakota, shall be numbered in accordance with the provisions of Chapter 6.01. It shall be the duty of the owner of such houses and lots to so place and construct such numbers as to be easily visible from the street and said numbers shall be not less than four inches in height. If the owner of any dwelling house, building, business establishment or lot fronting on a street or avenue within the City shall fail, refuse or neglect to place the number, or replace the number when necessary, an authorized agent of the City may cause to be mailed by certified mail, return receipt requested, or by personal service to such owner, occupant or person, or by posting on the property a notice to the last known address ordering him to do so. Failure by any person to actually receive any document sent to him by certified mail or to sign and return any receipt card acknowledging receipt by certified mail shall not invalidate service made upon such person by certified mail. Such notice is deemed completed at the time it is mailed, hand delivered or posted, and any period to reply or abate begins to run from the date of mailing, personal service or posting. In case of failure of such owner to comply with such notice within ten days after the date of such notice, the authorized agent may cause the same to be done, and assess the cost thereof against the property or premises numbered. (SDCL 9-45-2)
- 6.0104 Council Permission for Parades or Public Gatherings on Streets or Sidewalks. It shall be unlawful for any person to hold or conduct any parade, meeting or public gathering on the streets or sidewalks of the City, without first obtaining permission to do so from the City Council.

## CHAPTER 6.02 - STREETS, SIDEWALKS, CURB AND GUTTER

- 6.0201 Street Surfacing. The hard surfacing of streets shall be at the expense of the owners of property abutting the street(s) to be surfaced, with materials to be approved by the City Council. Total cost of the street improvements including legal, engineering, grading and any other costs related to the improvement, shall be assessed against the property on a frontage foot basis. The cost of each street or alley intersection shall be assessed on a front footage basis to all lots or property included within a project area. (SDCL 9-45-31)
- 6.0202 Street Excavations. No person shall make or cause to be made any excavation 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 called One Call and having had any underground utilities identified. Application for such approval shall state where such excavation is to be made, the extent thereof, and the purpose of such excavation.
- 6.0203 Excavation Permits. Applications for excavations other than emergency situations may require a deposit in such sum as deemed necessary by the City Council to ensure proper replacement and refilling of any such excavation or to cover the costs of any damages which may be caused by such excavation.
- Any required deposit shall be paid to the City before approval of an application is made and any unused portion of said deposit shall be refunded to the applicant upon recommendation and approval of the City.
- 6.0204 Excavation Repairs. Approval for any excavation covered by this Chapter shall be issued only upon the express condition that the applicant shall refill such excavation in accordance with the requirements of the City, and shall restore the pavement or surfacing, as the case may be, to its former condition. The City may adopt and amend as necessary such requirements which shall set forth the manner in which various types of excavations shall be backfilled or refilled and the manner in which any street surfacing shall be replaced. Applicant shall be responsible to the City for any such excavation for a period of two years.
- 6.0205 Excavation Inspections. It shall be the duty of authorized City personnel to inspect all authorized excavation work at any stage of construction and to ensure compliance with approved requirements. If all backfilling, refilling, or surfacing is not completed in accordance with approved requirements, notice thereof in writing shall be given to the applicant, who shall put the same in proper order within a maximum of ten (10) days. If the applicant fails after such notice to complete all requirements, the City Council may authorize the necessary repairs and such applicant shall pay the costs thereof.
- 6.0206 Excavation Barriers. Any person receiving approval to make excavations in or upon any street, alley, sidewalk or public ground shall, during the progress and continuance of the work, erect and maintain around the same both day and night suitable guards, fences, flares, and signals so as to prevent injury to persons, animals, or vehicles on account of such excavations. No open trench shall be left open for any more time than considered absolutely necessary or reasonable.
- 6.0207 Sidewalks. Unless otherwise determined by the City Council, the inside of the sidewalk shall be the property line. Sidewalk construction shall include base material of three inches in thickness, of approved materials. Sidewalks shall be no less than three and one-half inches in thickness, of Portland Cement Construction, and not less than four (4) feet nor more than five

(5) feet wide in residential areas, with slope toward street of one-fourth inch per foot. The width of sidewalks on all lots in Blocks 22, 23, 28, and 29 of the City facing Center Avenue shall be ten feet. When considered necessary and advisable for the peace, welfare, and safety of the people, the City Council may direct that new sidewalk be constructed and assessed to any abutting property owner in accordance with SDCL 9-46.

- 6.0208 Driveway Approaches. No driveway approaches shall protrude or extend into the streets beyond the curb line, unless otherwise so authorized by the City Council. Concrete driveway approaches shall be of four (4) inch Portland Cement Construction, with the slope gradual to accommodate modern vehicles. On gravel thoroughfares driveway approaches constructed shall permit flow of surface water without drainage interference and shall permit proper blading and maintaining of streets. (SDCL 9-45-1)
- 6.0209 Curb and Gutter. Curb and gutter shall be of Portland Cement Construction, not less than three thousand (3,000) PSI, with curb six (6) inches in width, and extending six (6) inches above the gutter. Gutter shall be of six and one-half (6.5) inch thickness, extending twenty-four (24) inches into the street. The City Council may direct that curb and gutter be constructed and the cost assessed against any abutting property owner. (SDCL 9-45-5)
- 6.0210 Permits. When constructed separately from an over all construction project, property owners or their agents shall submit applications for permits for approval by the City Council for sidewalks, driveway approaches, curbs, or curb and gutter. When these improvements are constructed simultaneously or as one project, only one application is necessary to include all improvements, and where any or all are part of new construction projects, only one permit for the overall construction shall be issued. All improvements, installations, and engineering recommendations shall be in conformance with specifications or recommendations approved by the City Council.
- 6.0211 Barrier-Free Construction. Whenever any person, firm or corporation makes new installations of sidewalks, 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 street to sidewalk easily negotiable for handicapped persons in wheelchairs and for blind persons. All such ramps shall be constructed or installed in accordance with design specifications according to the most current American National Standards Specifications published by the American National Standards Institute or according to Americans with Disabilities Act specifications. (SDCL 9-46-1.2)
- 6.0212 Permission to Deposit Materials. No person shall deposit, place, store, or maintain, upon any public place of the municipality, including street rights-of-way, any dumpster, container, stone, brick, sand, concrete or any other materials. Violation of this section shall constitute a Class 2 Misdemeanor.

### **CHAPTER 6.03 - SNOW REMOVAL**

- 6.0301 Duty to Remove. It shall be the duty of the owner, tenant, or person in possession of any property abutting City right-of-way to keep any sidewalk on such property free from snow and to cause any accumulated snow to be removed within forty-eight (48) hours after the termination of any snowfall, or snow accumulation. (SDCL 9-30-5)

- 6.0302 Disposal of Snow. It shall be the duty of the property owner, tenant, or person in possession of any public or private driveway, parking lot or parking area to dispose of accumulated snow upon such property in such manner that any snow when removed shall not be deposited upon any sidewalk, within or upon any public street or alley, after such public street or alley has been cleared of snow by grading of such snow away from the curb or 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.
- 6.0303 Removal Costs Assessed. In the event any owner, tenant, or person in possession of any property shall neglect or fail to or refuse to remove such snow or ice within the time provided, the City may issue a citation for such violation and may authorize such removal with the costs to be assessed against the abutting property owner. (SDCL 9-30-5)

## **CHAPTER 6.04 - MOVING BUILDINGS**

- 6.0401 Permit Required. No person shall move any building or part of building into, along or across any public street, alley, or grounds in the City without having obtained a moving permit. (SDCL 9-30-2)
- 6.0402 Applications. Written application for a moving permit shall be filed with the Auditor, and shall include the name of the applicant, the name of the owner of the building, a description of the lot on which such building is standing and the lot to which it is to be moved, if such location shall be within the City. The application shall also specify the route along which it is proposed to move the building, and the length of time likely to be consumed in such moving. Any application so filed shall be considered by the City Council for approval, and any other conditions to be complied with by the applicant, shall be stated.
- 6.0403 Surety Bond. No license shall be granted until the applicant shall file with the Finance Officer a bond in favor of the City in the penal sum to be established by the City Council, with sufficient surety, and conditioned on the applicant promptly repairing and making good, to the satisfaction of the Council, any and all damage to any pavement, sidewalk, crosswalk, hydrant, street, alley, or other property, done or caused by the applicant or the applicant's employees, in moving such building or part thereof, or in connection with the moving thereof. The applicant shall indemnify and save harmless the City against any and all liability for damages, costs and expenses, arising or which may arise or be incurred in favor of any person by reason of any conduct by the applicant or applicant's agents or employees, in connection with the moving of such building or part thereof, or the use of any public ground for such purpose.
- 6.0404 Standing Buildings. No building or part of a building being moved, shall be allowed to stand still in any public street or any public ground for more than twenty-four (24) consecutive hours.
- 6.0405 Permission of Property Owners. No moving license granted by the City shall authorize the holder thereof to break, injure, or move any telephone, electric light, power or cable TV wire or pole, or to cut, trim or otherwise interfere with any property without the written permission of the owner or owners thereof. (SDCL 9-34-1)
- 6.0406 Removal, Demolition or Relocation of Structures. Upon the removal, demolition or relocation of structures from or on any lot within the City of Hurley, the foundation of such

structure removed, demolished or relocated must be removed from the property and the basement or excavation remaining after removal of the foundation must be filled with good, clean, fill dirt.

If a house is removed from the property then all other outbuildings and other structures which are not being used must be removed together with all sidewalks (except along the street). Upon removal, demolition or relocation of the house or other structures, the lot shall be leveled and left in a good, clean, sanitary condition. Upon the property owner's failure to comply with the provisions of this Section, the property shall be deemed a public nuisance which may be abated and the cost thereof assessed against the property pursuant to laws of the State of South Dakota.

- 6.0407 Approval and Fee. No moving permit shall be issued unless the appropriate nonrefundable fee, established by resolution of the City Council, is paid to the Finance Office.
- 6.0408 Safeguards. It shall be the duty of the person, firm or corporation moving any building through the streets to do the same with proper care for the safety of persons and property. Warning barricades and lights shall be maintained wherever necessary for the protection of pedestrians or traffic.
- 6.0409 Protecting Pavement. Where a building or structure is being moved over a street, but is not carried on another vehicle or on a unit equipped with tires, the street surface shall be protected by planking or other device effective to prevent injury to the roadway.

## **CHAPTER 6.05 - MUNICIPAL TREES**

- 6.0501 Authority and Jurisdiction. The City Council shall have the authority to regulate the planting, maintenance, and removal of trees along public streets and other publicly owned property to insure the public safety and to preserve the aesthetics of such public sites. The City Council shall also have the authority to determine the type and kind of trees to be planted upon municipal streets or in parks and may assist in the dissemination of news and information regarding the selection, planting, and maintenance of trees within the corporate limits or within the area over which the City has jurisdiction, whether the same be on private or public property, and to make recommendations from time to time as to desirable ordinances concerning the tree program and activities for the City. (SDCL 9-38-2)

Certain species of trees shall not be planted in the street right-of-way for any of the following reasons: high susceptibility to disease, production of large or messy fruit, and growth habit.

Any person or persons planting prohibited trees or shrubs in street right of way area shall be given notice to remove the trees or shrubs, within a reasonable time to be specified in the notice. Failure to remove within the specified time shall constitute a violation of this Chapter, and in such case, in addition to any other penalty provided by law, the City is authorized to remove such plants and assess the owner of the property for the removal costs.

- 6.0502 Duties of Property Owners. It shall be the duty of any person or persons owning or occupying real property bordering on any street upon which property there may be trees, to prune such trees in such manner that they will not obstruct or shade the street lights, obstruct the passage of pedestrians on sidewalks, obstruct vision of traffic signs, or obstruct view of any street or alley intersections, except where such services are provided for by utility firms.

The minimum clearance of any overhanging portion thereof shall be ten feet over all sidewalks and fourteen feet over all streets, unless otherwise determined by the City Council.

- 6.0503 Abuse of Trees. Unless otherwise specifically authorized by the City Council, no person shall intentionally damage, cut, carve, transplant, or remove any tree; attach any rope, wire, nails, advertising posters, or other contrivance to any tree, allow any gaseous liquid or solid substance which is harmful to such tree to come in contact with them, or set fire to or permit any fire to burn when such fire or the heat thereof will injure any portion of any tree.
- 6.0504 Removal of Hazards. Where any tree branches or hedges protrude or overhang on any thoroughfare within the City so as to be determined as in violation with this Chapter or affecting motor vehicle traffic and good maintenance practices, notification shall be given by the Public Works Director to the property owner to remove such obstructions or undesirable branches or hedges within seventy-two hours. The notification shall be sent by certified mail, return receipt requested, or by personal service to such owner, occupant or person, or by posting on the property. Failure by any person to actually receive any document sent to him by certified mail or to sign and return any receipt card acknowledging receipt by certified mail shall not invalidate service made upon such person by certified mail. Such notice is deemed completed at the time it is mailed, hand delivered or posted, and any period to reply or abate begins to run from the date of mailing, personal service or posting. (SDCL 9-38-2)
- 6.0505 Removal Costs Assessed. In the event any owner, tenant, or person in possession of any property shall neglect or fail to or refuse to remove such obstructions or undesirable branches or hedges within the time provided, the City may issue a citation for such violation and may authorize such removal with the costs to be assessed against the abutting property owner. (SDCL 9-30-5)

## **CHAPTER 6.06 - MUNICIPAL PARKS**

- 6.0601 City Park. The City Park of Hurley, South Dakota, shall consist of and include all lands, rights of way and structures used and enjoyed by the citizens of Hurley and others for many years owned and maintained by said City.
- 6.0602 Unauthorized Entry. It shall be unlawful for any person to trespass upon or enter any property designated as a park unless said entry is in accordance with City ordinances, resolutions or policies governing the times of operation for said park unless said person has permission to enter from an authorized municipal official.
- 6.0603 Lawful Manner. Any person using or occupying such City Park or any of its facilities shall conduct him or herself in a carefully, prudent, peaceable and lawful manner, shall honor and respect the rights and privileges of other visitors in the park, and shall at all times maintain and take every precaution to prevent the injury of persons and property in the park.
- 6.0604 Unnecessary Acts. Any person using or occupying such City Park or any of its facilities shall not do or commit any unreasonable or unnecessary acts that may unreasonably annoy other visitors in the park or unreasonably prevent such visitors in the park from the full use and enjoyment of the park.
- 6.0605 Protection to Water Areas. It shall be unlawful for any person to enter into or upon any water retention ponds located on any property designated as a park unless said entry is authorized

by the City Council or other authorized municipal official. Entry shall be deemed to include swimming, ice skating, boating, fishing, or other entry onto the waters.

6.0606 Alcoholic Beverages. No person shall consume any alcoholic beverages in any City Park, except upon approval by the City Council.

6.0607 Glass Containers. No glass beverage containers are permitted in any City Park.

## TITLE 7 - TRAFFIC CODE

**Chapter 7.01 - General Provisions**

**Chapter 7.02 - Operation of Vehicles**

**Chapter 7.03 - Vehicle Equipment**

**Chapter 7.04 - Speed Restrictions**

**Chapter 7.05 - Parking, Stopping**

**Chapter 7.06 - Trucks**

**Chapter 7.07 - Snowmobiles**

**Chapter 7.08 - Miscellaneous Provisions**

**Chapter 7.09 - Golf Carts**

### CHAPTER 7.01 - GENERAL PROVISIONS

7.0101 Definitions. When in this Title the following terms are used they shall have the meanings respectively ascribed to them in this Chapter or Title.

- A. Authorized Emergency Vehicle - Vehicles of any fire department, police vehicles and such ambulances and emergency vehicles of municipal department or public service corporations as are designed or authorized by law enforcement.
- B. Crosswalk - That portion of a roadway ordinarily included within the prolongation of curb and property lines at intersection, whether marked or not, or any other portion of a roadway clearly indicated for pedestrian crossing by lines or other markings on the surface of the street.
- C. Curb - The extreme edge of lateral boundary of a roadway, whether marked by curbing or not.
- D. Department - The police department of the City of Hurley.
- E. Double Parking - The standing of a vehicle upon a street at the rear of another vehicle which is parked diagonally at the curb, or the standing of a vehicle upon the street alongside and parallel at the curb.
- F. Driver or Operator - Any person who is in actual physical control of a vehicle.
- G. Left Hand Side of a Street - The side to the left of the vehicle as it moves forward.
- H. Motor Vehicle - Every vehicle which is self-propelled.
- I. Parking - The standing of a vehicle, whether attended or unattended upon a roadway, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading passengers.
- J. Pedestrian - Any person afoot.

- K. Private Road or Driveway - Every road or driveway not open to the use of the public for vehicular travel.
  - L. Right Hand Side of Street - The side on the right of the vehicle as it moves forward.
  - M. Right-of-Way - The privilege of the immediate use of the street.
  - N. Roadway - That portion of a street devoted to vehicular traffic.
  - O. Semitrailer - Every vehicle of the trailer type so designed and used in conjunction with a motor vehicle that some part of its own weight and that of its own load rests upon or is carried by another vehicle.
  - P. Sidewalk - That portion of the street between the curb line and the adjacent property lines.
  - Q. Street - The term street shall mean any street, avenue, boulevard, alley, highway, or public place set apart for the public vehicular traffic.
  - R. Street Intersection - That portion of a street where it 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 streets.
  - S. Through Streets - Streets, or parts thereof, that have been so designated and marked, by order of the City Council.
  - T. Trailer - Every vehicle without motive power designed for carrying property or passengers wholly on its own structure and for being drawn by a motor vehicle.
  - U. Vehicle - Every device in, upon, or by which any person or property is or may be transported or drawn upon a street, provided that for the purpose of this title a bicycle or an animal that is being ridden, driven, or led shall be deemed a vehicle.
- 7.0102 Duty to Enforce. It shall be the duty of law enforcement officers to enforce these traffic regulations and all state vehicle laws applicable to street traffic in the City, to make arrests for traffic violations, to investigate accidents and to cooperate with other officials in the administration of these traffic laws. (SDCL 9-29-19)
- 7.0103 Directing Traffic. Law enforcement officers shall direct traffic in conformance with traffic laws and ordinances, provided that in the event of a fire or other emergency, or to expedite traffic or safeguard pedestrians, Fire Department personnel may direct traffic as conditions may require.
- 7.0104 Obedience to Enforcement. No person shall refuse or fail to comply with any lawful order, signal or direction of any law enforcement officer, or refuse to submit to any lawful inspection or fail to comply with the provisions or requirements of any warning ticket issued under this Chapter. (SDCL 9-29-19)
- 7.0105 Exemptions to Authorized Emergency Vehicles. The provisions of this Chapter regulating the movement, parking, and standing of vehicles shall not apply to authorized emergency vehicles while the operator of such vehicle is operating the same in an emergency in the

necessary performance of public duties. This exemption shall not, however, exempt the driver of any such vehicle from the consequence of a reckless disregard of the safety of others.

- 7.0106 Application to Workers and Equipment. The provisions of this Chapter shall not apply to persons, motor vehicles and other equipment while actually engaged in work upon the surface of a street, but shall apply to such persons and vehicles when traveling to or from such work; provided however, such persons and vehicles shall not indiscriminately block traffic, but shall allow reasonable room on the traveled portion of the street for other vehicles to pass.
- 7.0107 Authority to Install Traffic Control Devices. The City Council shall place and maintain traffic control signs, signals, and devices when and as required under this Chapter to make effective the provisions of said Chapter, and may place and maintain such additional traffic control devices as may be necessary to regulate traffic. When or where necessary the Street Superintendent and the City Engineer shall utilize the Manual on Uniform Traffic Control Devices (MUTCD) guidelines. (SDCL 32-14-5)
- 7.0108 Obedience to Traffic Control Devices. The operator of any vehicle shall obey the instructions of any official traffic control device applicable thereto placed or held in accordance with the provisions of this Chapter unless otherwise directed by a law enforcement officer subject to the exceptions granted by a law enforcement officer subject to the exceptions granted the driver of an authorized emergency vehicle in this Chapter.

## **CHAPTER 7.02 - OPERATION OF VEHICLES**

- 7.0201 Drive on Right Side of Street. Upon all streets, except upon one-way streets, the operator of a vehicle shall drive the same upon the right half of the street and shall drive a slow moving vehicle as closely as possible to the right hand edge or curb of a street unless it is impracticable to travel on such side of the street, and except when overtaking and passing another vehicle subject to the limitations applicable in overtaking and passing set forth in this Title.

The foregoing provision of this section shall not be deemed to prevent the marking of lanes for traffic upon any street and the allocation of designated lanes to designated speeds.

- 7.0202 Overtaking and Passing. The driver of any vehicle overtaking another vehicle proceeding in the same direction shall first give audible warning of his intention to pass and shall then pass within the speed limit and at a safe distance to the left thereof, but only when such left side is clearly visible and is free from oncoming traffic for a sufficient distance ahead to permit such overtaking and passing to be made in safety and shall not cut in front of the overtaken vehicle until safely clear of same, and in no case shall a vehicle pass another vehicle in a street intersection. The driver of a vehicle shall move to the right of the roadway a sufficient distance to allow passing when so signaled from a vehicle behind desiring to pass, and shall not increase the speed of his vehicle until completely passed by the overtaking vehicle. Vehicles shall not travel two abreast on any street.
- 7.0203 Motor Vehicles Left Unattended, Brakes to be Set. No person driving or in charge of a motor vehicle shall allow such vehicle to stand on any street unattended without first setting the brakes or placing an automatic transmission in park when standing upon any grade, turning the front wheel to the curb or side of the roadway.

- 7.0204 Backing Around Corners or into Intersection Prohibited. It shall be unlawful for the operator of any vehicle to back such vehicle around a corner at an intersection or into an intersection of public streets. (SDCL 32-30-20)
- 7.0205 Right-of-Way at Intersection. Subject to the exception stated in the next succeeding Section, the right-of-way rule as between vehicles at intersections is hereby declared as follows:
- A. The operator of a vehicle approaching an intersection shall yield the right-of-way to a vehicle which has fully entered the intersection;
  - B. When two vehicles approach an intersection at approximately the same time, the operator of the vehicle on the left shall yield the right-of-way to the vehicle on the right;
  - C. The operator of any vehicle traveling at an unlawful speed shall forfeit any right-of-way which he may otherwise have hereunder.
- 7.0206 Exceptions to Right-of-Way. The operator of a vehicle entering a public street shall yield the right-of-way to authorized emergency vehicles when the latter are operated upon official business and the operators thereof sound audible signal by bell, siren, or exhaust whistle. This provision shall not relieve the operator of an emergency vehicle from the duty to drive with due regard for the safety of all persons, nor shall it protect the operator of any such vehicle from the consequences of an arbitrary exercise of such right-of-way.
- 7.0207 Stop Required Before Operator Entering From Alley or Private Driveway. The operator of a vehicle emerging from an alley, driveway, or garage shall stop such vehicle immediately prior to driving onto a sidewalk or onto the sidewalk area extending across such alleyway. (SDCL 32-29-2.2)
- 7.0208 Turning Around at Intersections Prohibited. At any intersection where traffic is controlled by traffic control signals or by a law enforcement officer, or where warned by an official traffic control sign displaying the words "No U Turn," or "No Left Turn," it shall be unlawful for the operator of a vehicle to turn such vehicle at the intersection in a complete circle, or so as to proceed in the opposite direction or to make a left turn.
- 7.0209 Right-of-Way, Left Turn. The operator of a vehicle within an intersection intending to turn to the left shall yield the right-of-way to any vehicle approaching from the opposite direction which is within the intersection or so close thereto as to constitute an immediate hazard. The operator having so yielded and having given a signal when and as required may make such left turn and the operators of all other vehicles approaching the intersection from said opposite direction shall yield the right-of-way to the vehicle making the left turn. (SDCL 32-26-18)
- 7.0210 Turning Around in Midblock Prohibited. The operator of a vehicle shall not turn such vehicle so as to park or move in the opposite direction except at an intersection. (SDCL 32-26-25)
- 7.0211 Action Required at Stop Sign. Except when directed to proceed by a law enforcement officer or traffic control signal, every operator of a vehicle approaching a stop intersection indicated by a stop sign shall come to a full stop at a clearly marked stop line, but if none, before entering the crosswalk on the near side of the intersection or if none, then at the point nearest

the intersection roadway where the driver has a view of approaching traffic on the intersecting roadway before entering the intersection. After having stopped, the operator shall yield the right-of-way to any vehicle which has entered or is approaching the intersection from another highway and shall not proceed into the intersection until certain that such intersecting roadway is free from oncoming traffic which may affect safe passage. (SDCL 32-29-2.1)

- 7.0212 Action Required at Yield Sign. The operator of a vehicle approaching an authorized sign bearing the word "Yield" or "Yield Right-of-Way" shall in obedience to such sign slow down to a speed reasonable for the existing conditions or shall stop if necessary and shall yield the right-of-way to any pedestrian legally crossing the roadway on which such operator is driving, and to any vehicle in the intersection or approaching on another highway so closely as to constitute an immediate hazard. Said operator having so yielded may proceed and the operators of all other vehicles approaching the intersection shall yield to the vehicle so proceeding. (SDCL 32-29-3)
- 7.0213 Pedestrian's Right-of-Way. The operator of any vehicle shall yield the right-of-way to a pedestrian crossing the roadway within any marked crosswalk or within any unmarked crosswalk at the end of a block, except at intersections where the movement of traffic is being regulated by law enforcement officers or traffic control signals. Whenever any vehicle has stopped at a marked crosswalk or at any intersection to permit a pedestrian to cross a roadway, it shall be unlawful for the operator of any other vehicle approaching from the rear to overtake and pass such stopped vehicle. (SDCL 32-27-1)

### **CHAPTER 7.03 - VEHICLE EQUIPMENT**

- 7.0301 Lights Required. A motor vehicle upon a highway within the state during the period from a half hour after sunset to a half hour before sunrise and at any other time when there is not sufficient light to render clearly discernible any person on the highway at a distance of two hundred feet shall be equipped with at least two lighted lamps on the front and two on the rear of such motor vehicle, such lamps to conform to SDCL 32-17, provided that a motorcycle or motor bicycle shall be required to display but one lighted lamp in front and one in the rear.
- 7.0302 Head Lights Dimmed. No person shall use head lights or side lights upon any vehicle on any street unless the same are dimmed in such a way as to prevent the light being blinding to persons using the streets.
- 7.0303 Brakes. Every motor vehicle, trailer, semitrailer, and pole trailer, and any combination of such vehicles shall be equipped with brakes in compliance with the requirements of SDCL 32-18.
- 7.0304 Muffler, Excessive Smoke and Noise. No person shall operate or drive any motor vehicle unless such motor vehicle is provided with an adequate muffler, which shall at all times be kept closed so that the exhaust is effectively muffled. No person shall operate a motor vehicle in such manner as to emit unnecessary or excessive smoke or noise from the motor of such vehicle or to needlessly sound the horn or other noise-making device.
- 7.0305 Vehicles with Lugs Prohibited. No person shall operate or move any tractor or vehicle equipped with mud lugs, ice spurs, or spikes upon or across any street that is surfaced with

portland cement concrete or surfaced with bituminous material or any other hard surfacing material without first laying planks at least two inches in thickness over the surface of such street in a manner so as to protect such street surface from any damage.

- 7.0306 Pneumatic Tires with Metal Studs Prohibited. It shall be lawful to operate, upon the streets of the City of Hurley, motor vehicles equipped with pneumatic tires in which there are embedded metal studs or wires of tungsten or other similar metal from October 1 to April 30 as provided by the state law.
- 7.0307 Projecting Loads. No person shall drive any vehicle upon any street with any load or part of a load projecting more than four feet beyond the rear end or front ends or more than two feet beyond the sides of the body, or carrying part of such vehicles unless there be attached to the extreme ends and sides of such projecting load some warning sign or signal plainly discernible to other drivers and clearly indicating the projecting parts of such load.
- 7.0308 Protection of Load. No motor vehicle shall be driven or moved on any street unless such vehicle is so constructed or loaded as to prevent any of its load from dripping, sifting, leaking or otherwise escaping there from except that sand may be dropped for the purpose of securing tractions or water or other substances may be sprinkled on a roadway in cleaning or maintaining such roadway. No person shall operate on any street any vehicle with any load unless said load and any covering is securely fastened so as to prevent said covering or load from becoming loose, detached or in any manner a hazard to other users of the highway.
- 7.0309 Dynamic braking devices. No motor vehicle shall operate with a dynamic braking device engaged except for the aversion of imminent danger. A dynamic braking device (commonly referred to as Jacobs Brake) means a device used primarily on trucks for the conversion of the engine from an internal combustion engine to an air compressor for the purpose of braking without the use of wheel brakes.

## **CHAPTER 7.04 - SPEED RESTRICTIONS**

- 7.0401 General Restrictions. Any person driving a vehicle on a street or highway shall drive the same at a careful and prudent speed not greater than is reasonable and proper, having due regard to the traffic, surface, and width of the street or highway and to any other conditions existing.
- 7.0402 Speed Limitations. It shall be unlawful for any driver to drive any vehicle upon a highway or streets of the City or in any municipal park at a greater rate of speed than the following:
- A. Fifteen miles an hour when approaching within fifty feet of a railroad grade crossing when the driver's view is obstructed. A driver's view shall be deemed to be obstructed when at any time during the last two hundred feet of his approach to such crossing he does not have a clear and uninterrupted view of such crossing and of any traffic on such railway for a distance of four hundred feet in such direction from such crossing.
  - B. Fifteen miles an hour when passing a school during a school recess or while children are going to or leaving school during the opening or closing hours.

- C. Fifteen miles an hour when approaching within fifty feet and in traversing an intersection of streets when the driver's view is obstructed. A driver's view shall be deemed to be obstructed when at any time during the last fifty feet of his approach to such intersection he does not have a clear and uninterrupted view of such intersection for a distance of two hundred feet from such intersection.
- D. Except as provided above, twenty-five miles per hour on all streets, or as otherwise designated.
- E. Fifteen miles per hour in the City parks.

## **CHAPTER 7.05 - PARKING, STOPPING**

- 7.0501 Parking Prohibited in Certain Places. At any time it shall be unlawful to permit any vehicle to stop, stand or park in any of the following places, except where necessary to avoid conflict with other traffic or in compliance with the directions of a law enforcement officer or traffic control sign or signal:
- A. Within an intersection;
  - B. On a crosswalk;
  - C. Within fifteen feet of a fire hydrant;
  - D. In front of a private driveway;
  - E. Within fifteen feet of the driveway entrance to any fire station, or directly across the street from such entrance, except personal vehicles of emergency personnel;
  - F. On a sidewalk;
  - G. Within fifteen feet of inside boundary line of the sidewalk, or if no sidewalk is in place, within twenty-five feet of the intersecting roadway, except that this provision shall not apply to alleys;
  - H. Parking against direction of traffic on through streets.
- 7.0502 Standing for Loading or Unloading Only in Certain Places. It shall be unlawful for the operator of a vehicle to stop, stand, or park said vehicle for a period of time longer than is necessary for the actual loading or unloading of passengers, or the unloading and delivery or pick up and loading of materials in any place marked as loading zone. The City Council shall have authority to determined the location of passenger zones and loading zones as described herein, and shall cause to be erected and maintained appropriate signs indicating the same.
- 7.0503 Parking Zones. The City Council may designate by resolution any street, avenue, or alley in the City of Hurley, as necessity requires, as parking zones for the parking of motor vehicle or vehicles of any nature and description or the storage of any material of any kind, nature, or description; provide the length of time for day and night parking; the hours that constitute day and night; and provide for marking with proper signs setting forth the manner, form, and

hours of parking. Such parking zones shall be delineated on a map filed in the office of the finance officer.

The driver or person in charge of any vehicle parked in such a limited time zone shall comply with such time limit for parking as shown on the signs or marked on the curb where such vehicle is parked.

- 7.0504 Penalty. The offending automobile or other vehicle will be tagged with a tag, listing the date of the offense, license number of the vehicle, make, violation number, and location of offense with reference to street. Whenever a notice is left by any member of the police department in or on any vehicle which has violated the parking regulations, the person in charge of such vehicle shall pay the amount of the assessment described thereon by taking such notice and amount of the assessment to the City Finance Office and depositing the same with the City Finance Officer. The assessment for each violation shall be twenty-five dollars.

If the owner or operator fails to comply within seven days from the date of notice of violation, then in that case, a summons will be issued and the assessment shall be raised to thirty-five dollars for the violation. The increased assessment can be paid at the City Finance Office within the above time frame. If the summons is not complied with, a warrant may be issued to bring the owner or operator of the vehicle into court and a fine of fifty dollars will be assessed by the court for the violations.

Any vehicle parked in violation of this Chapter may be removed from the streets by the police department and placed in public or private storage and the owner thereof, in addition to the fines and penalties provided in this Chapter, shall pay the charges for towing and storage of said vehicle so removed by the police department. All money so collected by the police department shall be immediately deposited with the City Finance Officer to be paid into the general fund.

- 7.0505 Non-Parking Areas. The City Council may from time to time by resolution establish and cause to be designated and marked, non-parking areas along street curbs. No vehicle shall be parked at any time or for any period except to load or unload passengers or merchandise in such place so designated and marked.

- 7.0506 Obstruction of Traffic. No vehicle shall be operated or allowed to remain upon any street under the jurisdiction of the City in such a manner as to form an unreasonable obstruction to traffic. Whenever any police officer finds a vehicle which constitutes an obstruction to traffic, such officers shall be authorized to provide for the removal of such vehicle by towing, if necessary, at owner's expense, with no liability to the City. (SDCL 32-30-1, 2, 3, 4)

- 7.0507 Parking During Snow Removal.

A. Definitions. For the purposes of this Section, the following terms and words shall have the meaning given herein:

1. Snow Removal Alert. Such times as there is a snow accumulation on the public streets of two inches or more, or such times as the Street Superintendent or his or her designee declares that snow removal operations on the public streets will commence and that the provision of this Chapter in regard to parking on public streets during snow removal operations are effective and will be enforced.

2. Street. The entire width of any public roadway within the City, and it shall not be limited to those roadways designated as a *Street* but shall include all other names by which public roadways are designated.

B. Declaration of Snow Removal Alert. When the Street Superintendent or his or her designee determines that snow removal from the public streets will commence, the Street Superintendent or his or her designee will announce through local news media and whatever other sources are available that there has been declared a snow removal alert and that the provisions of this Chapter will be effective and be enforced, designating a particular date and time when the alert shall commence. The determination to declare a snow removal alert will be based on the then existing weather conditions, and the amount of snow then on the ground or expected according to forecasts from the National Weather Service.

C. Termination of Snow Removal Alert. After a snow removal alert has been declared, there will be no declaration of its termination, but the alert shall terminate and the provisions of this Section become not effective nor enforceable as to any particular street or portion of a street, as soon as that street or portion thereof has been plowed and cleared of snow accumulation, curb-to-curb, and the snow removal equipment is no longer operating in that area, after which normal parking may be resumed until the next declared snow removal alert.

D. Violation of Snow Removal Alert. Parking contrary to and in violation of this Section shall be deemed prohibited parking and any vehicle or trailer parked in violation shall be subject to a fine of \$25.00. The owner or operator of the 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 City Finance Officer, as a fine for and in full satisfaction of the violation, the sum of \$25.00. If the owner or operator fails to pay the sum within the 72-hour period, he or she may pay to the office of the City Finance Officer, within the next two weeks from the date of violation, as a fine for and in full satisfaction of the violation, the sum of \$50.00. Upon failure of the owner or operator to pay either of the sums to the office of the City Finance Officer within the time periods indicated, and upon conviction of a violation of this Section, the owner or operator shall be fined not less than \$75.00 plus court costs, which fine shall be collected by the Magistrate Court. The owner or operator also has the right to contest the charges or plead "not guilty" within the time periods indicated above, and have the matter transferred to Magistrate Court. The penalties in this Section may be adjusted by resolution of the City Council.

7.0508 Ticketing and Towing Vehicles. Any authorized City official or law enforcement officer shall be authorized to ticket and tow away, or have removed and towed away by any commercial towing service, any car or vehicle illegally parked in any place where such parked vehicle creates or constitutes a traffic hazard, blocks the use of a fire hydrant, or obstructs or may obstruct the movement of any emergency or snow removal vehicle, or in any way is in violation with the provisions of this Title. Cars towed away for illegal parking shall be stored in a place designated by the City Council and shall be returned to the owner or operator of such vehicle upon payment of the penalty under Section 7.0504. (SDCL 32-30-13, 14)

7.0509 Abandoned Vehicles. The abandonment of a motor vehicle or other vehicle or any part thereof on any street in the City shall be subject to action and penalties as provided for in this

Title and under Chapter 3.01. The abandonment of a motor vehicle or other vehicle or any part thereof on private or public property, other than a street, in view of the general public, anywhere in the City shall be prohibited except as specifically allowed under Chapter 3.01. (SDCL 32-30-12.1)

- 7.0510 Parking and Storage of Certain Vehicles. Automotive vehicles or trailers of any kind or type without current license plates shall not be parked or stored on any residentially zoned property other than in a completely enclosed building.
- 7.0511 Towing Costs. When a vehicle is removed from either public or private property as authorized by order of the City Council or Authorized Official, the owner of the vehicle shall be responsible for all towing costs in addition to the penalty for violation. In addition the City shall not be liable for any damages to property or persons incurred as a result of such towing or storage.

## **CHAPTER 7.06 - TRUCKS**

- 7.0601 Definitions. When in this Title the following terms are used they shall have the meanings respectively ascribed to them in this Section.
- A. Person - Any individual, association, company, corporation, firm, partnership or organization.
  - B. Truck - Any motor vehicle designated or operated for the transportation of property which has a body weight or body and load weight which exceeds three (3) tons per axle.
  - C. Motor Vehicle - All machines propelled by any power other than muscular used upon the streets or highways for the transportation of property.
  - D. Trailer - A vehicle of the trailer type, without a power unit of its own, designed and used in conjunction with a motor vehicle for the transportation of property.
  - E. Truck Route - Streets and highways designated as truck routes by the City Council.
  - F. Streets - All other streets with the City which are not designated as truck routes.
- 7.0602 Truck Routes. The City Council, by resolution, may designate streets and highways within the City of Hurley as truck routes.
- 7.0603 Detours. Trucks may operate on any officially established detour of a truck route or street unless such detours are posted prohibiting such operation by trucks.
- 7.0604 Operation of Trucks. All trucks, as defined, may not operate on any City street or highway other than designated truck routes, unless otherwise permitted by this article.
- 7.0605 Owner's Responsibility. In addition to the driver or operator, the owner of any truck being operated with such owner's permission and/or consent is liable for any violation of this Ordinance.

7.0606 Load Limits. If load limits have to be imposed with weather changes, these load limits would coincide with state and/or county, whichever is lesser, load limits when they are necessary.

7.0607 Exceptions to Use of Truck Routes. There shall be the following exceptions to the use of truck routes:

- A. A truck arriving at the end of any designated truck route may be driven over the most direct course to the nearest truck route which extends in the same general direction.
- B. The provisions of this Ordinance relating to the operation of trucks shall not apply to emergency vehicles of the Police Department, Fire Department or to any public utility vehicles when actually engaged in the performance of emergency duties necessary to be performed by said public departments or public utilities, nor to any vehicle owned by or performing work for the City, the United States of America or the State or any of its political subdivisions.
- C. Any contractor, or material supplier, while engaged in the repair, maintenance, and construction of improvements within the City.
- D. Whenever any truck route has been established and identified, any person driving a truck having a gross weight of or more than ten thousand pounds shall drive such truck on such routes and none other, except when it is impracticable to do so or where it becomes necessary to traverse another street or streets to a destination for the purpose of loading or unloading commodities, or for the purpose of towing a disabled or damaged motor vehicle to or from public or private property, and then only by such deviation from the nearest truck route as is reasonably necessary.

7.0608 Truck Route Signs. The Street Superintendent shall cause all truck routes to be clearly marked to give notice that this Chapter is in effect.

7.0609 Enforcement of Truck Routes. The police department shall keep and maintain accurate maps setting out truck routes and streets upon which traffic is permitted. The maps shall be kept on file in the office of the Finance Officer and made available to the public.

Any police officer having reason to believe that the weight of a vehicle and load is unlawful shall require any person driving or in control of said vehicle to proceed to any public or private scale available for the purpose of weighing and determining whether this Chapter has been complied with provided that such vehicle is driven to the nearest scale but in no event more than five miles. It shall be unlawful for any person driving or in control of any such vehicle to fail to comply with their requirement.

Nothing in this Chapter shall be construed to modify or change any of the regulations of the state highway department or the statutes of the state with reference to the gross weight permitted upon any highways within the City.

## **CHAPTER 7.07 - SNOWMOBILES**

7.0701 Definitions. The following words and phrases, when used in this Chapter, shall have the meanings respectively ascribed to them:

- A. Operate - to control the operation of a snowmobile.
  - B. Owner - any person, other than a lienholder, having the property in or title to a snowmobile and entitled to the use or possession thereof.
  - C. Private Property - means and includes any and all real property, or land within the City, which has not been opened or dedicated for public use or as a public thoroughfare.
  - D. Snowmobile - any engine-driven vehicle of a type, which utilizes sled type runners, wheels or skis with an endless belt tread or similar means of contact with the surface upon which it is operated.
- 7.0702 Operators License Required. No driver shall operate a snowmobile on a public street in the City without having in his or her possession a valid driver's license.
- 7.0703 Traffic Laws Applicable. The operator of a snowmobile is required to obey the same traffic laws of the state and Ordinances of the City, including street and road signs, as the operators of all other motorized vehicles are required to obey.
- 7.0704 Hours of Operation. No person shall operate a snowmobile on private property of their own or another or upon public highways, streets and alleys within the City between the hours of 11:00 p.m. and 7:00 a.m. the following day.
- 7.0705 Permission of Property Owner Required for Operation. No person shall operate a snowmobile on private property of another without the express permission to do so by the owner or occupant of such property.
- 7.0706 Operation on Public Ground and Streets Prohibited. No person shall operate a snowmobile on any public school grounds, public sidewalks, park property, park, roads, playgrounds and recreational areas within the City. Snowmobiles may be operated over snow-covered highways, streets and alleys within the City limits but only for emergency use as defined in 7.0711 or when the operator must travel upon such for purposes of leaving the City and/or when returning to his residence from outside the City. The operator when using any public street, highway or alley in accordance with the above restrictions, shall use the most expeditious and direct route.
- 7.0707 Crossing Streets at Right Angles. Persons operating snowmobiles are permitted to cross streets at right angles but only may do so after stopping and yielding the right-of-way to all approaching traffic and crossing as closely as possible to an intersection or approach.
- 7.0708 Speed. No person shall operate a snowmobile at a speed greater than is reasonable or proper, under all existing circumstances. But in no event shall the speed be greater than the maximum limits allowed in Section 7.0403.
- 7.0709 Careless, Reckless or Negligent Operation Prohibited. No person shall operate a snowmobile in a careless, reckless or negligent manner so as to be likely to endanger the person or property of another or cause injury or damage thereto.
- 7.0710 Loud Noises Prohibited. No person shall operate a snowmobile in such manner as to create any loud unnecessary or unusual noise likely to disturb or interfere with the peace and quiet of any other person.

- 7.0711 Emergency Use.
- A. The City Council may declare that road or weather conditions are such as to constitute emergency travel conditions authorizing use of a snowmobile.
  - B. A snowmobile may also be used when such vehicle is necessary as an emergency vehicle to protect the health, safety and welfare of any individual.
  - C. The operator of a snowmobile under emergency conditions shall be subject to all existing traffic ordinances of the City and traffic laws of the State.
- 7.0712 Equipment Required. All snowmobiles operated in the City shall have the following equipment.
- A. Mufflers which are properly attached and which reduce the noise of operations of the vehicle to the minimum noise necessary for operating the vehicles and no person shall use a muffler cutout, bypass or similar device on such vehicle.
  - B. Adequate brakes in good working condition.
  - C. A safety or “deadman” throttle in operating condition such being a device which when pressure is removed from the accelerator the throttle causes the motor to disengage from the driving tract.
  - D. At least one headlight and one tail light in good working condition.
  - E. A brightly colored vehicle flag hung or suspended at least six feet high and is firmly attached to the snowmobile.
- 7.0713 Unattended Vehicles. No owner or operator of a snowmobile shall leave or allow the snowmobile to be or remain unattended on public property or streets while the motor is running, or where the keys for starting the vehicle are left in the ignition.
- 7.0714 Sidewalk Operation Prohibited. No person shall operate a snowmobile upon any public sidewalk in the City or bike/walking trail.
- 7.0715 Operation Under the Influence. The operator of a snowmobile shall be deemed the driver or operator of a motor vehicle and be subject to South Dakota law relating to driving while under the influence of intoxicating liquor, drugs or otherwise therein provided and such operator shall be punishable for any violation of such laws.
- 7.0716 Towing. No person operating a snowmobile shall tow any person or object behind such snowmobile except when such person or object is situated upon a conveyance, which is attached to such snowmobile by means of a rigid hitch or tow bar.

## CHAPTER 7.08 - MISCELLANEOUS PROVISIONS

- 7.0801 Duty Upon Striking Animal. The operator of any vehicle which collides with any dog or domestic animal causing injury thereto shall stop and attempt to ascertain the owner of such animal and notify a law enforcement officer of such accident.
- 7.0802 Manner of Arrest. Except in cases of driving while intoxicated or under the influence of intoxicating liquor or any exhilarating drug and except in the more serious and aggravated cases of speeding or careless and reckless driving, and except when reasonably necessary to secure appearance, a person charged with a violation of this Title by a police officer need not be arrested in the regular manner but may first be given an opportunity, after notice, to appear voluntarily to answer for such traffic violation.
- 7.0803 Notice to Appear. A person charged with violation of a traffic ordinance shall be given a notice to appear before the circuit court magistrate or the county clerk of courts at the time stated in such notice, which shall be written within ten days from the time of the offense; and that in event of failure to do so, a warrant will be issued for his arrest. The notice shall state the name and address of the offender, if known; the license number and make of the vehicle involved in the violation; the nature, date, and location of the offense; and the time and place where the offender is to appear to answer to the charges. The notice shall be made in duplicate and the portion of the original stating the offense and the place and time to appear shall be given to the owner or driver charged with the offense or left in or upon the vehicle involved in the violation.
- 7.0804 Appearance and Deposit for Fine. A person who has received a notice of a traffic violation as provided in the preceding section shall appear at the time and place specified in such notice. In cases of parking violations and other minor traffic violations for which the person charged has been ordered to appear before the circuit court magistrate or county clerk of courts; he may make a deposit for the fine as authorized by the court and sign a statement authorizing a circuit court magistrate or county clerk of courts to enter his plea of guilty to the offense, then he shall not be required to appear in court. Any person who has been guilty of three or more violations of the provisions of the traffic ordinances of this City shall not be permitted to deposit the fine as herein above authorized, but must post a bond for his appearance in court at the time specified by the department, said bond to be in an amount set by the City Council and on file at the office of the finance officer.
- 7.0805 Failure to Appear. Upon failure of a person to appear in response to a notice of a traffic violation as herein provided, he shall be subject to arrest in the manner otherwise provided by law.

## CHAPTER 7.09 - GOLF CARTS

- 7.0901 Definitions. For purposes of this Chapter, the following words shall have the following meanings:
1. "Golf Cart" - A four wheeled vehicle originally and specifically designed and intended to transport one or more individuals and golf clubs for the purpose of playing the game of golf on a golf course. (SDCL 32-14-13)

2. “Operator” - Every person who operates or is in actual physical control of a golf cart.
- 7.0902 Golf Cart Operation. Golf carts shall not be allowed to operate within the City except as authorized by state statute or by this Chapter. Golf carts properly permitted pursuant to this Chapter shall be allowed to travel on the roadway portion of public streets, alleys and other roadways within the City except those highways where golf carts are prohibited by state statute. An operator of a golf cart shall comply with all City and state traffic rules and regulations applying to vehicles generally, and except that a golf cart shall not be required to have a bell, horn or directional signals.
- 7.0903 Operation of Golf Cart on State or County Highway or Bike/Walking Trail Prohibited. No person may operate a golf cart on a state or county highway except for crossing from one side of the highway to the other or on the bike/walking trail. A golf cart may cross the state or county highway at a right angle, but only after stopping and yielding the right-of-way to all approaching traffic and crossing as closely as possible to an intersection or approach. (SDCL 32-14-15)
- 7.0904 Operator’s License and Insurance. No person may operate a golf cart on the streets, alleys, roadways or other public places within the City limits unless the operator has a valid driver’s license and proof that the golf cart is covered by a policy of liability insurance.
- 7.0905 Permit. It shall be unlawful to operate a golf cart within the City unless the same is permitted in the City of Hurley. Upon submittal of proper application, the Finance Officer shall issue a permit sticker that shall be displayed in a readily identifiable location upon the golf cart. An individual applicant shall pay a fee of \$50.00. Permits shall be issued for the lifetime of the owner unless revoked. If the ownership of the vehicle changes, the new owner shall be required to apply for a license. Permit fees and durations may be adjusted by resolution by the City Council.
- 7.0906 Slow-Moving Vehicle Emblem or White or Amber Warning Lights. Golf carts permitted by the City shall display a slow-moving emblem in accordance with SDCL 32-15-20 or a white or amber warning light in accordance with SDCL 32-17-46.
- 7.0907 Violation of Golf Cart Operation. Operating contrary to and in violation of this Chapter shall be deemed prohibited and any operator in violation shall be subject to a fine of \$25.00. The operator of the golf cart found in violation of this Section may, within 72 hours of the time when the notice of violation was given, pay to the office of the City Finance Officer, as a fine for and in full satisfaction of the violation, the sum. If the operator fails to pay the sum within the 72-hour period, he or she may pay to the office of the City Finance Officer, within the next two weeks from the date of violation, as a fine for and in full satisfaction of the violation, the sum of \$50.00. Upon failure of the owner or operator to pay either of the sums to the office of the City Finance Officer within the time periods indicated, and upon conviction of a violation of this Section, the owner or operator shall be fined not less than \$75.00 nor more than \$100.00 plus court costs, which fine shall be collected by the Magistrate Court. Any person claimed to be in violation also has the right to contest the charges or plead “not guilty” within the time periods indicated above, and have the matter transferred to Magistrate Court. The penalties in this Section may be adjusted by resolution of the City Council.

## TITLE 8 - MUNICIPAL UTILITIES

### Chapter 8.01 - General Provisions

### Chapter 8.02 - Water Provisions

### Chapter 8.03 - Sewer Provisions

#### CHAPTER 8.01- GENERAL PROVISIONS

- 8.0101 Application. Any consumer desiring any utility service furnished by the City, including water or sewer, shall make application for the same to the utility office. Such application shall contain the applicant's name, address, and the uses for which such service is desired. A separate application shall be made for each premises to be served. The applicant shall abide by the rules and regulations established by the City relative to utility service in effect at the time of such application and as revised from time to time in addition to conditions and agreements as the City Council shall deem advisable. The application fee shall be twenty-five dollars. The application fee may be adjusted by resolution of the City Council.
- 8.0102 Deposit. Any applicant for City utility service shall make a deposit in the amount of one hundred dollars. The deposit is also an indemnity against theft, misplacement, or injury to City equipment. The deposit shall be returned when the applicant has given due notice of discontinuing utility service and is free from indebtedness to the City. The deposit may be adjusted by resolution of the City Council.
- 8.0103 Rates. Rates for the use of utilities furnished by the City shall be established by resolution by the Hurley City Council.
- 8.0104 Consumer's Bills. All utility bills rendered are net, due and payable on receipt and delinquent if not paid by the fifteenth day of the following month. If bills are not paid by the due date, a ten dollar additional charge shall be assessed. Provided, however, when a due date falls on a weekend or holiday, bills will not be delinquent until the close of business the next following work day. Bill payments mailed to the City must be received by the City on the day after the due date. Postmarks shall not be considered.
- 8.0105 Unpaid Bills. If a bill for utility services is not paid in full as provided in 8.0104, the customer shall be given notice by mail or by personal service to such owner, occupant or person, or by posting on the property that service shall be terminated within five working days of the date of mailing, personal service or posting unless the customer shall:
- A. Pay the amount in full;
  - B. Pay the undisputed portion of the account and file a written appeal with the City Finance Officer of the disputed portion. Service will be continued until such appeal is heard by the City Council.

Failure by any person to actually receive any document sent to him by certified mail or to sign and return any receipt card acknowledging receipt by certified mail shall not invalidate service made upon such person by certified mail. Such notice is deemed completed at the

time it is mailed, hand delivered or posted, and any period to reply or abate begins to run from the date of mailing, personal service or posting.

- 8.0106 Disconnect. The City may disconnect utility service for any of the following reasons:
- A. Failure to pay all charges and penalties;
  - B. Default on an agreement to liquidate a continuing debt;
  - C. Failure to grant the City access to read and inspect meters;
  - D. Customer tampering.
  - E. Failure to obtain a Certificate of Occupancy from the City.
- 8.0107 Extension. A single thirty day extension shall be allowed before disconnection of service upon receipt of a physician's certificate or notice from a public health or social service official that a disconnection of utility services will aggravate an existing medical condition of the customer or other permanent resident of the premises.
- 8.0108 Restoration of Service. All utilities disconnected for nonpayment must pay a reconnect fee as set by resolution by the City Council plus payment in full of the account before any utilities will be reconnected. Reconnections will be made only during business hours, 8:00 a.m. to 5:00 p.m., Monday through Friday. Utilities voluntarily disconnected shall also require a reconnect fee as set by resolution by the City Council and on file in the office of the Finance Officer.
- 8.0109 Owner, Lessee Liable. The owner of property, which is serviced by municipal utilities from the City, shall, as well as the lessee or occupant of the property, be liable to the City for the utility bills, which may be recovered in an action against such owner, lessee or occupant or against any or all of them, jointly or severally. The provisions contained in 8.0104 shall equally apply to the owner of the property as they do to the consumer/lessee or occupant.
- 8.0110 Tampering With City Equipment. It shall be unlawful for any person to, in any manner, tamper with any equipment or facilities of the City of Hurley utilities including, but not limited to water lines or sewer lines, water meters, or any other equipment utilized for the benefit of the municipal utilities of the City of Hurley. Should the City discover damage to its equipment or an attempt to tamper with such equipment or an attempt to falsify the amount of water or sewer used, or the amount due the City for utility service, the City may serve notice upon the consumer of a hearing that is to be held where the consumer may show cause why service should not be discontinued. This notice shall state the reason for the hearing and the time and place it is to be held.

Should the City Council find that a violation of this section has occurred and that there is no justification for said violation, the City Council may order immediate termination of service and service shall be reinstated only upon conditions established by the City Council. In addition to any criminal penalty, the City of Hurley should be entitled to collect a civil penalty of \$200.00 if the person has obstructed with or tampered with any of the municipal owned utilities whether or not such person received additional services without payment or whether or not the City of Hurley sustained any actual damages as a result of the obstruction or tampering.

- 8.0111 User Responsible for Operation and Maintenance of Water and Sewer Lines. Each occupied residence must have a usable City domestic water and sanitary sewer service. The City of Hurley shall be responsible for the maintenance and proper operation of the domestic water mains, sanitary sewer mains and domestic water service line from the main to the curb stop. Any domestic water service line past the curb stop or sanitary sewer service line from the sanitary sewer main to the structure, shall be the exclusive responsibility of the property owner. Owners at their own expense must keep and maintain their sanitary sewer service lines, from the point of connection at the main line, and all other equipment in good working order and properly protected from frost and other damage. Owners at their own expense must keep their domestic water service line from the point of connection at the curb stop to the structure in good working order and properly protected from frost and other damage. Thirty days after written notice from the City, if the repair has not been replaced, the City shall cause such repairs to be made and the cost of these repairs shall be assessed against the property. In the event that a property owner must excavate to repair a line, it shall be his sole responsibility to fill in such excavation to the satisfaction of the City. It shall be the responsibility of the City to replace the gravel base course and asphalt pavement displaced by such excavation at the cost of the property owner.
- 8.0112 City Not Liable for Damage. No claim shall be made against the City by reason of the breaking of any service pipe or equipment, or for any other damage that may result from shutting off water for repairing or any other purpose, or for any variation in pressure, or ram of water from mains, and no reduction will be made from regular rates because of leaking pipes or fixtures. The City shall not be liable for damage or injury to person or property whether caused by fire, interruption of service, downed lines, blackouts, brownouts, discontinuance of service, or other utility-related problems which shall arise from mechanical breakdowns, electricity supply reductions, and act of God, or other cause beyond the control of the City.
- 8.0113 Construction of Sewer and Water Connections. Whenever a property owner or developer shall deem it necessary to construct sewer and water service connections from the mains to the curb line on any street, highway, alley or public place, in advance of the permanent improvement of such street, highway, alley or public place, it shall be the duty of the owners of property fronting thereon to make such service connections at the cost of the property owner. If no mainline sanitary sewer or domestic waterlines exist in front of said property, it is and shall be the sole responsibility of the property owner to pay for all costs of extending said utilities. All costs associated with the extension and connection of utilities including but not limited to surveying, engineering, road replacement, pipe materials, valves, and miscellaneous items will be the sole responsibility of the property owner.
- 8.0114 Written Notice for Owners. Whenever the City Council shall have ordered, by resolution, any such connections to be made, it shall serve written notice on the owners of said property, either by personal service or by certified mail, return receipt requested, or by posting on the property, to make said connections by a date fixed, which shall not be less than ten days after such notice is given, or to show cause in writing, filed with the City Finance Officer within said time, why such connections should not be made. At the expiration of the time fixed, the City Council shall consider all the objections so filed and if over-ruled, shall thereupon, by resolution, order the making of such connections as they shall deem necessary. Failure by any person to actually receive any document sent to him by certified mail or to sign and return any receipt card acknowledging receipt by certified mail shall not invalidate service made upon such person by certified mail. Such notice is deemed completed at the time it is

mailed, hand delivered or posted, and any period to reply or abate begins to run from the date of mailing, personal service or posting.

- 8.0115 City Initiated Work and Assessment of Property Owners. When any such connections are ordered, as herein provided, the City Council shall cause the work to be done, and the cost thereof shall be collected from the owners of the property where such connections are made or assessed as a special tax against such property in the manner provided for assessing the cost of constructing sidewalks, so far as applicable.
- 8.0116 Providing Underground Utility Services When Frost Exists; Fee. When any utility customer of the City requests underground utility services for water or sewer and at the time of installation there is frost present, the City shall, in addition to the usual and customary charges established by the City Council for providing such services, charge the customer requesting such service the following:
- A. The hourly equipment rental rate, as established by resolution from time to time by the City Council, for the equipment necessary to install the utility service, for the number of hours necessary to operate such equipment in the installation of the utility service; and
  - B. The hourly rate, per man, for the labor necessary to install the utility service, as established by resolution from time to time by the City Council.

## **CHAPTER 8.02 - WATER PROVISIONS**

- 8.0201 Connection With City Watermain. No person shall make any connection with any City watermain or tap the same or conduct water therefrom upon his premises or use any water therefrom without first making application therefore to the City.
- 8.0202 City Prescribing Connections. All connections hereafter made with the City water mains shall be at the expense of the person desiring the same and shall be made under the supervision of the City. The City may prescribe the place where and the manner in which the connection shall be made, the size of the service pipe to be used, the place where the valve box and fire hydrant shall be placed and the manner and materials in which the plumbing shall be done.
- 8.0203 Meter Installation. All persons hereafter making application to be furnished with water shall be required to install a meter for the measurement of the amount of water used and shall pay for such water used at the rate hereinafter specified but two or more premises will not be supplied with water measured by the same meter unless one person is liable for the payment for the whole of such water furnished; such meter shall be so placed as to measure all water used. When a meter is placed on a pipe connected to a boiler or other hot water apparatus a check valve must be placed between such meter and boiler or other hot water apparatus to protect meter from back pressure of steam or hot water; in case of the breakage of any pipe or meter or if there be a leak in the same, the water shall be shut off until such breakage or leak is repaired.
- 8.0204 Meter Requirements. All meters shall be of the kind prescribed by the City and shall be placed as to be easily read and charged monthly.

- 8.0205 Meter Tests. Customers may have their meters tested upon payment of the actual cost for test. If the meter is found to be in error, the fee shall be refunded. If the test of the meter shows that it fails to register correctly within two percent, the City shall make a charge or allow a credit in proportion to the error, for all water registered in excess of the minimum amounts allowed by the established rates, the same to be retroactive for three billing periods only.
- 8.0206 Unnecessary Waste of Water. It shall be the responsibility of all consumers of water paying the rates mentioned to prevent unnecessary waste of water and to keep all water outlets closed when not in actual use; unpermissible uses; not to permit other persons or families to use water from any of their faucets, hydrants or pipes.
- 8.0207 Connection to Water Mains. It shall be unlawful for any person, firm or corporation to connect any water pipe or pipe of any kind to any of the water mains of the municipal water works system of the City of Hurley or to in any manner tamper with or bore into said water mains for any purpose whatever, except as hereinafter provided.
- 8.0208 Exceptions. The City may but need not allow connections to the water mains of said system upon application of any person desiring the same. Connections shall only be made on streets where water mains are located and in order to bring the water to the curb along said street in which said water mains are located and shall be at the expense of the applicant desiring connection. The City will review and approve plans and specifications for the utility extension. The applicant shall be responsible for all construction and engineering costs associated with the project.
- 8.0209 Standard Workmanship. The connections made to the City of Hurley water system shall be of standard workmanship of pipe and made according to the provisions of the ordinances of said City heretofore enacted as to size and quality of pipe, material and workmanship, including curb box and other attachments as approved by the City.

### **CHAPTER 8.03 - SEWER PROVISIONS**

- 8.0301 Definitions.
- A. “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.
  - B. “Building drain” shall mean that part of the lowest horizontal piping of a drainage system which receives the discharge from the soil, waste and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five feet (1.5 meters) outside the inner face of the building wall.
  - C. “Building sewer” shall mean the extension from the building drain to the public sewer or other place of disposal also called house connection.
  - D. “Combined sewer” shall mean a sewer intended to receive both wastewater and storm or surface water.

- E. "Easement" shall mean an acquired legal right for the specific use of land owned by others.
- F. "Floatable oil" is oil, fat or grease in a physical state such that it will separate by gravity from wastewater by treatment in an approved pretreatment facility. A wastewater shall be considered free of floatable fat if it is properly pretreated and the wastewater does not interfere with the collection system.
- G. "Garbage" shall mean the animal and vegetable matter resulting from the handling, preparation, making of foods.
- H. "Industrial wastes" shall mean the wastewater from industrial processes, trade or business as distinct from domestic or sanitary wastes.
- I. "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.
- J. "May" is permissive (see "shall", R).
- K. "Person" shall mean any individual, firm, company, association, society, corporation or group.
- L. "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  $10^{-7}$ .
- M. "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  $\frac{1}{2}$  inch (1.27 centimeters) in any dimension.
- N. "Public sewer" shall mean a common sewer controlled by a governmental agency or public utility.
- O. "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.
- P. "Sewage" is the spent water of a community. The preferred term is "wastewater" see Subsection X.
- Q. "Sewer" shall mean a pipe or conduit that carries wastewater or drainage water.
- R. "Shall" is mandatory (see "may", Sec. J).
- S. "Slug" shall mean any discharge of water or wastewater which is concentration of any given constituent or in quantity of flow exceeds for any period of duration than fifteen minutes more than five times the average twenty-four hour concentration or during normal operation.

- T. “Storm drain” (sometimes termed “storm sewer”) shall mean a drain or sewer for conveying water, groundwater, subsurface water or unpolluted water from any source.
- U. “Superintendent” shall mean the superintendent of wastewater facilities and/or of wastewater treatment works and/or of water pollution control of the City of Hurley, or his authorized deputy, agent or representative.
- V. “Suspended solids” shall mean total suspended matter that either floats on the surface of or is in suspension in water, wastewater or other liquids and that is removable by laboratory filtering as prescribed in “Standard Methods for the Examination of Water and Wastewater” and referred to as non-filterable residue.
- W. “Unpolluted water” is water of quality equal to or better than the effluent criteria in effect or water that would not cause violation of receiving water quality standards and would not be benefited by discharge to the sanitary sewers and wastewater treatment facilities provided.
- X. “Wastewater” shall mean the spent water of a community. From the standpoint of source, it may be a combination of the liquid and water-carried wastes from residences, commercial buildings, industrial plants and institutions together with any groundwater, surface water and storm water that may be present.
- Y. “Wastewater facilities” shall mean the structures, equipment and processes required to collect, carry away and treat domestic and industrial wastes and dispose of the effluent.
- Z. “Wastewater treatment works” shall mean an arrangement of devices and structures for treating wastewater, industrial wastes and sludge. Sometimes used as synonymous with “waste treatment plant” or wastewater treatment plant” or “water pollution control plant”.
- AA. “Watercourse” shall mean a natural or artificial channel for the passage of water either continuously or intermittently.
- BB. “City” shall mean the City of Hurley, South Dakota.

8.0302 Use of Public Sewers Required.

- A. It shall be unlawful for any person to place, deposit or permit to be deposited in any unsanitary manner on public or private property within the City or in any area under the jurisdiction of said City, any human or animal excrement, garbage or other objectionable waste.
- B. It shall be unlawful to discharge in the City or in any area under the jurisdiction of said City, any sewage or other polluted waters, except where suitable treatment has been approved in accordance with subsequent provisions of Section 8.03.
- C. It shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool or other facility intended or used for the disposal of wastewater unless a public sanitary sewer system is not available within 200 feet of the property line and the private sewer system is approved by the State of South Dakota.

- D. The owner(s) of all houses, buildings or properties used for the 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 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 Section 8.03 within thirty days after date of official notice to do so.

8.0303 Sanitary Sewers, Building sewers and Connections.

- A. No unauthorized person shall uncover, make any connections with or opening into, use, alter or disturb any public sewer or appurtenance thereof without first obtaining permission from the City.
- B. There shall be two classes of building sewer permits: (a) For residential and commercial service and (b) for service to establishments producing industrial wastes. In either case the owner(s) or his agent shall make application on a special form furnished by the City. The permit application shall be supplemented by any plans, specifications or other information considered pertinent in the judgment of the City. A permit and inspection fee shall be established by resolution by the Hurley City Council.
- C. All costs and expense incidental to the installation, connection and maintenance of the building sewer shall be borne by the owner(s). The owner(s) shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.
- D. A separate and independent building sewer shall be provided for every building; except where one building stands at the rear of another on an interior lot and no private sewer is available or 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 afore mentioned.
- E. Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the City, to meet all requirements of 8.03.
- F. The size, slope, alignment, materials of construction of all sanitary sewers including building sewers and the methods to be used in excavating, placing of the pipe, jointing, testing and backfilling the trench, shall all conform to the requirements of the buildings and plumbing code or other applicable rules and regulations of the City. In the absence of suitable code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the American Society for Testing and Materials (ASTM) and Water Pollution Control Federation (WPCF) Manual of Practice No. 9 or Ten States Standards shall apply.
- G. 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 building sewer.

- H. No person(s) shall make a connection of sump pumps, roof downspouts, 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 City for purposes of disposal of polluted surface drainage.
- I. The connection of the building sewer into the public sewer shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the City or the procedures set forth in appropriate specifications of the American Society for Testing and Materials (ASTM) and the Water Pollution Control Federation (WPCF) Manual of Practice No. 9 or Ten States Standards. All such connections shall be made gas tight and watertight and verified by proper testing. Any deviation from the prescribed procedures and materials must be approved by the City before installation.
- J. The applicant for the building sewer permit shall notify the City when the building sewer is ready for inspection and connection to the public sewer. The connection and testing shall be made under the supervision of the City.
- K. All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the City.

8.0304 Use of the Public Sewers.

- A. No person(s) shall discharge or cause to be discharged by sump pump or other means any unpolluted waters such as storm water, exterior foundation drains, areaway drains, down spouts, surface water, groundwater, roof runoff, subsurface drainage or cooling water to any sewer, or drain which in turn is connected directly or indirectly to a public sanitary sewer. 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 City.
- B. Storm water other than that exempted under 8.0304(A), and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as combined sewers or storm sewers or to a natural outlet approved by the City and other regulatory agencies. Unpolluted industrial cooling water or process waters may be discharged, on approval of the City, to a storm sewer, combined sewer or natural outlet.
- C. No person shall discharge or cause to be discharged any of the following described water or wastes to any public sewers:
  - 1. Any gasoline, benzene, naphtha, fuel oil or other flammable or explosive liquid, solid, or gas.
  - 2. Any waters containing toxic or poisonous solids, liquids or gases in sufficient quantity, either singly or by interaction with other wastes, to contaminate the sludge of any municipal system to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance or create any hazard in or have an adverse effect on the waters receiving any discharge from the treatment works.

3. Any waters or wastes having a pH lower than (5.5) or having any other corrosive property capable of causing damage or hazard to structures, equipment and personnel of the wastewater works.
  4. Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers or other interference with the proper operation of the wastewater facilities such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, paper hand towels, entrails and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.
- D. The following described substances, materials, water or waste shall be limited in discharges to municipal systems to concentrations or quantities which will not harm either the sewers, wastewater treatment process or equipment, will not have an adverse effect on the receiving stream or will not otherwise endanger lives, limb, public property or constitute a nuisance.

The City may set limitations lower than the limitations established in the regulations below if in its opinion such more severe limitations are necessary to meet the above objectives. In forming its opinion as to the acceptability, the City will give consideration to such factors as the quantity of subject waste in relation to low flows and velocities in the sewers, materials of construction of the sewers, the wastewater treatment process employed, capacity of the wastewater treatment system, degree of treatability of the waste in the wastewater treatment system and other pertinent factors. The limitations or restrictions on materials or characteristics of waste or wastewater discharged to the sanitary sewer which shall not be violated without approval of the City are as follows:

1. Wastewater having a temperature higher than 150 Fahrenheit (65 Celsius).
2. Wastewater containing more than 25 milligrams per liter of petroleum oil, non-biodegradable cutting oils or product of mineral oil origin.
3. Wastewater from industrial plants containing floatable oils, fat or grease.
4. Any garbage that has not been properly shredded. Garbage grinders may be connected to sanitary sewers from homes, hotels, institutions, restaurants, hospitals, catering establishments or similar places where garbage originates from the preparation of food in kitchens for the purpose of consumption on the premises or when served by caterers.
5. Any waters or wastes containing iron, chromium, copper, zinc and similar objectionable or toxic substances to such degree that any such material received in the composite wastewater at the wastewater treatment works exceeds the limits established by the City for such materials.
6. Any waters or wastes containing odor-producing substances exceeding limits which may be established by the City.

7. Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established 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 wastewater treatment processes employed or are amenable to treatment only to such degree that the wastewater treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.
  10. Any water or wastes which, by interaction with other water or wastes in the public sewer system, release obnoxious gases, form suspended solids which interfere with the collection system or create a condition deleterious to structures and treatment processes.
- E. If any waters or wastes are discharged or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in Section 4 of this Article and which in the judgment of the City, may have a deleterious effect upon the wastewater facilities, processes, equipment or receiving waters or which otherwise create a hazard to life or constitute a public nuisance, the City 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 provisions of Section A.

When considering the above alternative the City shall give consideration to the economic impact of each alternative on the discharger. If the City 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 City.

- F. Grease, oil and sand interceptors shall be provided when, in the opinion of the City, they are necessary for the proper handling of liquid wastes containing floatable grease in excessive amounts as specified in Section 8.0304(D)(3) 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 City 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 City. Any removal and hauling of the collected materials not performed by the owner must be performed by currently licensed waste disposal firms.

- G. Where pretreatment or flow-equalizing facilities are provided or required for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his expense.
- H. When required by the City, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable structure together with such necessary meter and other appurtenances in the building sewer to facilitate observation, sampling and measurement of the wastes. Such structures, when required, shall be accessibly and safely located and shall be constructed in accordance with plans approved by the City. The structure shall be installed by the owner at his expense and shall be maintained by him so as to be safe and accessible at all times.
- I. The City may require a user of sewer services to provide information needed to determine compliance with Chapter 8.03. These requirements may include:
  - 1. Wastewaters discharge peak rate and volume over a specified time period.
  - 2. Chemical analyses of wastewater.
  - 3. Information on raw materials, processes and products affecting wastewater volume and quality.
  - 4. Quantity and disposition of specific liquid, sludge, oil, solvent or other materials important to sewer use control.
  - 5. A plot plan of sewers of the user's property showing sewer and pretreatment facility location.
  - 6. Details of wastewater pretreatment facilities.
  - 7. Details of systems to prevent and control the losses of materials through spills to the municipal sewer.
- J. All measurements, tests and analyses of the characteristics of waters and wastes to which reference is made in Section 8.0304 shall be determined in accordance with the latest edition of "Standard Methods for the Examination of Water and Wastewater", published by the American Public Health Association. Sampling methods, location, times, durations and frequencies are to be determined on an individual basis subject to approval by the City.
- K. No statement contained in this article shall be construed as preventing any special agreement or arrangement between the City and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the City for treatment.

8.0305 Damage of Wastewater Facilities. No person shall maliciously, willfully or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is a part of the wastewater facilities. Any person violating this provision shall be subject to immediate arrest under charge of disorderly conduct.

8.0306 Powers and Authority of Inspectors. The City representative or authorized designee shall be permitted to enter all properties upon reasonable notice for the purposes of inspection, observation, measurement, sampling, and testing pertinent to utility service to the community system in accordance with the provisions of this Title.

# TITLE 9 - PLANNING, ZONING AND BUILDING REGULATIONS

## Chapter 9.01 - Planning Commission

### CHAPTER 9.01 - PLANNING COMMISSION

9.0101 Definitions.

- A. City or Municipality. Relates to the City of Hurley.
- B. City Council. Chief legislative body or governing body of the municipality.
- C. Planning Commission. Body created pursuant to this ordinance.

9.0102 Creation of Hurley Planning Commission.

The Hurley Planning Commission is hereby created for the City of Hurley, South Dakota.

9.0103 Number, Appointment and Tenure of Planning Commission Members.

The Hurley Planning Commission created under the terms of SDCL 11-6 shall consist of not less than five (5) members appointed by the City Council. If deemed necessary, the City Council may appoint one or more of its members to the Planning Commission. The term of each of the appointed members shall be five years. Administrative officials of the City may be appointed as ex-officio members of the Planning Commission; however, all members of the Planning Commission shall serve as such without compensation.

9.0104 Vacancies.

Any vacancy in the membership of the Planning Commission shall be filled for the unexpired term by the City Council in the same manner as for appointment.

9.0105 Organization.

The Planning Commission shall elect a Chairman from among its members for a term of one year with eligibility for re-election, and shall also elect a Secretary. The Planning Commission shall hold meetings as necessary, as called by the Chairman, or the City Council. The Commission shall keep minutes and records of its activities, which shall be a public record.

The Planning Commission may appoint such employees as it may deem necessary for its work, and may also contract with planners, engineers, architects and other consultants for such services as it may require, provided, however, that such appointments and contracts shall be approved by the City Council.

9.0106 Removal for cause.

The mayor, with the confirmation of the City Council, shall after public hearing have authority to remove any member of the Planning Commission for cause, which cause shall be stated in writing and made a part of the record of such hearing.

9.0107 Powers and Duties of Commission.

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

9.0108 Preparation of Comprehensive Plan.

The Planning Commission of Hurley shall propose a comprehensive plan for the physical development of the City pursuant to the terms of SDCL 11-4 and 11-6. The general purpose of the comprehensive plan shall be to guide and accomplish a coordinated and harmonious development within the City.

After the comprehensive plan has been adopted according to law, no substantial amendment or modification thereof shall be made, without the proposed change first being referred to the Planning Commission for its recommendations.

9.0109 Zoning Regulations.

It shall be a duty of the Planning Commission to recommend the boundaries of zoning districts and appropriate regulations to be enforced therein, in accordance with comprehensive plan. The Planning Commission shall prepare regulations governing land uses, building or set-back lines and the subdivision or platting of land within the municipality in accordance with SDCL 11-4 and 11-6. All applications and proposals for changes in or amendments to the zoning regulations shall first be submitted to the Planning Commission for its recommendations.

9.0110 Subdivision Plats and Regulations.

All plans, plats, or re-plats or subdivisions or resubdivisions of land within the jurisdiction of this ordinance shall first be submitted to the Planning Commission for its recommendation before approval by the City Council.

The Planning Commission shall prepare and recommend to the City Council regulations governing the subdivision of land within its jurisdiction. No amendments or changes thereto shall be made without recommendation by the Planning Commission.

## TITLE 10 - TAXATION

### Chapter 10.01 - Municipal Sales and Service Tax and Use Tax

### Chapter 10.02 - Gross Receipts Tax

### Chapter 10.03 - Urban and Rural Service Districts

#### CHAPTER 10.01 - MUNICIPAL SALES AND SERVICE TAX AND USE TAX

- 10.0101 Purpose. The purpose of this Chapter is to provide additional needed revenue for the Municipality of Hurley, Turner County, South Dakota, by imposing a municipal retail sales and use tax pursuant to the powers granted by the State of South Dakota, by SDCL 10-52 entitled Uniform Municipal Non-Ad Valorem Tax Law, and acts amendatory thereto.
- 10.0102 Effective Date. From and after the first day of January, 2004, 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 Municipality of Hurley, Turner County, South Dakota, who are subject to the South Dakota Retail Occupational Sales and Service Tax, SDCL 10-45 and acts amendatory thereto.
- 10.0103 Use Tax. In addition there is hereby imposed an excise tax on the privilege of use, storage and consumption within the jurisdiction of the municipality of tangible personal property or services purchased from and after the first day of January, 2004, at the same rate as the municipal sales and service tax upon all transactions or use, storage and consumption which are subject to the South Dakota Use Tax Act, SDCL 10-46, and acts amendatory thereto.
- 10.0104 Collection. Such tax is levied pursuant to authorization granted by SDCL 10-52 and acts amendatory thereto, and shall be collected by the South Dakota Department of Revenue and Regulation in accordance with the same rules and regulations applicable to the State Sales Tax and under such additional rules and regulations as the Secretary of Revenue and Regulation of the State of South Dakota shall lawfully prescribe.
- 10.0105 Interpretation. It is declared to be the intention of this Chapter and the taxes levied hereunder that the same shall be interpreted and construed in the same manner as all sections of the South Dakota Retail Occupational Sales and Service Act, SDCL 10-45 and acts amendatory thereto and the South Dakota Use Tax, SDCL 10-46 and acts amendatory thereto, and that this shall be considered a similar tax except for the rate thereof to that tax.

#### CHAPTER 10.02 - GROSS RECEIPTS TAX

- 10.0201 Purpose. The purpose of this Chapter is to provide additional needed revenue for the Municipality of Hurley, Turner County, South Dakota, by imposing a municipal gross receipts tax pursuant to the powers granted to the municipality by the State of South Dakota, by SDCL 10-52A, and acts amendatory thereto.
- 10.0202 Effective Date. From and after the first day of January, 2015, there is hereby imposed a municipal gross receipts tax of One Percent (1%) upon the gross receipts from the sale of

leases or rentals of hotel, motel, campsites or other lodging accommodations within the municipality for periods of less than twenty-eight (28) consecutive days, the sale of alcoholic beverages as defined in SDCL 35-1-1, establishments where the public is invited to eat, dine or purchase and carry out prepared food for immediate consumption, and ticket sales or admissions to places of amusement, athletic and cultural events. The tax applies to the gross receipts of all persons engaged in business within the jurisdiction of the Municipality of Hurley, Turner County, South Dakota, who are subject to the South Dakota Retail Occupational Sales and Service Tax, SDCL 10-45 and acts amendatory thereto.

- 10.0203 Collection. Such tax is levied pursuant to authorization granted by SDCL 10-52A and acts amendatory thereto, and shall be collected by the South Dakota Department of Revenue and Regulation in accordance with the same rules and regulations applicable to the State Sales Tax and under such additional rules and regulations as the Secretary of Revenue of the State of South Dakota shall lawfully prescribe.
- 10.0204 Interpretation. It is declared to be the intention of this Chapter and the taxes levied hereunder that the same shall be interpreted and construed in the same manner as all sections of the South Dakota Retail Occupational Sales and Service Tax, SDCL 10-45 and acts amendatory thereto and the South Dakota Use Tax, SDCL 10-46 and acts amendatory hereto, and that this shall be considered a similar tax except for the rate thereof to that tax.
- 10.0205 Use of Revenue. Any revenues received under this Chapter may be used only for the purpose of land acquisition, architectural fees, construction costs, payment for civic center, auditoriums or athletic facility buildings, including the maintenance, staffing and operations of such facilities, and the promotion and advertising of the municipality, its facilities, attractions and activities.

### **CHAPTER 10.03 - URBAN AND RURAL SERVICE DISTRICTS**

- 10.0301 Service Districts Established. Pursuant to the authority granted in SDCL ch. 9-21A, the City is hereby divided in area into an urban service district and a rural service district constituting separate taxing districts for the purpose of levying all City ad valorem property taxes, except those levied for the payment of bonds.
- 10.0302 Rural Service District - Criteria for Lands Included. The rural service district shall include only such platted or unplatted lands as in the judgment of the City Council are rural in character, are used or usable for agriculture, and are not developed for commercial, industrial or urban residential purposes. The rural service district may include lands which are not contiguous to one another.
- 10.0303 Lands Described - Rural Service District. The rural service district shall consist of those platted or unplatted lands described in exhibit A on file with the City Finance Officer's office, entitled "Lands Included in the Rural Service District," and made a part of this section, all of which lands are rural in character, are used or usable for agriculture, and are not developed for commercial, industrial or urban residential purposes. The rural service district shall also include lands outside the municipality, if annexed into the corporate limits, which are rural in character, are used or usable for agriculture, and are not developed for commercial, industrial or urban residential purposes.

- 10.0304 Lands Included in Urban Service District. The urban service district shall include all lands within the boundaries of the City which are not included in the rural service district.
- 10.0305 Agricultural Land Annexed; Limitation on Mill Levy and Assessed Value. The tax levy and assessed value on the agricultural land annexed shall not exceed the average tax levy and average assessed value on unannexed agricultural land in adjoining townships in the county so long as the annexed land remains rural property and is included in the rural service district.
- 10.0306 Platting or Construction in Rural District. Whenever any parcel of land included within the rural service district:
- A. Is platted in whole or in part;
  - B. Is the subject of an application for a permit for the construction of a commercial, industrial or urban residential development or improvement to be situated on such parcel or any part thereof; or
  - C. Otherwise fails to meet the criteria as set forth in Section 10.0303 this Chapter.

The board or officer of the City approving such plat or building permit or having knowledge of the change in circumstances shall report the change to the City Council which shall make and enter an order transferring such parcel from the rural service district to the urban service district.

# TITLE 11 - CITY CEMETERY

## Chapter 11.01 - Cemetery Operations

### CHAPTER 11.01 - CEMETERY OPERATIONS

#### 11.0101 Prices for Cemetery Lots and Burial Fees.

The price of all unsold lots in the Hurley Cemetery shall be as follows:

- A. One lot shall cost one thousand dollars (\$1,000.00) (75% of said price shall be used for upkeep and 25% shall go toward the perpetual care fund).
- B. One-half of a lot shall sell for five hundred dollars (\$500.00) (it will be divided 75% for upkeep and 25% to the perpetual care fund).
- C. A burial fee of two hundred dollars (\$200.00) shall be collected by the funeral director and given to the Finance Officer. In the case of ashes or remains of cremation, the burial fee shall be seventy-five dollars (\$75.00). These funds shall be divided 75% to the upkeep and 25% to the perpetual care fund.

Such perpetual care of said lots or portion thereof shall include care of the graves, monuments, and grave markers thereof, but shall not be construed to include the original filling and grading of said lots or portions thereof, or removal of surplus dirt therefrom.

The payment provided for may be made by the owner, his or her executor, administrator, relative or other intended person who shall be entitled to receive the certificate hereinafter provided for.

## TITLE 12 - GENERAL PROVISIONS

### Chapter 12.01 - Penalties and Repealing Clause

#### CHAPTER 12.01 - PENALTIES AND REPEALING CLAUSE

- 12.0101 Penalty in General. Except in cases where a different or additional penalty is imposed by this ordinance or by some existing provision of law, every violation of any of the provisions of this ordinance shall be punishable by a fine not exceeding five hundred dollars or by imprisonment for a period not exceeding thirty days or both such fine and imprisonment. Each day in which a violation of this Code or other ordinance continues shall constitute a separate offense. (SDCL 9-19-3)
- 12.0102 Conflicting Ordinances Repealed. All former ordinances or parts of former ordinances in conflict with the provisions of this ordinance or relating to the subject matter of this ordinance, except as stated in this chapter, are hereby repealed; provided however, that nothing herein shall be construed as repealing any special ordinances, appropriation ordinances, franchise ordinances establishing fees and charges, levy ordinances for the issuance of bonds, or special ordinances of like character, nor shall this ordinance repeal or modify the provisions of any zoning ordinances or any other ordinances requiring a special method of adoption, nor shall this ordinance repeal or modify the provisions of any resolution heretofore adopted by the City of Hurley unless the provisions of this ordinance either modify, repeal, or amend such resolution; and all such ordinances and resolutions shall remain in full force and effect.
- 12.0103 Unconstitutionality. Should any Section, Sub-section, paragraph, sentence, clause or phrase of this ordinance be declared unconstitutional or invalid for any reason the remainder of this ordinance shall not be affected thereby.
- 12.0104 Publication and Effect. This ordinance shall take effect upon its adoption and publication of the notice of such adoption as provided by SDCL 9-19-17.