

MUNICIPAL CODE

CITY OF CROOKS, SOUTH DAKOTA

Ordinance No. 2024-0X

Effective Date: Month X, 2024

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

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

[Ordinance Signature Sheet]

[Notice of Publication]

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TITLE 1 – GENERAL PROVISIONS

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Chapter 1.06 – Severability

Chapter 1.07 – Code Does Not Affect Prior Offenses or Rights

Chapter 1.08 – Treatment of Multiple Violations

Chapter 1.09 – General Penalty; Continuing Violations

Chapter 1.10 – Publication and Effect

Chapter 1.01 – Designation and Citation of Code of Ordinances.

The ordinances provided in this and the following chapters constitute and are designated “Municipal Code, City of Crooks, South Dakota” and may be so cited. These ordinances may also be cited as the “Code of Ordinances”, “Crooks Code”, “Crooks Municipal Ordinances,” or “Crooks City Code”. Internally, this document will be referred to as “this Code”.

Chapter 1.02 – Chapter Headings; History Notes References.

- A. The headings of the chapters of this Code which are printed in boldface type are merely intended to indicate the contents of the chapter are not titles of such chapters, or of any part of the chapter, nor unless expressly so provided will they be so deemed when any such chapter is amended or re-adopted.
- B. Any history or source notes appearing in this Code have no legal effect and only indicate legislative history. Editor’s notes, cross references, historical information, and state law references which appear in this Code after chapters or subchapters or that otherwise appear in footnote form are provided for the convenience of the user of this Code and have no legal effect.
- C. Unless specified otherwise, all references to chapters or subchapters are to chapters or subchapters of this Code.

Chapter 1.03 – Conflicting Ordinances Repealed.

All former ordinances or parts of former ordinances in conflict with the provisions of this Code or relating to the subject matter of this Code, except as stated in this Title, are hereby repealed.

Chapter 1.04 – Effect of Repeal of Ordinances.

- A. Unless specifically provided otherwise, the repeal of an ordinance does not revive any previously repealed ordinance.
- B. The repeal or amendment of an ordinance does not affect any punishment or penalty incurred before the repeal took effect, nor does such repeal or amendment affect any suit, prosecution, or proceeding pending at the time of the repeal or amendment.

Chapter 1.05 – Ordinances Saved from Repeal.

Nothing contained in this Code, nor in the ordinance adopting this Code, shall be construed to repeal or otherwise affect in any manner:

- A. Any ordinance or act committed or done or any penalty or forfeiture incurred or any contract or right established or occurring before the effective date of this Code.
- B. Any ordinance promising or guaranteeing the payment of money for the city authorizing the issuance of any bonds of the city or any evidence of the city's indebtedness.
- C. Any contract or obligation assumed by the city.
- D. Any right or franchise granted by the city.
- E. Any budget or appropriation ordinance.
- F. Any ordinance establishing or relating to the extraterritorial jurisdiction of the city.
- G. Any ordinance which, by its own terms, is effective for a stated or limited term.
- H. Any ordinance providing for local improvements and assessing taxes.
- I. Any administrative ordinances or resolutions not in conflict or inconsistent with the provisions of this Code.

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- J. Any ordinance or resolution dedicating, naming, establishing, locating, relocating, opening, paving, widening, repairing, vacating, etc., any street or public way.
- K. Any ordinance levying or imposing taxes.
- L. Any land use, zoning, or re-zoning ordinance, or amendment to the zoning map.
- M. Any ordinance annexing territory or excluding territory or any ordinance extending the boundaries of the City.
- N. Any ordinance establishing positions, classifying positions, setting salaries of city officers and employees or any personnel regulations.
- O. Any ordinance regarding elections.

All such ordinances are hereby recognized as continuing in full force and effect to the same extent as if set out at length herein and are on file with the Finance Officer.

Chapter 1.06 – Severability.

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

Chapter 1.07 – Code Does Not Affect Prior Offenses or Rights.

Nothing in this Code or the ordinances adopting this Code shall affect any offense or act committed or done, or any penalty or forfeiture incurred, or any contract or right established or accruing before the effective date of this Code.

Chapter 1.08 – Treatment of Multiple Violations.

In all cases where the same violation is made punishable or is created by different chapters or subchapters of this Code, the city attorney or other person authorized to enforce this Code, may elect under which to proceed, but not more than one (1) recovery shall be had against the same person for the same offense;

provided, that the revocation of a license or permit shall not be considered a recovery or penalty so as to bar any other penalty being enforced.

Chapter 1.09 – General Penalty; Continuing Violations.

Whenever in a Crooks municipal code or any ordinance of the city an act is prohibited or is made or declared to be unlawful or an offense, or wherever in such code or ordinance the doing of any act is required or the failure to do any act is declared to be unlawful, and no specific penalty is provided therefor, any person who shall be convicted of any such violation shall be subject to a civil penalty not to exceed five hundred (\$500.00) dollars. Each day in which a violation of this code or other ordinance continues shall constitute a separate offense.

Legislative History

Ordinance #223, Adopted 9/11/2017

Chapter 1.10 – Publication and Effect.

This Code shall take effect upon its adoption and publication of the notice of such adoption as provided by SDCL 9-19-17.

TITLE 2 – ADMINISTRATION

- Chapter 2.01 – Boundaries**
- Chapter 2.02 – Voting Wards**
- Chapter 2.03 – Elected Officials**
- Chapter 2.04 – City Officers and Employees**
- Chapter 2.05 – Meetings**
- Chapter 2.06 – Planning and Zoning Commission**
- Chapter 2.07 – Police Department**
- Chapter 2.08 – Fire Department**

Chapter 2.01 – Boundaries.

- 2.0101 Name. “The City of Crooks” is a municipal corporation organized and existing under the general laws of the State of South Dakota, and is situated in Minnehaha County.
- 2.0102 Territory. 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 Office. Such map shall be incorporated in this ordinance by reference and adopted as the official map showing the boundaries and limits of the City.
- 2.0103 Classification. It is a municipal classification of the second class, denominated a City, and shall continue as such until changed by operation of law.
- 2.0104 Corporate Seal. It shall have a corporate seal, circular in form, reading as follows: “City of Crooks, Minnehaha County, South Dakota.” The same shall be in the custody of the Finance Officer of the City of Crooks.

The seal of the City shall be affixed by the City Finance Officer to all ordinances passed by the City Council, warrants ordered drawn for the payment of money from the City Finance Officer, bonds, and any and all other instruments to which the seal shall be attached as required by law. The City Finance Officer shall pay no warrant or order for money unless the seal shall be affixed thereto.

Legislative History

Ordinance #27, Adopted 2/5/1982

Chapter 2.02 – Voting Wards.

The City shall be divided into two wards which shall be designated respectively as Ward One (“Ward I”) and Ward Two (“Ward II”). 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 Crooks 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 description set forth herein.

Ward I (map exhibit D1). Ward I shall include all of that part of the City west of West Avenue/470th Avenue and south of the railroad tracks. It shall also include all of that part of the City west of Park Drive located between southern portion of E. 7th Street and all of E. 8th Street. It shall also include all of that part of the City west of Willie Drive located between 8th Street and north portion of E. 9th Street.

Ward II (map exhibit D2). Ward II shall include all of that part of the City west of Western Avenue/470th Avenue and north of the railroad tracks. It shall also include all of that part of the ~~City~~City east of West Avenue/470th Avenue including the north portion of E. 7th Street. It shall also include all of that part of the City east of Willie Drive and south of E. 8th Street. It shall also include all ~~foof~~ that part of the City east of West Avenue/470th Avenue south of E. 9th Street.

Ordinance #27, Adopted 2/5/1982

Ordinance #134, Adopted 12/8/2003

Ordinance #179, Adopted 12/29/2011

Ordinance #294, Adopted 4/11/2022

Chapter 2.03 – Elected Officials.

- 2.0301 Form of Government. The City shall be governed by a City Council, consisting of a Mayor elected at large and two (2) aldermen from each ward who shall serve for a term of two (2) years or until their successors are elected and have qualified. The term of one (1) alderman in each ward shall expire each year.
- 2.0302 Qualifications of Mayor and Alderman. A person may be nominated, elected, or appointed as the mayor or as an alderman if the person is a citizen of the United States, a voter and resident of the City of Crooks, and, if an alderman, a voter of and resident of the ward for which the person is to hold office.
- 2.0303 Mayor Term and Election. The mayor shall be elected by the registered City voters for a two (2) year term in the even numbered years.
- 2.0304 Mayoral Duties. The mayor shall preside at all meetings of the City Council, but shall have no vote except in the case of a tie. He or she shall perform such other duties as may be prescribed by the laws and ordinances, and shall take care that such laws and ordinances are faithfully executed. He or she shall give the City Council information relative to the affairs of the City, and shall recommend for their consideration such measures as he or she may deem expedient.

He or she shall have the power to sign or veto any ordinance or resolution passed by the City Council, and the power to veto any part or item of an ordinance or resolution appropriating money. The mayor shall structure committees and committee functions as to best serve the governing of municipal affairs. Appointment to committees and committee functions shall be determined by the mayor.

2.0305 Mayoral Delegation of Authority to Contract.

- A. Under the authority of the Mayor to execute the annual budget of the City and to enter into any and all:
 - 1. Contracts for services and the procurement of all equipment and supplies approved within the City's annual budget; or
 - 2. As otherwise necessary to protect the citizens of the community in the event of an emergency or disaster implicating the health, safety, and welfare of the citizens of Crooks and as otherwise permitted by law, except those actions specifically prohibited by an existing ordinance or resolution of the City Council, without the further approval or action of the City Council; and
- B. The Mayor may delegate such authority to the various department heads of the City to the extent that in his or her discretion such delegation is deemed appropriate under the circumstances, except that the Mayor shall continue to sign the city's ordinances, the resolutions of Council, documents which he or she is obligated to sign by state law, and such other contracts and documents involving other governmental entities or which are subject to the public bidding laws of the State of South Dakota.

2.0306 Mayoral Vacancy. If there is a vacancy from any cause in the office of the mayor, the vacancy shall be filled by appointment by a majority vote of the aldermen, as soon as practicable after the vacancy occurs, to serve until the office is filled by election for the unexpired term at the next annual municipal election or by special election. Until the vacancy is filled or during the time of temporary absence or disability of the mayor, the powers and duties of Mayor are executed by the president or vice president of the council as provided for in Chapter 2.0507.

2.0307 City Council Vacancy. If a vacancy exists on the City Council, the remaining aldermen shall appoint a replacement to serve until the next annual municipal election, or the vacancy may be filled by a special election for the remainder of the unexpired term. The appointment shall be a person from the same ward of the municipality as the person who vacated their position.

2.0308 Compensation of Mayor. The Mayor shall be compensated at a rate of seven hundred and fifty dollars (\$750.00) to be paid monthly.

2.0309 Compensation of Council Members. Each Council member shall be compensated at a rate of two hundred and fifty dollars (\$250.00) to be paid monthly.

- 2.0310 Disbursement of Monthly Compensation. Disbursement of monthly compensation shall be paid on the fifth (5th) day of each month. If the fifth (5th) of the month falls on a weekend, the disbursement of monthly compensation shall be paid on the closest business day prior to the fifth (5th) day. Disbursement of monthly compensation shall occur pursuant to the adopted personnel policies of the City of Crooks’s schedule.
- 2.0311 Additional Compensation Authorized. The Mayor or Council members may be compensated at a rate of twenty (\$20.00) per hour for services rendered to the City, not to exceed the statutory amount established by SDCL 9-14-16.1.
- 2.0312 Expense Reimbursement Authorized. The Mayor and Council members shall be entitled to a per diem rate for meals and incidentals at fifty dollars (\$50.00) based on the US General Services Administration (GSA) established rate, including mileage at the mileage rate prescribed by the Internal Revenue Service. The official shall coordinate lodging with the Finance Officer. If such coordination is not feasible due to barring circumstances, the official shall make reasonable accommodations, which shall be reimbursed at the next City Council meeting, by submitting receipts to the Finance Office.

Legislative History

Ordinance #51

Ordinance #63

Ordinance #81, Adopted 11/4/1996

Ordinance #107, Adopted 11/6/2000

Ordinance #187, Adopted 12/10/2012

Ordinance #206, Adopted 1/11/2016

Ordinance #215, Adopted 6/12/2017

Ordinance #271, Adopted 12/14/2020

Ordinance #321, Adopted 3/13/2023

Chapter 2.04 – City Officers and Employees.

- 2.0401 City Officers. The ~~M~~Mayor shall, with the approval of the Council, appoint the following officers: finance officer, ~~city operations superintendent~~, city attorney, city engineer, and such additional officers as may be deemed necessary for the proper administration of municipal business.
- 2.0402 Terms. Each city officer shall enter upon the discharge of his or her duties as soon as each has duly qualified; and shall hold office under such terms and conditions as the City Council deems proper.
- 2.0403 Qualifications, Salaries, and Bonds. All officers may be required to take an oath of office before entering upon the discharge of duties. The oath shall be subscribed by the person taking it and shall be filed and preserved in the office of finance officer.

The annual salaries, compensation, pay periods, and bonds of all officers shall be set annually by ordinance or resolution of the City Council.

2.0404 Spending and Contract Authority of Officers and Department Heads.

- A. Finance Officer. The Finance Officer has the authority to enter into contracts and make purchases on behalf of the City for any amount not to exceed five hundred dollars (\$500.00).

The Finance Officer shall obtain verbal approval from the Mayor prior to entering into any contract or making any purchase on behalf of the City costing from five hundred dollars (\$500.00) to one thousand dollars (\$1,000.00).

The Finance Officer shall obtain approval by motion of the City Council, recorded in the minutes, prior to entering into any contract or making any purchase on behalf of the City costing more than one thousand dollars (\$1,000.00).

- B. Utilities Superintendent. The Utilities Superintendent has the authority to enter into contracts and make purchases on behalf of the City for any amount not to exceed five hundred dollars (\$500.00).

The Utilities Superintendent shall obtain verbal approval from the Mayor prior to entering into any contract or making any purchase on behalf of the City costing from five hundred dollars (\$500.00) to one thousand dollars (\$1,000.00).

The Utilities Superintendent shall obtain approval by motion of the City Council, recorded in the minutes, prior to entering into any contract or making any purchase on behalf of the City costing more than one thousand dollars (\$1,000.00).

Exceptions:

1. Stocking of equipment and supplies necessary for routine business associated with utility maintenance, such as meters, regulators, etc.
2. The Utilities Superintendent, along with the Mayor, have the authority to negotiate favorable market conditions and lock in gas prices without advance approval by motion of the City Council, recorded in the minutes.

- C. Department Heads. Department heads have the authority to enter into contracts and make purchases on behalf of the City for any amount not to exceed two hundred dollars (\$200.00).

Department heads shall obtain verbal approval from the Finance Officer prior to entering into any contract or making any purchase on behalf of the City for any amount exceeding

two hundred dollars (\$200.00), such approval of the Finance Officer being subject to the limitations set forth above.

City Administrator.

D. The Finance Officer, Utilities Superintendent, and department heads are not required to obtain either verbal approval from the Mayor or approval by motion of the City Council, recorded in the minutes, prior to entering into any contract or making any purchase on behalf of the City to address an immediate threat to the public health or safety.

2.0405 Expense Reimbursement Authorized. The Finance Officer and any approved City officer or employee shall be entitled to a per diem rate **based on the US General Services Administration (GSA) established rate** ~~for meals and incidentals at fifty dollars (\$50.00)~~, including mileage at the mileage rate prescribed by the Internal Revenue Service. The officer or employee shall coordinate lodging with the Finance Officer. If such coordination is not feasible due to barring circumstances, the officer or employee shall make reasonable accommodations, which shall be reimbursed at the next City Council meeting, by submitting receipts to the Finance Office.

2.0406 Duties of Officers. The duties and responsibilities of the various city officers shall be such as are ordinarily undertaken by said officers and as provided for by the laws of the State of South Dakota and the Ordinances of the City of Crooks. Such officers shall do and perform and shall have such powers and duties as may be assigned to them by the City Council, other body, or person authorized to prescribe such duties.

2.0407 Vacancies. The removal of any city officer shall cause a vacancy in the office or position.

2.0408 Vacating Officers Required to Turn Over Property. Any person having been an officer of the City shall, upon the expiration of his or her term of office or upon his or her removal from office, deliver to his or her successor in office, or to whomsoever the Council may direct, all property, books, and effects of every description in his or her possession, belonging to the City or pertaining in any way to the office.

2.0409 ~~City Employees~~Appointive Officers, Salaries, Bonds. ~~The City Council may contract or employ any other such person or persons under such terms and conditions as it shall deem proper. The City Council shall by ordinance or agreement prescribe the duties and fix the compensation of any employee hired pursuant to this chapter.~~In addition to appointive officers, the Mayor with the approval of City Council shall hire personnel, professional and otherwise, required and necessary for municipal purposes. The compensation of such employees shall be fixed via resolution at any time regardless of the time when any City employee may have been hired.

Legislative History

Ordinance #81, Adopted 11/4/1996

Ordinance #160, Adopted 12/8/2008

Chapter 2.05 – Meetings.

2.0501 Regular Meetings. The City Council of the City of Crooks, South Dakota, shall meet regularly on the second Monday of each month. All regular meetings shall commence at 6:00 p.m. on said days, at the place commonly known as Crooks Community Center, or at such other place as the Council may, from time to time, designate.

Ordinance #318, Adopted 12/29/2022

2.0502 Special Meetings. Special meetings of the Council shall be held upon the call of the Mayor or any one of the Aldermen by giving notice to the other persons on the City Council and the Mayor.

2.0503 Boards and Committees. ~~The City Council shall have the authority to create such boards and commissions as are allowed under the statutes of the State of South Dakota as it may consider necessary and desirable and shall make such bylaws, rules, and regulations as are necessary for the orderly transaction and conduct of its business of which a record shall be placed on file in the office of the City Finance Officer. The two aldermen from each ward shall, along with the Mayor, constitute a standing committee for such ward to act in all cases of claims, sidewalks, streets, alleys, fire department, lights, water, sewage, and taxation matters. Special committees may be named at any time by the Mayor.~~

2.0504 Adjourned Meetings. The City Council may adjourn a meeting to a later date, in which event the adjourned meeting shall be considered as a part of the first meeting.

2.0505 Meetings Open to Public. Unless otherwise provided herein, all meetings of the City Council shall be open to the public. It shall be unlawful for anyone not a member of the City Council to make any disturbance or interfere in any way with the deliberations of the Council at such meetings. No person, not a member of the Council, shall address or deliver any remarks to the Council at such meetings without first asking for the privilege of so doing.

2.0506 Public Notice Requirements. All notices for regular meetings and special meetings shall be posted for a continuous period of twenty-four (24) hours immediately preceding the meeting. All notices shall be posted pursuant to SDCL § 1-25-1.

2.0507 Executive Sessions. The City Council, by motion, may close meetings for executive sessions for those purposes permitted by law. Thereafter, the Council shall reconvene in open meeting to take such actions as may be appropriate.

2.0508 Presiding Officer and Organization of City Council. The City Council, at its first regular meeting after the annual election shall organize by electing one (1) of its members as president and one (1) as vice-president. They shall hold their respective office for the ensuing year. The

president of the City Council shall in the absence of the Mayor be the presiding officer of the Council. During any absence or temporary disability of the Mayor, the President of the Council shall be acting Mayor and shall possess all the power of the Mayor. In the absence of the Mayor and President of the Council, the vice-present shall perform such duties.

2.0509 Quorum. A majority of all the members elected to the City Council shall constitute a quorum for the transaction of business, but a smaller number may adjourn from time to time and may compel the attendance of absent members.

2.0510 Voting. Each member of the Council who shall be present when any question is submitted shall vote thereon unless excused by the Council. A roll call vote shall be taken upon the passage of all ordinances and upon any proposal to expend or appropriate money, and in all other cases at the request of any member. All votes shall be entered in the minutes of the proceedings.

The majority vote of the aldermen shall be necessary to pass an ordinance or proposal which expends or appropriates money, and the mayor may not break a tie on an ordinance or proposal to expend or appropriate money. The mayor may break a tie on all other ordinances or proposals.

A two-thirds (2/3) vote of the aldermen is required to sell any city property.

2.0511 Rules of Order. Robert's Rules of Order, Newly Revised, as published by Scott, Foresman and Company, shall govern the City Council in its deliberation in cases not otherwise provided for by ordinance, rule, or regulation.

Legislative History

Ordinance #1, Adopted 11/17/1978

Ordinance #19, Adopted 9/4/1980

Ordinance #29, Adopted 6/7/1982

Ordinance #122, Adopted 9/9/2002

Ordinance #218, Adopted 7/10/2017

Ordinance #304, Adopted 8/8/2022

Chapter 2.06 – Planning and Zoning Commission.

2.0601 Establishment. Pursuant to SDCL 11-6-2, there is hereby established a Planning and Zoning Commission for the City.

2.0602 Membership. The Planning and Zoning Commission of the City of Crooks shall consist of at least three (3) and no more than seven (7) members, all whom shall be appointed by the Mayor and approved by the consent of the governing body. ~~One of the members of the Commission may be the Mayor or one (1) of the Aldermen.~~

- 2.0603 Term of Appointment. The term of each member of the ~~Zoning Board~~Planning and Zoning Commission shall be five (5) years, except that appointment of each member shall be in such a manner that there will be an overlapping of terms.
- 2.0604 Vacancies. Any vacancy in the membership of the ~~Zoning Board~~Planning and Zoning Commission shall be filled for the unexpired term in the same manner as for initial appointment.
- 2.0605 Removal for Cause. The Mayor, with the confirmation of the City Council, shall have, following public hearing, authority to remove any member of the ~~Zoning Board~~Planning and Zoning Commission for cause. Cause for removal shall be stated in writing and made a part of the record of such hearing.
- 2.0606 Chairman of ~~Zoning Board~~Planning and Zoning Commission. The ~~Zoning Board~~Planning and Zoning Commission shall elect its chairman from among its members for a term of one (1) year with eligibility for re-election. The chairman may fill other offices as the ~~Zoning Board~~Planning and Zoning Commission may create in a manner prescribed by the rules of such Board.
- 2.0607 Powers and Duties of ~~Zoning Board~~Planning and Zoning Commission. The ~~Zoning Board~~Planning and Zoning Commission 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 SDCLs 11-4 and 11-6 and acts amendatory thereof.
- 2.0608 Preparation of Comprehensive Plan. The ~~Zoning Board~~Planning and Zoning Commission shall be responsible for the creation and maintenance of a comprehensive plan for the physical development of the City pursuant to the terms of SDCLs 11-4 and 11-6. The general purpose of the comprehensive plan shall be to guide and accomplish the coordinated and harmonious development of 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 submitted to the ~~Zoning Board~~Planning and Zoning Commission for its recommendations.
- 2.0609 Zoning Regulations. The ~~Zoning Board~~Planning and Zoning Commission shall recommend the boundaries of zoning districts and appropriate regulations to be enforce therein, in accordance with the comprehensive plan. The Board shall prepare regulations governing land uses and building setback lines in accordance with SDCLs 11-4 and 11-6. All applications and proposals for changes or amendments to the zoning regulations shall be first submitted to the Board for its recommendations.
- ~~2.610~~ 2.0610—Land Subdivision Plans and Regulations. The ~~Zoning Board~~Planning and Zoning Commission shall prepare and recommend regulations governing the subdivision of land within the City. All applications and proposals for changes or amendments to the subdivision regulations shall be first submitted to the Board for its recommendations.

2.611 Regular Meetings. The Planning and Zoning Commission, shall meet regularly on the third Monday of each month. All regular meetings shall commence at 7:00 p.m. on said days, at the place commonly known as Crooks Community Center, or at such other place as the Planning and Zoning Commission may, from time to time, designate.

2.612 Special Meetings. Special meetings of the Planning and Zoning Commission shall be held upon the call of the Chairman by giving notice to the other persons on the Planning and Zoning Commission.

Legislative History

Ordinance #2, Adopted 12/7/1978

Ordinance #73

Ordinance #216, Adopted 7/10/2017

Chapter 2.07 – Police Department.

2.0701 Contract for Law Enforcement Services. The City Council may contract for law enforcement services under such terms and conditions as it shall deem proper. Any such contract shall be made by ordinance or resolution and set forth the compensation to be paid and the scope of services to be rendered.

2.0702 Fleeing from Law Enforcement Officers. No person shall willfully fail or refuse to stop, or otherwise flee when given a visual or audible signal to stop by a uniformed law enforcement officer. The signal given by the law enforcement officer may be by hand, voice, emergency light, or siren.

Legislative History

Ordinance #90, Adopted 10/5/1998

Chapter 2.08 – Fire Department.

2.0801 Establishment. There is hereby established a Fire Department for the City of Crooks and the Crooks Volunteer Fire Department heretofore organized and existing is hereby recognized as such. It shall consist of no more than thirty (30) members who are all at least twenty-one (21) years of age, plus junior firefighters as prescribed in its bylaws. The fire department shall have power to formulate and adopt by-laws and rules for its government.

2.0802 Voluntary Assumption of Risk. Each member, by joining the department, voluntarily assumes the hazards of injury or accident in the service with no liability on behalf of the City, its elected officials, officers, or employees.

2.0803 Officers, Terms, Term Limits, and Vacancies. The officers of the Fire Department shall include the Fire Chief and any other positions created in its by-laws.

2.0804 Authority of the Fire Chief. The Fire Chief shall have the sole and absolute control over all members of the Fire Department. Further, he or she shall be responsible for ensuring that all of the City's firefighting equipment and machinery are in good working condition.

TITLE 3 – MUNICIPAL TAXES

Chapter 3.01 – Municipal Sales and Service Tax and Use Tax

Chapter 3.02 – Municipal Gross Receipts Tax

Chapter 3.03 – Discretionary Tax Formula

Chapter 3.04 – Rural and Urban Service Districts

Chapter 3.05 – Refund of Sales and Use Tax

Chapter 3.01 – Municipal Sales and Service Tax and Use Tax.

- 3.0101 Purpose. The purpose of this chapter is to provide additional needed revenue for the Municipality of Crooks, Minnehaha County, South Dakota, by imposing a municipal retail sales and use tax pursuant to the powers granted to the municipality by the State of South Dakota, by SDCL 10-52 entitled Uniform Municipal Non-Ad Valorem Tax Law, and acts amendatory thereto.
- 3.0102 Effective Date and Enactment of Tax. From and after the first day of January 1, 2013, 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 Crooks, Minnehaha County, South Dakota, who are subject to the South Dakota Retail Occupational Sales and Service Tax, SDCL 10-45 and acts amendatory thereto.
- 3.0103 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 items purchased from and after the first of January, 2012, 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.
- 3.0104 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.
- 3.0105 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 hereto, and that this shall be considered a similar tax except for the rate thereof to that tax.

- 3.0106 Penalty. Any person failing or refusing to make reports or payments prescribed by this Chapter and the rules and regulations relating to the ascertainment and collection of the tax herein levied shall be guilty of a misdemeanor and upon conviction shall be fined not more than \$200 or imprisoned in the municipal jail for thirty (30) days or both such fine and imprisonment. In addition, all such collection remedies authorized by SDCL 10-45, and acts amendatory thereto, and SDCL 10-46, and acts amendatory thereto, are hereby authorized for the collection of these excise taxes by the Department of Revenue and Regulation.

Legislative History

- Ordinance #60, Adopted 6/5/1989
Ordinance #94, Adopted 5/17/1999
Ordinance #129, Adopted 8/11/2003
Ordinance #144, Adopted 11/14/2005
Ordinance #182, Adopted 6/11/2012

Chapter 3.02 – Municipal Gross Receipts Tax.

- 3.0201 Purpose. The purpose of this Chapter is to provide additional needed revenue for the Municipality of Crooks, Minnehaha 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.
- 3.0202 Effective Date and Enactment of Tax. From and after the first day of January 1, 2009, there is hereby imposed as 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 Crooks, Minnehaha County, South Dakota, who are subject to the South Dakota Retail Occupational Sales and Service Tax, SDCL 10-45 and acts amendatory thereto.
- 3.0203 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.
- 3.0204 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 that this shall be considered a similar tax except for the rate thereof to that tax.

- 3.0205 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.
- 3.0206 Penalty. Any person failing or refusing to make reports or payments prescribed by this Chapter and the rules and regulations relating to the ascertainment and collection of the tax herein levied shall be guilty of a misdemeanor and upon conviction shall be fined not more than \$200 or imprisoned in the municipal jail for thirty (30) days or both such fine and imprisonment. In addition, all such collection remedies authorized by SDCL 10-45, and acts amendatory thereto, are hereby authorized for the collection of these excise taxes by the Department of Revenue.
- 3.0207 Separability. If any provision of this Chapter is declared unconstitutional or the application thereof to any person or circumstances held invalid the constitutionality of the remainder of the Chapter and applicability thereof to other persons or circumstances shall not be affected thereby.

Legislative History

Ordinance #155, Adopted 7/14/2008

Chapter 3.03 – Discretionary Tax Formula.

~~3.0301 — Industrial Structures. Any new industrial structure or an addition to an existing structure which new structure or addition has a true and full value of thirty thousand dollars (\$30,000.00) or more, added to real property located within the city limits of Crooks, South Dakota, shall qualify to be assessed pursuant to the discretionary formula described in Chapter 3.0305.~~

~~3.0302 — Commercial Structures. Any new commercial structure, except a commercial residential structure, or addition to an existing structure, which new structure or addition has a true and full value of thirty thousand dollars (\$30,000.00) or more, added to real property located within the city limits of Crooks, South Dakota, shall qualify to be assessed pursuant to the discretionary formula described in Chapter 3.0305.~~

~~3.0303 — Commercial Residential Structures. Any new commercial residential structure, or addition to an existing structure, which new structure or addition has a true and full value of thirty thousand dollars (\$30,000.00) or more, added to real property located within the city limits of Crooks, South Dakota, shall qualify to be assessed pursuant to the discretionary formula described in Chapter 3.0305.~~

~~3.0304 — Residential Structures. Any new residential structure, or any addition to or renovation of an existing structure, located within a redevelopment neighborhood, which new structure, addition, or renovation has a true and full value of twenty five thousand dollars (\$25,000.00) or more, added to real property shall qualify to be assessed pursuant to the discretionary formula described in Chapter 3.0305. In order to improve the quality of housing, all real property located within the city limits of Crooks, South~~

~~Dakota, shall qualify as property located in a redevelopment neighborhood. The redevelopment neighborhood is being established because the area includes buildings or improvements which by reason of age, deterioration, obsolescence, and dilapidation injuriously affect the area to the detriment of public health, safety, morals, or welfare and because the development of housing is being prevented by the predominance of defective or inadequate street layout, faulty lot layout in relation to size, adequacy, accessibility, or usefulness, the deterioration of site improvements, and obsolete platting.~~

~~3.03050301~~ Discretionary Formula. Pursuant to the authority granted to the City under SDCL §§ 10-6-137 and 10-6-137.1, all new structures and additions which are specifically classified for the purpose of taxation under SDCL §§ 10-6-137(1) and 10-6-137(4) and located within the City shall be ~~Any real property qualifying for the discretionary formula pursuant to this chapter shall be~~ assessed as follows:

First Year <u>following construction</u>	020 %
Second Year <u>following construction</u>	2540 %
Third Year <u>following construction</u>	5060 %
Fourth <u>and Fifth Years following construction</u> Year	7580 %
Sixth Year <u>Fifth Year following construction</u>	100%

Chapter 3.04 – Rural and Urban Service Districts

- 3.0401 Intent. Under the authority of SDCL 9-21A, the City of Crooks classifies property within the corporate limits of the City of Crooks as urban and rural for the purposes of ad valorem property taxation pursuant to SDCL 9-21A.
- 3.0402 Definition of Terms. Terms as used in this Chapter shall be given the meanings as listed in SDCL 9-21A-2.
- 3.0403 Establishment of Urban Service District and Rural Service District. The City of Crooks divides the area within and abutting to its corporate limits into an urban service district and a rural service district, constituting separate tax districts for the urban and rural property classified for such purposes by this Chapter and for purposes of all the municipal ad valorem property taxes, except for those levied for the payment of bonds. Lands outside the corporate limits of the City of Crooks are designated for purposes of possible future annexation, handled under Section 3.0404 below. The specific division of the area within and abutting to its corporate limits are indicated by the map attached Section 3.0410.
- 3.0404 Rural Service District. The rural service district shall include only such platted or unplatted lands as in the judgment of the City of Crooks are rural in character, are used or usable for agriculture, and are not developed for commercial, industrial or urban residential purposes,

and for these reasons are not benefited to the same degree as other lands by municipal services financed by general taxation. The rural service district may include lands which are not contiguous to one another. Lands outside the corporate limits of the City of Crooks may be designated as rural service district, and if annexed, shall be included within the rural service district.

- 3.0405 Urban Service District. The urban service district shall include all lands within the boundaries of the City of Crooks which are not included in the rural service district.
- 3.0406 Limitation on Tax Levy and Assessed Value of Rural Service District Lands. The tax levy and assessed value on the rural service district lands shall not exceed the average tax levy and average assessed value on unannexed agricultural land in adjoining townships in the county as long as the annexed agricultural land remains rural property as defined by SDCL 9-21A-2.
- 3.0407 Transfer of Rural Service District Lands to Urban Service District. Whenever a parcel of land located in the rural service district is platted, in whole or in part, and whenever application is made 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, the board or officer approving such plat or building permit shall report it to the City of Crooks, which shall then take such necessary steps needed to transfer such parcel from the rural service district to the urban service district.
- 3.0408 Allocation and Spread of Levies. Taxes levied for payment of bonds shall continue to be spread upon all taxable property within the corporate limits of the City of Crooks in proportion to the assessed valuation thereof. The remaining amount of the taxes levied each year shall be allocated by the county auditor to the urban service district and the rural service district in the amounts proportionate to the current benefit ratio times the current benefit between the full and true values of all taxable property within the urban service district and all taxable property within the rural service district. Within each district, the amount so allocated shall be spread upon all taxable property in proportion to the assessed valuation thereof.
- 3.0409 Certification of Tax Levy to County Auditor. The amount of taxes levied each year shall be certified to the county auditor.
- 3.0410 Urban and Rural Service District Map.

3.~~0502~~0503 Eligible Taxes. The City may agree to a refund of its local sales and use taxes paid by business or person:

- A. On the purchase of material for use in remodeling, rehabilitating, or constructing a structure; or
- B. On the purchase of equipment and furnishings for a structure.

3.~~0503~~0504 Separate Agreement Required. Any person desiring to claim a refund shall make application to the City Finance Officer at least thirty (30) days prior to the earlier of the construction commencement or the ordering of equipment to be used in the business facility. The City Council will, by separate Agreement, consider rebating the eligible local sales and use tax paid for a period to be determined by the Agreement but not to exceed two (2) years.

3.~~0504~~0505 Documentation, Required. Business or persons entitled to a refund of local sales and use tax under this Chapter shall pay the entire amount of State and local sales and use taxes at the time of purchase. A business or person entitled to a refund of sales and use tax must provide documentation necessary to support a refund claim in a form prescribed by the City's Finance Officer.

Ordinance #333, Adopted 10/9/2023

TITLE 4 – PERMITS AND LICENSES

Chapter 4.01 – Alcoholic Beverage Sales and Licenses

Chapter 4.02 – Peddlers and Temporary Vendors

Chapter 4.03 – Special Event Permits

Chapter 4.04 – Sexually Oriented Businesses

Chapter 4.05 – Cannabis Establishments

Chapter 4.01 – Alcoholic Beverage Sales and Licenses.

4.0101 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.

4.0102 Traffic in Alcoholic Beverages Prohibited. No person shall produce, transport, store or sell any alcoholic beverage except as authorized under the provisions of this Chapter and SDCL Title 35.

4.0103 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.

4.0104 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)

4.0105 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.

4.0106 Annual Additional License Fee for Video Lottery Machines on Licensed Premises. Any person who is licensed pursuant to SDCL § 35-4-2(4), (6), (11), (12), (13), or (16), and who is issued a video lottery establishment license pursuant to SDCL § 42-7A-41 must pay an additional annual fee for locating video lottery machines on the licensed premises. The fee is established at fifty dollars (\$50.00) for each video lottery machine and the fee shall be paid at the same time and in the same manner as the fees paid on licenses issued pursuant to SDCL § 35-4-2. All fees received under this section shall be deposited into the general fund of the City. (SDCL 35-4-103)

4.0107 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, service 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. Such licenses are permitted to sell, service, or allow to be consumed alcoholic beverages on Sunday and on Memorial Day and on Christmas Day, except between the hours of 2:00 a.m. and 7:00 a.m.

4.0108 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 license 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 Chapter 4.0109.

4.0109 Open Container Permitted. Notwithstanding anything herein to the contrary:

- A. No regular on-sale malt beverage license 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 (50%) 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 provisions 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.

4.0110 License Classes and Fees. License classes and fees shall be as follows:

- A. On-Sale – The initial license fee shall be one dollar (\$1.00) for each person residing within the City's corporate limits as measured by the last preceding Federal census. The renewal fee for such license is one thousand five hundred dollars (\$1,500.00) ~~—SDCL 35-4-2(3).~~
- B. Off-Sale – The initial license fee and the renewal fee for such license is five hundred dollars (\$500.00) ~~—SDCL 35-4-2(4).~~
- C. Malt beverage and wine produced by a farm winery licensee, being both package dealers and on-sale dealers – The initial license fee and renewal fee for such license is three hundred dollars (\$300.00) ~~—SDCL 35-4-2(16).~~

~~D. —Wholesalers of malt beverages — Four hundred dollars (\$400.00).~~

~~E. —Wholesalers of alcoholic beverages — Five thousand dollars (\$5,000.00).~~

~~F. —Transportation companies — Twenty five dollars (\$25.00).~~

~~G. —Carrier — One hundred dollars (\$100.00)~~

~~H. —Wholesalers of alcoholic beverages — The initial license fee and the renewal fee for such license is five hundred dollars (\$500.00) — SDCL 35-4-2(2).~~

Legislative History

Ordinance #9, Adopted 5/29/1979

Ordinance #48, Adopted 8/13/1984

Ordinance #55, Adopted 10/7/1985
Ordinance #69, Adopted Unknown
Ordinance #172, Adopted 1/10/2011
Ordinance #236, Adopted 11/12/2018
Ordinance #266, Adopted 8/10/2020

Chapter 4.02 – Peddlers and Temporary Vendors.

4.0201 Definitions. The following definitions shall apply:

PEDDLER/SOLICITOR/TRANSIENT MERCHANT: Any person, principal, or agent, traveling from place to place, from house to house, or from street to street for the purpose of selling or soliciting for sale goods, wares, merchandise, or services, and shall also include any person transacting a temporary business within the City at an established place of business.

MOBILE FOOD VENDOR: Any person, principal, or agent engaging in an activity whereby prepared food, either on-site or at another licensed food preparation facility, or beverages are sold from a food truck or food cart. This definition shall not include food and beverage delivery services.

4.0202 Permit Required. It shall be unlawful for any person to engage in business as a peddler/solicitor/transient merchant, or mobile food vendor without first obtaining a permit to do so. No peddler’s permit shall be issued to a corporation, partnership, or other impersonal legal entity. Each individual person engaging in the business of peddling/soliciting within the City shall be required to have a permit whether acting for himself/herself or as an agent or representative of another. Permits issues under this ordinance shall be non-transferable.

It shall be unlawful for any person to give false or misleading information in connection with an application for a permit required by this Chapter. No permit shall be issued if the information in the application is incomplete.

4.0203 Nuisances. It shall be unlawful for any peddler/solicitor/transient merchant to enter upon a private premises when the same is posted with a sign stating, “No Peddlers Allowed”, “No Solicitors Allowed”, or the like. Any peddler/solicitor/transient merchant who enters upon premises having been notified by the owner or possessor of the premises to leave the same shall be deemed guilty of a Class 2 Misdemeanor. It shall be unlawful for any peddler/solicitor/transient merchant to make false or fraudulent statements concerning the quality or nature of goods, wares, merchandise, or services for the purpose of inducing another to purchase the same. Every peddler/solicitor/transient merchant having a permit issued under the provisions of this Chapter and doing business within the City shall openly display their permit.

4.0204 Exceptions. Peddlers exempt from the licensing requirements of Chapter 4.02 include the following:

- A. Solicitations, sales, or distributions made by a bona fide charitable, educational, or religious organization.
- B. The seasonal sale of agricultural products produced or processed in this state.
- C. Traveling salespersons doing business exclusively with retail merchants, manufacturers, jobbers, or public officials.
- D. Garage, rummage, yard, or moving sales held by residents of the City which do not occur at the same location more than four (4) times per calendar year, for more than four (4) days each time.

4.0205 Application. A person applying for a permit pursuant to the provisions of this chapter shall provide such information as reasonably requested by the Finance Officer, which may include, but is not limited to, the following:

- A. The applicant's name, permanent address, local address, and date of birth;
- B. The name of local and permanent addresses of the person or entity that the applicant represents and, if an entity, the type of entity and the state in which the entity is legally organized;
- C. A photocopy of the applicant's government issued identification;
- D. A statement describing the kinds of goods, wares, merchandise, or services the applicant wishes to sell within the City;
- E. A statement of whether the applicant, upon any sale or order, shall demand, accept, or receive payment, or deposit, of money in advance of the final delivery;
- F. The period of time the applicant wishes to engage in business within the City; and
- G. A photocopy of the applicable South Dakota sales tax license.

4.0206 Permit Fee. Before any Peddler/Solicitor/Transient Merchant permit shall be issued under the provisions of this Chapter, the applicant shall pay a fee in the form of cash, cashier's check, or money ordered tendered at the time of the application pursuant to the fees established vial resolution of the City Council.

Any permit issued under the provisions of this ordinance will expire at 8:00 p.m. on the date of

expiration which is written on the permit.

The City Finance Officer shall complete a review of each application for a Peddler/Solicitor/Transient Merchant permit and issue a permit within five (5) business days of completion of the application and payment of the application fee, exclusive of weekends and holidays.

4.0207 Suspension or Revocation. Any permit issued under the provisions of this Chapter shall be subject to suspension or revocation by the Authorized Official for any violation of any provision of federal, state, or local law. If the issues that caused the suspension or revocation are corrected, the Authorized Official may determine reinstatement is appropriate and may impose additional conditions as deemed reasonable to protect the health and welfare of the public as a condition of reinstatement.

4.0208 Penalty. A violation of any provision of this Chapter is punishable in accordance with the applicable provisions of SDCL § 9-19-3.

4.0209 Hours of Operation-Peddlers. No peddler shall conduct any door-to-door sales between the hours of 8:00PM and 9:00AM, except by specific appointment with or invitation from the prospective customer.

4.0210 Hours of Operation-Temporary Vendors. It shall be unlawful for any Peddler/Solicitor/Transient Merchant to engage in the business of peddling, selling, or vending between the hours of 8:00 p.m. and 9:00 a.m. On Sundays, peddling shall only be allowed between the hours of 1:00 p.m. and 6:00 p.m. It shall be unlawful for any Peddler/Solicitor/Transient Merchant to engage in the business of peddling on the following days:

New Year's Day
President's Day
Memorial Day
Independence Day
Labor Day
Native American Day
Thanksgiving Day
Christmas Eve
Christmas Day
New Year's Eve

4.0211 Mobile Food Vendor Locations and Times Prohibited.

A. Mobile food and beverage vending is prohibited where vending activity is blocking access to a public street, alley, bike path, sidewalk, or access to an adjacent property or in areas zoned residential.

- B. Mobile food and beverage vending is prohibited in any municipal-owned property, including parks, without express written permission from the City.
- C. Mobile food and beverage vending is prohibited within the City between the hours of 12:00 a.m. and 5:00 a.m.
- D. Prohibited times and locations do not apply to mobile food vendors operating where a City-approved special event permit has been issued, and with authorization from the special event sponsor.

4.0212 Mobile Food Vendor Health, Safety, and Sanitation. Mobile food and beverage vendors shall:

- A. Operate according to the minimum public health and food safety requirements;
- B. Comply with the fire safety requirements checklist as provided on the South Dakota mobile food and beverage vending license;
- C. Comply with the licensing requirements of the State of South Dakota including food, sales tax, and mobile food and beverage vending;
- D. Provide a trash bin for public use and remove all garbage within twenty five (25) feet of any food truck or food cart;
- E. Not sell or distribute alcoholic beverages;
- F. Not broadcast loud noise that results in a nuisance to all the surrounding properties.

Legislative History

Ordinance #188, Adopted 2/11/2013

Ordinance #324, Adopted 4/10/2023

Chapter 4.03 – Special Event Permits.

4.0301 Definitions. The terms used in this chapter, unless the context otherwise plainly requires, are defined as follows:

“*Special Event*” means and includes any organized event, spectacle, or show staged or intended to take place partially or entirely within the municipal boundaries of the City of Crooks and which is intended to take place partially or entirely upon public property and which is intended to draw participants, spectators, or the general public.

- 4.0302 Registration Required. No person shall conduct a special event in the City of Crooks without first registering with the Finance Officer.
- 4.0303 Application. Any person registering an event pursuant to the provisions of this Chapter shall provide such information as reasonably requested by the City Finance Officer, which may include, but is not limited to, the following:
- A. The name, address, and telephone number of the person registering.
 - B. The name, address, and telephone number of the entity, if any, that the person registering represents.
 - C. The time, nature, location, and duration of the special event.
 - D. A statement regarding whether the event will require: (1) temporary closing of a public street; (2) police protection or other security; and/or (3) whether the event organizers have obtained general liability insurance.
 - E. The name, address, and telephone number of all persons displaying or offering any goods, wares, merchandise, or services at the special event.
- 4.0304 Registration Fee. As part of the registration process, an administrative fee shall be assessed in an amount set by resolution of the City Council. The Finance Officer shall not issue a special event permit until the registration fee has been paid in full.
- 4.0305 Deposit. A deposit of an amount set by resolution of the City Council shall be required for each special event registered with the City. This deposit shall be set at an amount reasonably necessary to compensate the City for any and all services necessary to restore the public property to its pre-event condition, if any. This deposit shall be returned to the applicant once the City Operations Superintendent has determined all restoration activities have been completed, less any amount that is owed to the City.
- 4.0306 Revocation. The license that authorizes a special event may be revoked by the City Finance Officer or any member of the City's contracted police department if the person registered and/or any person associated therewith displaying or offering any goods, wares, merchandise, or services violates any provision of this chapter, state law, or other City ordinance. Upon such revocation being communicated to the registrant, he or she must immediately stop engaging and take all reasonable steps necessary to prevent relevant others from engaging in the unlawful conduct and any and all sales or attempted sales of goods, wares, merchandise, or services shall immediate cease.
- 4.0307 Terms of Special Event Permit. If approved, the Finance Officer is empowered to set all reasonable terms and conditions for operating or conducting the special event. Failure to follow

those terms and conditions shall constitute a violation of this chapter for purposes of both Chapter 1.08 and Chapter 4.0306.

Chapter 4.04 – Sexually Oriented Businesses.

4.0401 Rationale and Findings.

A. Rationale. It is the purpose of this ordinance to regulate sexually oriented businesses in order to promote the health, safety, and general welfare of the City’s residents, and to establish reasonable and uniform regulations to prevent the deleterious secondary effects of sexually oriented businesses within the City. The provisions of this chapter have neither the purpose nor effect of imposing a limitation or restriction on the content or reasonable access to any communicative materials, including sexually oriented materials. Similarly, it is neither the intent nor effect of this chapter to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Additionally, neither is it the intent nor effect of this ordinance to condone or legitimize the distribution of obscene materials.

B. Findings. Based on evidence of the adverse secondary affects of adult uses presented in hearings and in reports made available to the Council, and on findings, interpretations, and narrowing constructions incorporated in the cases of *City of Littleton v. Z.J. Gifts D-4, L.L.C.*, 124 S. Ct. 2219 (June 7, 2004); *City of Los Angeles v. Alameda Books, Inc.*, 535 U.S. 425 (2002); *Pap’s A.M. v. City of Erie*, 529 U.S. 277 (2000); *City of Renton v. Playtime Theaters, Inc.*, 475 U.S. 41 (1986); *Young v. American Mini Theaters*, 426 U.S. 50 (1976); *Barnes v. Glen Theater, Inc.*, 501 U.S. 560 (1991); *California v. LaRue*, 409 U.S. 109 (1972); *Heideman v. South Salt Lake City*, 342 F.3d 1182 (10th Cir. 2003); *Farkas v. Miller*, 151 F.3d 900 (8th Cir. 1998); *United States v. Evans*, 272 F.3d 1069 (8th Cir. 2002); *United States v. Mueller*, 663 F.2d 811 (8th Cir. 1981); *BZAPS, Inc. v. City of Mankato*, 268 F.3d 603 (8th Cir. 2001); *PHE, Inc. v. State*, 2004 Miss. LEXIS 269 (2004); *Yorko v. State*, 690 S.W.2d 260 (Tex. 1985); *SOB, Inc. v. County of Benton*, 317 F.3d 856 (8th Cir. 2003); *United States v. Frederickson*, 846 F.2d 517 (1988); *ILQ Invs. V. City of Rochester*, 25 F.3d 1413 (8th Cir. 1994); *Ctr. For Fair Public Policy v. Maricopa County*, 336 F.4d 1153 (9th Cir. 2003); *North Avenue Novelties, Inc. v. City of Chicago*, 88 F.3d 441 (1996); *World Wide Video of Washington, Inc. v. City of Spokane*, 386 F.3d 1186 (9th Cir. 2004); *Lady J. Lingerie, Inc. v. City of Jacksonville*, 176 F.3d 1358 (11th Cir. 1999);

and based upon reports concerning secondary effects occurring in and around sexually oriented businesses, including, but not limited to, August, Texas – 1986; Indianapolis, Indiana – 1984; Garden Grove, California – 1991; Houston, Texas – 1983, 1997; Phoenix, Arizona – 1979, 1995-98; Chattanooga, Tennessee – 1999-2003; Minneapolis, Minnesota – 1980; Los Angeles, California – 1977; Whittier, California – 1978; Spokane,

Washington – 2001; St. Cloud, Minnesota – 1994; Littleton, Colorado – 2004; Oklahoma City, Oklahoma – 1986; Dallas, Texas – 1997; Greensboro, North Carolina – 2003; Amarillo, Texas – 1977; Roncek, McCleary Expert Reports – 2004; New York, New York Times Square – 1994; and the Report of the Attorney General’s Working Group on the Regulation of Sexually Oriented Businesses, (June 6, 1989, State of Minnesota),

the Council finds:

1. Sexually oriented businesses, as a category of commercial uses, are associated with a wide variety of adverse secondary effects including, but not limited to, personal and property crimes, prostitution, potential spread of disease, lewdness, public indecency, obscenity, illicit drug use and drug trafficking, negative impacts on property values, urban blight, litter, and sexual assault and exploitation.
2. Sexual acts, including masturbation, oral and anal sex, sometimes occur inside the premises of or in the parking lot of unregulated sexually oriented businesses, including but not limited to those which provide private or semi-private booths, rooms, or cubicles for viewing films, video, or live sexually explicit shows, which acts pose a risk to public health through the spread of sexually transmitted diseases.
3. Sexually oriented businesses should be separated from sensitive land uses to minimize the impact of their secondary effects upon such uses, and should be separated from other sexually oriented businesses, to minimize the secondary effects associated with such uses and to prevent an unnecessary concentration of sexually oriented businesses in one area.
4. Each of the foregoing negative secondary effects constitutes a harm which the City has a substantial governmental interest in preventing and/or abating, and said substantial interests exists independently of any comparative analysis between sexually oriented and non-sexually oriented businesses.

4.0402 Definitions. For purposes of this chapter, the words and phrases defined in the subchapters hereunder shall have the meanings therein respectively ascribed to them unless a different meaning is clearly indicated by the context.

“*Adult Arcade*” means any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are regularly maintained to show images to five (5) or fewer persons per machine at any one time, and where the images so displayed are characterized by their emphasis upon matter exhibiting “special sexual activities” or “specified anatomical areas”.

“*Adult Bookstore or Adult Video Store*” means a commercial establishment which, as one of its principal purposes, offers for sale or rental for any form of consideration any one (1) or more

of the following: books, magazines, periodicals, or other printed matter, or photographs, films, motion pictures, video cassettes, compact discs, digital video discs, slides, or other visual representations which are characterized by their emphasis upon the display of “specified sexual activities” or “specified anatomical areas.”

A “*principal purpose*” means that the commercial establishment:

1. has a substantial portion of its displayed merchandise which consists of said items, or
2. has a substantial portion of the wholesale value of its displayed merchandise which consists of said items, or
3. has a substantial portion of the retail value of its displayed merchandise which consists of said items, or
4. derives a substantial portion of its revenues from the sale or rental, for any form of consideration of said items, or
5. maintains a substantial section of its interior business space for the sale or rental of said items.

“*Adult Cabaret*” means a nightclub, bar, juice bar, restaurant, bottle club, or similar commercial establishment, regardless of whether alcoholic beverages are served, which regularly features:

1. Persons who appear nude or semi-nude, or
2. Live performances which are characterized by the exposure of “specified anatomical areas” or by “specified sexual activities,” or
3. Films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the exhibition of “specified sexual activities” or “specified anatomical areas.”

“*Adult Motel*” means a motel, hotel, or similar commercial establishment which:

1. Offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, other photographic reproductions, or live performances which are characterized by the display of “specified sexual activities” or “specified anatomical areas”; and which advertises the availability of such material by means of a sign visible from the public right-of-way, or by means of any on- or off-premises advertising, including but not limited to, newspapers, magazines, pamphlets or leaflets, radio or television; or
2. Offers a sleeping room for rent for a period of time that is less than ten (10) hours; or

3. Allows a tenant or occupant of a sleeping room to sub rent the room for a period of time that is less than ten (10) hours.

“Adult Motion Picture Theater” means a commercial establishment where films, motion pictures, videocassettes, slides, or similar photographic reproductions which are characterized by their emphasis upon the display of “specified sexual activities” or “specified anatomical areas” are regularly shown to more than five (5) persons for any form of consideration.

“Art Museum” and/or *“Art Gallery”* means any structure where paintings, sculptures, pottery, lithograph, and anything of artistic expression is shown, excluding live models in a state of nudity or semi-nudity.

“Characterized” means to describe the essential character or quality of an item. As applied in this chapter, no business shall be classified as a sexually oriented business by virtue of showing, selling, or renting materials rated NC-17 or R by the Motion Picture Association of America.

“Employ, Employee, and Employment” describe and pertain to any person who performs any service on the premises of a sexually oriented business, on a full time, part time, or contract basis, whether or not the person is denominated an employee, independent contractor, agent, or otherwise. This does not include a person exclusively on the premises for repair or maintenance of the premises or for the delivery of goods to the premises.

“Establish” or *“Establishment”* shall mean and include any of the following:

1. The opening or commencement of any sexually oriented business as a new business;
2. The conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business; or
3. The addition of any sexually oriented business to any other existing sexually oriented business.

“Hearing Body” means the Crooks City Council.

“Influential Interest” means any of the following: (1) the actual power, directly or indirectly, to control the operation, management, or policies of a business or entity; (2) ownership of a financial interest of thirty-five percent (35%) or more of a business or of any class of voting securities of a business; or (3) holding an office (e.g. president, vice president, secretary, treasurer, etc.) or directorship in a legal entity which operates the sexually oriented business.

“Licensed Daycare Center” means a facility licensed by the State of South Dakota, whether situated within the County or not, that provides care, training, education, custody, treatment, or supervision for more than twelve (12) children under fourteen (14) years of age, where such

children are not related by blood, marriage, or adoption to the owner or operator of the facility, for less than twenty-four (24) hours a day, regardless of whether the facility is operated for a profit or charges for the services it offers.

“*Licensee*” means a person, whose name a license to operate a sexually oriented business has been issued, as well as the individual or individuals listed as an applicant on the application for a sexually oriented business license. In case of an “employee,” it shall mean the person whose name the sexually oriented business employee license has been issued.

“*Nudity*” or “*State of Nudity*” means the showing of the human male or female genitals, pubic area, vulva, anus, anal cleft, or cleavage with less than a fully opaque covering, or the showing of the female breasts with less than a fully opaque covering of any part of the nipple and areola.

“*Operate*” and “*Cause to Operate*” means to cause to function or to put or keep in a state of doing business. “*Operator*” means any person on the premises of a sexually oriented business who causes the business to function or who puts or keeps in operation the business or who is authorized to manage the business or exercise overall operational control of the business premises. A person may be found to be operating or cause to be operated a sexually oriented business whether that person is an owner, part owner, or licensee of the business.

“*Person*” means an individual, proprietorship, partnership, corporation, association, or other legal entity.

“*Premises*” means the real property upon which the sexually oriented business is located, and all appurtenances thereto and buildings thereon, including, but not limited to, the sexually oriented business, the grounds, private walkways, and parking lots and/or parking garages adjacent thereto, under the ownership, control, or supervision of the licensee, as described in the application for a business license pursuant to Chapter 4.0404.

“*Regularly*” means and refers to the consistent and repeated doing of the act so described.

“*Semi-Nude Model Studio*” means a place where persons regularly appear in a state of semi-nudity for money or any form of consideration in order to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons.

This definition does not apply to any place where persons appearing in a state of semi-nudity did so in a modeling class operated:

1. By a college, junior college, or university supported entirely or partly by taxation;
2. By a private college or university which maintains and operates educational programs in which credits are transferable to colleges, junior colleges, or universities supported entirely or partly by taxation; or

3. In a structure: (1) which has no sign visible from the exterior of the structure and no other advertising that indicates a semi-nude person is available for viewing; and (2) where, in order to participate in a class a student must enroll at least three days in advance of the class.

“*Sexual Device*” means any three (3) dimensional object designed and marketed for stimulation of the male or female human genital organ or anus or for sadomasochistic use or abuse of oneself or others and shall include devices such as dildos, vibrators, penis pumps, and physical representation of the human genital organs. Nothing in this definition shall be construed to include devices primarily intended for protection against sexually transmitted diseases or for preventing pregnancy.

“*Sexual Device Shop*” means a commercial establishment that regularly features sexual devices. Nothing in this definition shall be construed to include any pharmacy, drug store, medical clinic, or any establishment primarily dedicated to providing medical or healthcare products or services, nor shall this definition be construed to include commercial establishments which do not restrict access to any portion of their premises by reason of age.

“*Sexual Encounter Center*” means a business or commercial enterprise that, as one of its principal business purposes, purports to offer for any form of consideration, physical contact in the form of wrestling or tumbling between persons of the opposite sex when one (1) or more of the persons is semi-nude.

“*Sexually Oriented Business*” means an “adult bookstore or adult video store,” an “adult cabaret,” an “adult motel,” an “adult motion picture theater,” a “semi-nude model studio,” or a “sexual encounter center.”

“*Specified Anatomical Areas*” means and includes:

1. Less than completely and opaquely covered human genitals, pubic regions, buttocks, and female breasts below a point immediately above the top of the areola; and
2. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

“*Specified Criminal Activity*” means any of the following specified crimes for which less than five (5) years has elapsed since the date of conviction or the date of release from confinement for the conviction, whichever date is later:

1. A sex crime as defined in SDCL § 22-22-30(1)-(14);
2. Prostitution or promotion of prostitution as defined in SDCLs §§ 22-23-1 and 22-23-2;
3. An obscenity or public indecency offense as defined in SDCL § 22-24;

4. A controlled substance offense as defined in SDCL § 22-42-2;
5. Attempt, conspiracy, or solicitation to commit any of the foregoing offenses; or
6. Any offense in another jurisdiction that, had the predicate act(s) been committed in South Dakota, would have constituted any of the foregoing offenses.

“*Specified Sexual Activity*” means any of the following:

1. Intercourse, oral copulation, masturbation, or sodomy; or
2. Excretory functions as a part of or in connection with any of the activities described in subchapter 1 above.

“*Substantial*” means at least thirty-five percent (35%) of the item(s) so modified.

“*Transfer of Ownership or Control*” shall mean any of the following:

1. The sale, lease, or sublease of the business;
2. The transfer of securities which constitute an influential interest in the business, whether by sale, exchange, or similar means; or
3. The establishment of a trust, gift, or other similar legal device which transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

“*Viewing Room*” shall mean the room, booth, or area where a patron of a sexually oriented business would ordinarily be positioned while watching a film, videocassette, photograph, or other video reproduction.

4.0403 Classification. The classifications for sexually oriented businesses shall be as follows:

- A. Adult bookstores or adult video stores;
- B. Adult cabarets;
- C. Adult motels;
- D. Adult motion picture theaters;
- E. Semi-nude model studios;
- F. Sexual device shops; and
- G. Sexual encounter centers.

4.0404 License Required.

- A. It shall be unlawful for any person to operate a sexually oriented business in the City of Crooks without a valid sexually oriented business license.
- B. It shall be unlawful for any person to be an “employee,” as defined in this chapter, of a sexually oriented business in the City of Crooks without a valid sexually oriented business employee license.
- C. An applicant for a sexually oriented business license or sexually oriented business employee license shall file a completed application in person at the office of the Finance Officer. The application shall be signed and notarized. An application shall be considered complete when it contains, for each person required to sign the application, the information and/or items required in subchapters 1 through 8 below, accompanied by the appropriate fee identified in Chapter 4.0406.
 - 1. The applicant’s legal name and any other names used by the applicant in the preceding five (5) years.
 - 2. The applicant’s mailing address and telephone number.
 - 3. Written proof of the applicant’s age, in the form of a driver’s license or any other picture identification issued by a governmental agency.
 - 4. If the application is for a sexually oriented business license, it shall include the business name, physical address, mailing address (if different), and telephone number of the sexually oriented business.
 - 5. If the application is for a sexually oriented business license, it shall include the name, business address, and telephone number of the statutory agent or other agent authorized to receive service of process.
 - 6. If the application is for a sexually oriented business license, it shall list the names, physical addresses, and telephone numbers of any and all persons having an ownership or influential interest in the sexually oriented business.
 - 7. A statement of whether the applicant has been convicted of or has pled guilty or nolo contendere to a “specified criminal activity” as defined in this chapter. If so, he or she shall describe each conviction, including the date, place, jurisdiction, and dates of incarceration (if any).
 - 8. A statement of whether any sexually oriented business in which the applicant has had an ownership or influential interest, has, in the previous five (5) years (and at a time during which the applicant had the ownership or financial interest) either (a) been declared by a court of law to be a nuisance, or (b) been subject to a court order of closure or padlocking.

The information provided for in subchapters 1 through 8 above shall be supplemented in writing by certified mail, return receipt requested, to the office of the Crooks City Finance Officer within ten (10) working days of a change of circumstances which would render the information originally submitted false, incomplete, or otherwise no longer accurate.

- D. An application for a sexually oriented business license shall be accompanied by a legal description of the property where the business is located and a sketch or diagram showing the configuration of the premises, including a statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared but shall be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six (6) inches. Applicants who are required to comply with Chapters 4.0414 and 4.0418 shall submit a diagram indicating that the interior configuration meets those requirements.
- E. If a person who wishes to operate a sexually oriented business is an individual, he shall sign the application for a license as applicant. If a person who wishes to operate a sexually oriented business is other than an individual, each person with an influential interest in the business shall sign the application for a license as applicant. Each applicant must be qualified under Chapter 4.0405 and each applicant shall be considered a licensee if a license is granted.
- F. The information provided by an applicant in connection with an application for a license under this chapter shall be maintained by the Finance Office on a confidential basis, and such information may be disclosed only as may be required, and only to the extent required, by law or court order.

4.0405 Issuance of License.

- A. Upon the filing of a completed application under Chapter 4.0404(C) for a sexually oriented business employee license, the Finance Officer shall immediately issue a Temporary License to the applicant, which Temporary License shall expire upon the final decision of the City to grant or deny an annual license. Within twenty (20) days of the filing date of a completed sexually oriented business employee license application, the Finance Officer shall either issue a license or issue a written notice of intent to deny a license to the applicant. The Finance Officer shall approve the issuance of a license unless:
 - 1. The applicant is less than eighteen (18) years of age.
 - 2. The applicant has failed to provide information as required by Chapter 4.0404 for issuance of a license or has falsely answered a question or request for information on the application form.

3. The license application fee required by this chapter has not been paid.
 4. Any sexually oriented business in which the applicant has had an influential interest, has in the previous five (5) years (and at a time during which the applicant had the influential interest):
 - a. Been declared by a court of law to be a nuisance; or
 - b. Been subject to an order of closure or padlocking.
 5. The applicant has been convicted of or pled guilty or nolo contendere to a specified criminal activity, as defined in this chapter.
 6. An applicant has been convicted of or pled guilty or nolo contendere to a specified criminal activity, as defined in this chapter.
- B. The license, if granted, shall state on its face the name of the person or persons to whom it is granted, the number of the license issued to the licensee(s), the expiration date, and, if the license is for a sexually oriented business, the address of the sexually oriented business. The sexually oriented business license shall be posted in a conspicuous place at or near the entrance to the sexually oriented business so that it may be read at any time. A sexually oriented business employee shall keep the employee's license on his or her person or on the premises where the licensee is then working or performing.

4.0406 Fees. The initial license and annual renewal fees for sexually oriented business licenses and sexually oriented business employee licenses shall be as follows:

- A. Sexually Oriented Business License - \$1,000.00
- B. Sexually Oriented Business Employee License - \$500.00

4.0407 Inspection. Sexually oriented businesses and sexually oriented business employees shall permit the city's contracted police department, City Operations Superintendent, and/or their agents to inspect, from time to time on an occasional basis, the portions of the sexually oriented business premises where patrons are permitted, for the purpose of ensuring compliance with the specific regulations of this chapter, during those times when the sexually oriented business is occupied by patrons or is otherwise open to the public. This provision shall be narrowly construed by the City to authorize reasonable inspection of the licensed premises, but not to authorize a harassing or excessive pattern of inspections.

The provisions of this subchapter do not apply to areas of an adult motel which are currently being rented by a customer for use as either a permanent or temporary habitation.

4.0408 Expiration of License. Each license shall remain valid for a period of one (1) calendar year from the date of issuance unless otherwise suspended or revoked.

4.0409 Suspension of License. The City shall issue a written letter of intent to suspend a sexually oriented business license or sexually oriented business employee license for a period not to exceed thirty (30) days if:

- A. Sexually Oriented Business License: The licensee has knowingly violated this chapter or has knowingly allowed an employee to violate this chapter.
- B. Sexually Oriented Business Employee License: The employee has knowingly violated this chapter.

Nothing in this subchapter shall be interpreted as waiving the City's right to also pursue the matter as a violation of this Code pursuant to Chapter 1.08.

4.0410 Revocation of License.

- A. The City shall issue a written letter of intent to revoke a sexually oriented business license or a sexually oriented business employee license, as applicable, if:
 - 1. The licensee has knowingly violated this chapter or has knowingly allowed an employee to violate this chapter and the licensee's license has been suspended within the previous 12 (twelve) month period.
 - 2. The licensee gave false information on the application for the sexually oriented business license.
 - 3. The licensee has knowingly or recklessly engaged in or allowed the possession, use, and/or sale of controlled substance on the premises.
 - 4. The licensee has knowingly or recklessly engaged in or allowed prostitution on the premises.
 - 5. The licensee has knowingly or recklessly operated or worked as an employee of the sexually oriented business during a period of time when the applicable license was suspended.
 - 6. The licensee has knowingly or recklessly engaged in or allowed any specified sexual activity to occur in or on the licensed premises.
- B. The fact that any relevant conviction is being appealed shall have no effect on the revocation of the license, provided that, if any conviction which serves as a basis of a license revocation is overturned or reversed on appeal, that conviction shall be treated as null and of no effect for revocation purposes.

- C. When, after the notice and hearing procedures described in Chapter 4.0411, the City Council, revokes a license, the revocation shall continue for two (2) years and the licensee shall not be issued a sexually oriented business license or sexually oriented business employee license for two (2) years from the date the revocation becomes effective.

4.0411 Hearing; Decision; Suspension or Revocation; Appeal.

- A. When the City issues a written letter of intent to deny, suspend, or revoke a license, the Finance Officer shall immediately send such notice, which shall include the specific grounds under this chapter for such action, to the applicant or licensee by personal delivery or certified mail. The notice shall be directed to the applicant's or licensee's most current business address or other mailing address on file with the Finance Officer. The notice shall specify a date, not less than ten (10) days nor more than thirty (30) days after the date the notice is issued, on which the City Council shall conduct a hearing on the City's intent to deny, suspend, or revoke the license.

At the hearing, the respondent shall have the opportunity to present all of his or her arguments and to be represented by legal counsel, present evidence and witnesses on his or her behalf, and cross-examine any of the City's witnesses. The City may also be represented by legal counsel, and shall bear the burden of proving the grounds for denying, suspending, or revoking the license. The hearing shall take no longer than two (2) days, unless extended at the request of the respondent to meet the requirements of due process and proper administration of justice. The City Council shall issue a written decision, including specific reasons for the decision pursuant to this chapter, to the respondent within five (5) days after the conclusion of the hearing.

If the City Council decides to deny, suspend, or revoke the license, its decision shall not become effective until after the decision is published in conformance with South Dakota law. The decision shall include a statement advising the respondent of the right to appeal such decision to a court of competent jurisdiction. If the City Council's decision finds that no grounds exist for denial, suspension, or revocation of the license, it shall, contemporaneously with the issuance of the decision, direct the Finance Officer to immediately withdraw the intent to deny, suspend, or revoke the license and to notify the respondent in writing by personal delivery or certified mail of its decision. If the respondent is not yet licensed, the Finance Officer shall issue the license to the applicant.

- B. If any court action challenging the City Council's decision is initiated, the City Council shall work with its legal counsel and the court to facilitate prompt judicial review of the proceedings. Upon initiation of any such court action, the City shall immediately issue the respondent a provisional license. The provisional license shall allow the respondent to begin or continue operation of the sexually oriented business or to begin or continue employment as a sexually oriented business employee, but shall expire upon the court's

entry of a judgment on the respondent's appeal or other action to restrain or otherwise enjoin the City's enforcement.

4.0412 Transfer of License. A licensee shall not transfer his or her license to another, nor shall a licensee operate the sexually oriented business at any place other than the address designated in the approved sexually oriented business license application.

4.0413 Hours of Operation. No sexually oriented business shall be or remain open for business between the hours of 2:00 a.m. and 7:00 a.m. on any day.

4.0414 Regulations Pertaining to Exhibition of Sexually Explicit Films or Videos.

A. A person who operates or causes to be operated a sexually oriented business, other than an adult motel, which exhibits on the premises in a viewing room of less than one hundred fifty (150) square feet of floor space, a film, video cassette, or other video reproduction characterized by an emphasis on the display of specified sexual activities or specified anatomical areas shall comply with the following requirements:

1. Each application for a sexually oriented business license shall contain a diagram of the premises showing the location of all operator's stations, viewing rooms, overhead lighting fixtures, video cameras and monitors installed for monitoring purposes and restrooms, and shall designate all portions of the premises in which patrons will not be permitted. Restrooms shall not contain video reproduction equipment. The diagram shall also designate the place at which the permit will be conspicuously posted, if granted. A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required; however, each diagram shall be oriented to the north or to some designated street or object and shall be drawn to a designated scale or with marked dimensions sufficient to show the various internal dimensions of all areas of the interior of the premises to an accuracy of plus or minus six (6) inches. The Finance Officer may waive the foregoing diagram for renewal applications if the applicant adopts a diagram that was previously submitted and certifies that the configuration of the premises has not been altered since it was prepared.
2. It shall be the duty of the operator, and of the employees present on the premises, to ensure that no patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted.
3. The interior premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than five (5) foot candles as measured at the floor level. It shall be the duty of the operator, and of any employees present on the premises, to ensure that the illuminated described above is maintained at all times that the premises is occupied by patrons or open for business.

4. It shall be the duty of the operator, and of any employees present on the premises, to ensure that no sexual activity occurs in or on the licensed premises.
5. It shall be the duty of the operator to post conspicuous signs in well-lighted entry areas of the business stating all of the following:
 - a. The occupancy of viewing rooms is limited to one (1) person.
 - b. Sexual activity on the premises is prohibited.
 - c. The marking of openings between viewing rooms is prohibited.
 - d. Violators will be required to leave the premises.
 - e. Violations of subparagraphs (b), (c), and (d) of this subchapter are violations of this Code.
6. It shall be the duty of the operator to enforce the regulations articulated in Chapter 4.0414(A)(5)(a)-(e).
7. The interior of the premises shall be configured in such a manner that there is an unobstructed view from the operator's station of every area of the premises, including the interior of each viewing room but excluding restrooms, to which any patron is permitted access for any purpose. An operator's station shall not exceed thirty-two (32) square feet of the floor area. If the premises has two (2) or more operator's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose from at least one (1) of the operator's stations. The view must be by direct line of sight from the operator's station. It is the duty of the operator to ensure that at least one (1) employee is on duty and situated in an operator's station at all times that any patron is in the area monitored by direct line of sight from that operator's station. It shall be both the duty of the operator and of any employees present on the premises, to ensure that the view area remains unobstructed by any doors, curtains, walls, merchandise, display racks, or other materials or enclosures at all times that any patron is present on the premises.

B. It shall be unlawful for a person having a duty under this chapter to knowingly fail to fulfill that duty.

4.0415 Loitering, Exterior Lighting, Visibility, and Monitoring Requirements. The operator of a sexually oriented business shall do all of the following:

- A. Post conspicuous signs stating that no loitering is permitted on such property.
- B. Designate one (1) or more employees to monitor the activities of persons and patrons of the premises. Persons designated for this purpose shall visually inspect all areas of

the premises at least once every ninety (90) minutes or continuously monitor all areas of the premises by use of video cameras and monitors at all times that the premises are open for business.

It shall be unlawful for the person having a duty under this chapter to knowingly or negligently fail to fulfill that duty.

4.0416 Applicability of Ordinance to Existing Businesses. All existing sexually oriented businesses and sexually oriented business employees are hereby granted a de facto temporary license to continue operation or employment for a period of ninety (90) days following the effective date of this Code. By the end of the ninety (90) days, all sexually oriented businesses and sexually oriented business employees shall conform to and abide by the requirements of this chapter.

4.0417 Prohibited Activities. It shall be unlawful for a sexually oriented business to knowingly violate the following regulations or to knowingly allow an employee or any other person to violate the following regulations:

- A. It shall be a violation of this chapter for a patron, employee, or any other person to knowingly or intentionally, in a sexually oriented business, appear in a state of nudity, regardless of whether such public nudity is expressive in nature.
- B. It shall be a violation of this chapter for a person to knowingly or intentionally, in a sexually oriented business, appear in a semi-nude condition unless the person is an employee who, while semi-nude, remains at least six (6) feet from any patron or customer on a stage at least eighteen (18) inches from the floor in a room of at least eight hundred (800) square feet.
- C. It shall be a violation of this chapter for any employee who regularly appears semi-nude in a sexually oriented business to knowingly or intentionally touch a customer or the clothing of a customer on the premises of a sexually oriented business.
- D. It shall be a violation of this chapter for any person to sell, use, or consume alcoholic beverages on the premises of a sexually oriented business.

A sign in a form to be prescribed by the Finance Officer and summarizing the provisions of Chapter 4.0417(A)-(D) shall be posted near the entrance of the sexually oriented business in such a manner as to be clearly visible to patrons upon entry.

4.0418 Scienter Required to Prove Violations or Business Licensee Liability. This chapter does not impose strict liability. Unless a culpable mental state is otherwise specified herein, a showing of a knowing or reckless mental state is necessary to establish a violation of this Code. Notwithstanding anything to the contrary, an act by an employee that constitutes grounds for suspension or revocation of that employee's license shall be imputed to the sexually oriented business licensee for purposes of finding a violation of this Code, or for purposes of license

denial, suspension, or revocation, only if an officer, director, or general partner, or a person who managed, supervised, or controlled the operation of the business premises, knowingly or recklessly allowed such act or occur on the premises. It shall be a defense to disability that the person to whom liability was imputed was powerless to prevent the act.

4.0419 Failure of City to Meet Deadline Not to Risk Applicant/Licensee Right. In the event that a city official is required to act pursuant to this chapter within a prescribed time, and fails to act within the time prescribed, said failure shall not prevent the exercise of the constitutional rights of an applicant or licensee. If the act required of the city official which was not completed within the time prescribe involves approval of conditions necessary for approval by the city of an applicant or licensee's application for a sexually oriented business license or a sexually oriented business employee license (including a renewal), the licensee shall be deemed granted and the business or employee allowed to commence operation or employment the day after the deadline of the city's action has passed.

4.0420 Location of Sexually Oriented Businesses. It shall be unlawful to establish, operate, or cause to be operated a sexually oriented business in the City of Crooks, unless said sexually oriented business is at least:

- A. Five hundred (500) feet from any lot occupied by another sexually oriented business or by a business licensed by the State of South Dakota to sell alcohol on the premises; and
- B. Five hundred (500) feet from any lot occupied by a house of worship, licensed day care center, public or private elementary or secondary school, public park, or any residential dwelling.

For purposes of this chapter, measurements shall be made in a straight line in all directions without regard to intervening structures or objects, from the closest part of any structure, including signs and roof overhangs, used in conjunction with a sexually oriented business to the closest point on a property boundary or right-of-way associated with any of the land use(s) identified in Chapter 4.0420(A)-(B) above.

This subchapter shall apply to only sexually oriented businesses not established prior to the effective date of this Code.

4.0421 Penalties and Enforcement.

- A. A person who knowingly violates, disobeys, omits, neglects, or refuses to comply with or resists the enforcement of any of the provisions of this chapter shall be guilty of a Class 2 misdemeanor, and, upon conviction, shall be punished by a fine not to exceed five hundred dollars (\$500.00), and/or imprisonment in the county jail for a period not to exceed thirty (30) days. Each day a violation is committed, or permitted to continue, shall constitute a separate offense and shall be punished as such.

- B. The City Attorney is hereby authorized to institute any and all proceedings necessary for the enforcement of this ordinance. Such proceedings, including injunctions, shall be brought in the name of the City, provided, however, that nothing in this chapter and no action taken hereunder, shall be held to exclude or preempt such criminal or administrative proceedings as may be authorized by other provisions of this Code or state law.

Chapter 4.05 – Cannabis Establishments

4.0501 Definitions. Unless an alternative definition is explicitly stated in this section, this chapter utilizes the definitions for cannabis-related terms which are defined by SDCL § 34-20G-1.

CANNABIS (or MARIJUANA): All parts of any plant of the genus cannabis, whether growing or not, in its natural and unaltered state, except for drying or curing and crushing or crumbling. The term includes an altered state of marijuana absorbed into the human body. The term does not include fiber produced from the mature stalks of such plant, or oil or cake made from the seeds of such plant. The term does not include the plant *Cannabis sativa* L. and any part of that plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than three-tenths of one percent on a dry weight basis.

CANNABIS CULTIVATION FACILITY: In addition to the definition in SDCL § 34-20G-1, this term is further defined as a legally licensed entity that acquires, possesses, stores, delivers, transfers, transports, sells, supplies, or dispenses cannabis, cannabis products, paraphernalia, or related supplies and educational materials.

CANNABIS DISPENSARY: In addition to the definition in SDCL § 34-20G-1, this term is further defined as a legally licensed entity that acquires, possesses, stores, delivers, transfers, transports, sells, supplies, or dispenses cannabis, cannabis products, paraphernalia, or related supplies and educational materials.

CANNABIS ESTABLISHMENT: Cannabis cultivation facility, a cannabis testing facility, a cannabis product manufacturing facility, or a cannabis dispensary.

CANNABIS PRODUCT MANUFACTURING FACILITY: In addition to the definition in SDCL § 34-20G-1, this term is further defined as a legally licensed entity that acquires, possesses, manufactures, delivers, transfers, transports, supplies, or sells cannabis products to a cannabis dispensary.

CANNABIS PRODUCTS: Any concentrated cannabis, cannabis extract, and products that are infused with cannabis or an extract thereof, and are intended for use or consumption by humans. The term includes edible cannabis products, beverages, topical products, ointments, oils, and tinctures.

CANNABIS TESTING FACILITY: In addition to the definition in SDCL § 34-20G-1, this term is further defined as a legally licensed entity legally authorized to analyze the safety and potency of cannabis.

DEPARTMENT: The South Dakota Department of Health.

4.0502 Cannabis Establishment License Required.

- A. Subject to the limitations below, no Cannabis Establishments may be located or operate in the City without the appropriate valid and current Cannabis Establishment license issued by the City pursuant to this Chapter. A violation of this section is subject to the general penalty provision in this Chapter. Each day of the violation constitutes a separate offense.
- B. Subject to the limitations below, no Cannabis Establishment may be located or operate in the City without the appropriate valid and current Cannabis Establishment registration certificate issued by the Department pursuant to rules promulgated under SDCL § 34-20G. A violation of this section is subject to the general penalty provision in this Chapter. Each day of the violation constitutes a separate offense.

4.0503 License Application.

- A. An application for a Cannabis Establishment license must be made on a form provided by the City. No other application will be considered.
- B. The applicant must submit the following:
 - 1. Application fee of twelve thousand dollars (\$12,000.00). The City will reimburse six thousand dollars (\$6,000.00) for applicants who fail to obtain registration certificate from the Department.
 - 2. An application that will include, but is not limited to, the following:
 - a. The legal name of the prospective Cannabis Establishment;
 - b. The physical address of the prospective Cannabis Establishment that meets the zoning requirements of Article 21 of the Zoning Ordinance of the City of Crooks, as well as any location requirements pursuant to SDCL § 34-20G and the administrative rules promulgated thereunder;
 - c. The name, address, and birth date of each principal officer, owner, and board member of the proposed Cannabis Establishment;
 - d. A sworn statement that no principal officer, owner, or board member has been convicted of a violent felony offense in the previous ten (10) years in any jurisdiction; and
 - e. Any additional information requested by the City.

4.0504 Issuance of License.

- A. The City will issue a license unless:
 - 1. The applicant has made a false statement on the application or submits false records or documentation;
 - 2. Any owners, principal officer, or board members of the applicant is under the age of twenty-one (21) years;
 - 3. Any owner, principal officer, or board member of the applicant has been convicted of a violent felony offense in the previous ten (10) years in any jurisdiction;
 - 4. The proposed location does not meet the applicable zoning requirements under ~~Article 24~~Chapter 12.15 of the Zoning Ordinance of the City of Crooks;
 - 5. The proposed location does not meet all location requirements under SDCL § 34-20G and the administrative rules promulgated thereunder;
 - 6. The license is to be used for a business prohibited by state or local law, statute, rule, ordinance, or regulations;
 - 7. Any owner, principal officer, or board member of the applicant has had a Cannabis Establishment license revoked by the City or a registration certificate revoked by the state;
 - 8. An applicant, or an owner, principal officer, or board member thereof, is overdue in payment to the city of taxes, fees, fines, penalties assessed against or imposed upon the applicant in relation to any Cannabis Establishment; or
 - 9. The applicant will not be operating the business for which the license would be issued.
- B. In the case of an application for a Cannabis Dispensary license, the City will reject the application if the limit on the number of Cannabis Dispensaries has been reached.
- C. The license must be posted in a conspicuous place at or near the entrance to the Cannabis Establishment so that it may be easily read at any time.

4.0505 Applicant Neutrality. Upon requests from the Department as to the City's preference of applicants, the City will neither support nor oppose any registration certificate application under consideration by the Department. Likewise, if inquiry is made by the Department, the City will abstain from endorsing any application as beneficial to the community.

4.0506 Number of Cannabis Establishments Permitted.

- A. No more than one (1) Cannabis Dispensary shall be allowed to operate in the City at any time.
- B. No Cannabis Cultivation Facility shall be allowed to operate in the City at any time.
- C. No Cannabis Testing Facility shall be allowed to operate in the City at any time.
- D. No Cannabis Product Manufacturing Facility shall be allowed to operate in the City at any time.
- E. In the event the numerical cap is lowered to an amount less than the number of the existing licenses in that class, no existing licensee shall be prevented from continuing operation during the license term, requesting modifications to application information, from renewing such license for consecutive, subsequent years, or from transferring such license, on the basis that the numerical limit would otherwise prohibit the issuance of a license to a new applicant. However, this exception shall not prevent a license from being suspended or revoked, nor shall it prevent a license from not being renewed or a transfer approved, based upon grounds other than the numerical limit being exceeded.

4.0507 Expiration of License and Renewal.

- A. Each license expired one year from the date of issuance and may be renewed only by submitting an application as provided in these chapters. Application for renewal must be submitted at least thirty (30) days before the expiration date. The license holder must continue to meet the license requirements to be eligible for a renewal.
- B. The renewal fee is twelve thousand dollars (\$12,000.00). The City will reimburse six thousand dollars (\$6,000.00) for applicants who fail to obtain renewal of their registration certificate from the Department.
- C. Failure to renew a license in accordance with these chapters may result in additional fees. Upon expiration of the license, the City may order closure of the Cannabis Establishment.

- D. If a license holder has not operated a Cannabis Establishment for which it holds a license in the preceding twelve (12) months, the license will not be renewed.

4.0508 Suspension.

- A. A license holder may be suspended if the license holder or an employee or agent of the license holder:
 - 1. Violates or is otherwise not in compliance with any section of this article;
 - 2. Consumes or smokes or allows any person to consume or smoke cannabis on the premises of the Cannabis Establishment; or
 - 3. Knowingly dispenses or provides cannabis or cannabis product to an individual or business to whom it is unlawful to provide cannabis or cannabis product.
- B. A license may be suspended if the license holder has its Department-issued registration certificate suspended, revoked, or not renewed by the Department or if the registration certificate is expired.
- C. A license may be suspended if the license holder creates or allows to be created a public nuisance at the Cannabis Establishment.

4.0509 Revocation.

- A. A license may be revoked if the license is suspended under Section 4.0508 and the cause for the suspension is not remedied.
- B. A license may be revoked if the license is subject to a suspension under Section 4.0508 because of a violation outlined in that section and the license has been previously suspended in the preceding twenty four (24) months.
- C. A license is subject to revocation is a license holder or employee of a license holder:
 - 1. Gave false or misleading information in the material submitted during the application process;

2. Knowingly allowed possession, use, or sale of non-cannabis controlled substances on the premises;
3. Operated the Cannabis Establishment or the business of the Cannabis Establishment for which a license is required under this article while the license was suspended;
4. Repeated violations of Section 4.0508;
5. Operated a function of a Cannabis Establishment for which the license holder was not licensed (e.g., a licensed cannabis dispensary conducting cannabis cultivation without a cannabis cultivation establishment license);
6. A license holder, or an owner, principal officer, or board member thereof, is delinquent in payment to the city, county, or state for any taxes or fees related to the Cannabis Establishment;
7. A license holder, or an owner, principal officer, or board member thereof, has been convicted of, or continues to employ an employee who has been convicted of a disqualifying felony offense as defined by SDCL § 34-20G;
8. The license holder has its Department-issued registration certificate suspended, revoked, or not renewed or the registration certificate is expired; or
9. The license holder allows a public nuisance to continue after notice from the City.

4.0510 Suspension and Revocation Process.

- A. The license holder will receive a Notice of Intent to suspend or Notice of Intent to revoke informing the license holder of the violation and the City's intention to suspend or revoke the license. The notice will be hand delivered to the license holder or an employee or agent of the license holder or sent by certified mail, return receipt requested to the physical address of the Cannabis Establishment.
- B. If the license holder disputes the suspension or revocation, the license holder has ten (10) days from the postmark date on the notice or the date the notice was hand delivered to request a hearing before a hearing panel, which will consist of the Mayor, Finance Officer, and City Council.
- C. A suspension will be for thirty (30) days and begins ten (10) days after the postmark date on the notice or the date the notice is hand delivered unless the license holder

exercises its rights to process and appeal, in which case the suspension takes effect upon the final determination of suspension.

- D. A revocation will be for one (1) year and begins ten (10) days after the postmark date on the notice or the date the notice is hand delivered unless the license holder appeals the revocation, in which case the revocation takes effect upon the final determination of revocation.
- E. The license holder who has had the license revoked may not be issued any Cannabis Establishment license for one year from the date the revocation became effective.

4.0511 Appeal. An applicant or license holder who has been denied a license or renewal of a license or who has had a license suspended or revoked under this article may appeal to the City Council by submitting a written appeal within ten (10) days of the postmark on the notice of denial, nonrenewal, suspension, or revocation. The written appeal must be submitted to City Hall, 701 S. West Avenue, PO Box 785, Crooks, South Dakota 57020. The appeal will be considered by the City Council at a regularly scheduled meeting within one (1) month of the receipt of the appeal.

4.0512 Licenses Not Transferable. No Cannabis Establishment license holder may transfer the license to any other person or entity with or without consideration, nor may a license holder operate a Cannabis Establishment at any place other than the address designated in the application.

4.0513 Hours of Operation. No Cannabis Dispensary may operate between the hours of 9:00 p.m. and 9:00 a.m. any day of the week.

4.0514 Liability for Violations. Notwithstanding anything to the contrary, for the purposes of this Chapter, an act by an employee or agent of a Cannabis Establishment that constitutes grounds for a suspension or revocation will be imputed to the Cannabis Establishment license holder for the purposes of finding a violation of this article, or for the purposes of license denial, suspension, or revocation, only if an officer, director or general partner or a person who managed, supervised, or controlled the operation of the Cannabis Establishment knowingly allowed such act to occur on the premises.

4.0515 Penalties. Any person who operates or causes to be operated a Cannabis Establishment without a valid license or in violation of this Chapter is subject to a suit for injunction as well as prosecution for ordinance violations. Such violations are punishable by a maximum fine of five hundred dollars (\$500.00). Each day a cannabis establishment so operates is a separate offense or violation.

Chapter 4.06 – Cable Franchise Agreements

- 4.0601 Chapter Applicable. All franchises granted pursuant to this chapter will be subject to this chapter and applicable city ordinances. All franchises granted pursuant to this chapter will be kept on file with the Finance Officer, as shown in Appendix A.
- 4.0602 Definitions. For the purposes of this Ordinance, the following terms, phrases, words, and their derivations shall have the meaning given herein. When not inconsistent with the context, words in the singular number include the plural number. The word “shall” is always mandatory and not merely directory. The word “may” is directory and discretionary and not mandatory.
- A. “Affiliate” in relation to any Person means another Person who owns or controls, or is owned or controlled by, or is under common ownership or control with, such Person.
- B. “Basic Cable Service” means any service tier which includes the lawful retransmission of local television broadcast signals and any public public, educational, and governmental access programming required by the franchise to be carried on the basic tier. Basic Cable Service defined herein shall not be inconsistent with 47 U.S.C. § 543(B)(7)
- C. “Cable Operator” means any Person or group of Persons that provides Cable Service over a Cable System and directly or through one of more affiliates owns a significant interest in such Cable System or otherwise controls or is responsible for, through any arrangement, the management and operation of a Cable System. Cable Operator does not include a provider of wireless or direct-to-home satellite transmission service.
- D. “Cable Programming Service” means any Video Programming provided over a Cable System, regardless of service tier, including installation or rental of equipment used for the receipt of such Video Programming, other than: (i) Video Programming carried on the Basic Service Tier; (ii) Video Programming offered on a pay-per-view channel or pay-per-view program basis; or (iii) a combination of multiple channels of pay-per-view channel or pay-per-program Video Programming offered on a multiplexed or time-shifted basis so long as the combined service consists of commonly-identified Video Programming and is not bundled with any regular tier of service. Cable Programming Service as defined herein shall not be inconsistent with the definition as set forth in 47 U.S.C. § 543(l)(2) and 47 C.F.R. 76.901(b).
- E. “Cable Service” means the one-way transmission to Subscribers of (i) video programming or (ii) other programming service, and Subscriber interaction, if any, which is required for the selection or use of such video programming or other

programming service. Cable Service does not include any video programming provided by a commercial mobile service provider defined in 47 U.S.C. § 332(d).

- F. “Cable System” or “System” shall have the meaning ascribed to it in federal law.
- G. “Council” means the Crooks, South Dakota City Council.
- H. “Customer” or “Subscriber” means a Person or user of Cable System who lawfully received Cable Service therefrom with the Franchisee’s express permission.
- I. “FCC” means the Federal Communications Commission or successor governmental entity thereto.
- J. “Franchise” means an initial authorization, or renewal thereof issued by a franchising authority, whether such authorization is designated as a franchise, permit, license, resolution, contract, certificate, ordinance, or otherwise, which authorizes the construction and operation of the Cable System in the public rights-of-way.
- K. “Franchise Area” means the present legal boundaries of the City of Crooks, South Dakota and shall also include any additions thereto by annexation or other legal means.
- L. “Franchising Authority” or “Grantor” means the City of Crooks or the lawful successor, transferee, designee, or assignee thereof.
- M. “Franchisee” or “Grantee” means the Person which is granted a Franchise in the City of Crooks pursuant to this ordinance, its agents and employees, lawful successors, transferee, designee, or assignee thereof.
- N. “Gross Revenue” means all revenue, as determined in accordance with generally accepted accounting principles, that is actually received by the cable operator and derived from the operation of the Cable System to provide cable services in the Franchise Area. However, “Gross Revenue” does not include (i) refunds or rebates made to subscribers or other third parties; (ii) any revenue which is received from the sale of merchandise over home shopping channels carried on the cable system, but not including revenue received from home shopping channels for the use of the cable service to sell merchandise; (iii) any tax, fee, or charge collected by the cable operator and remitted to a governmental entity or its agent or designee, including without limitation a local public access of education group; (iv) program launch fees; (v) directory or internet advertising revenue including, but not limited to, yellow page, white page, banner advertisement, and electronic publishing; (vi) a sale of cable service for resale or for use as a component part of or for the integration into Cable Services to be resold in the ordinary course of business, when the reseller is required to pay or collect franchise fees or similar fees on the resale of Cable Service; (vii)

revenues received by any affiliate or other person in exchange for supplying goods or services used by the cable operator to provide cable service; and (viii) revenue derived from the services classified as noncable services under federal law, including without limitation, revenue derived from telecommunication services and informational services, and any other revenues attributed by the cable operator to noncable services in accordance with rules, regulations, standards, or orders of the FCC.

- O. “Interactive On-Demand Services” means a service providing programming to Subscribers over switched networks on an on-demand, point-to-point basis, but does not include services providing video programming prescheduled by the programming provider.
- P. “Multichannel Video Program Distributor” or “MVPD” means a person such as, but not limited to, cable operator, a multichannel multipoint distribution service, a direct broadcast satellite service, an OVS provider, or a television receive-only satellite program distributor, who makes available for purchase, by subscribers or customers, multiple channels of video programming.
- Q. “Open Video Services” or “OVS” means any video programming services provided to any person by a Franchisee certified by the FCC to operate an OVS pursuant to Section 47 U.S.C. 573, as amended, regardless of Facilities used.
- R. “Pay Television” means delivery over the System of pay-per-channel or pay-per-view program audio-visual signals to subscribers for a fee or charge, in addition to the charge for Basic Cable Service or Cable Programming Services.
- S. “Person” means any person, firm, partnership, association, corporation, company, or other legal entity.
- T. “Public Rights-of-Way” (PROW) means the surface, air space above the surface, and the area below of the surface of any public street, highway, lane, path, alley, sidewalk, boulevard, drive, bridge, tunnel, park, parkway, waterway, easement, or similar property in which the City of Crooks now or hereafter holds any property interest which, consistent with the purposes for which it was dedicated, may be used for the purpose of installing and maintaining a cable system. No reference herein, or in any franchise, to a PROW shall be deemed to be a representation or guarantee by this City that its interest or other right to control the use of such property is sufficient to permit its use for such purposes, and Franchisee shall be deemed to gain only those rights to use as are properly in the town and as the Town may have the undisputed right and power to give. For purposes of this Franchise, the term PROW shall also include any other parcels of property that are owned by the City.

- U. “Service Interruption” means a service outage affecting less than five (5) subscribers, or a loss or degradation of either video or audio for one or more channels for one or more subscribers.
- V. “Service Outage” means the complete loss of cable service to five (5) or more subscribers service by the same trunk, node, or feeder line for a period of twenty-four (24) hours or more.
- W. “Street” means the surface of, and the space above and below, any public street, road, highway, freeway, lane, alley, path, court, sidewalk, parkway, or drive, or any easement or right-of-way now or hereafter held by Grantor.
- X. “Transfer” means any transaction in which (i) an ownership or other interest in the Franchisee is transferred, directly or indirectly, from on Person or group of Persons to another Person or group of Persons, so that majority control of the Franchisee is transferred; or (ii) the rights and obligations held by the Franchisee under the Franchise granted under these ordinances are transferred or assigned to another Person or group of Persons. Notwithstanding clauses (i) and (ii) of the preceding sentence, a transfer of the Franchise shall not include (a) transfer of an ownership or other interest in the Franchisee to the parent of the Franchisee or to another Affiliate of the Franchisee; (b) transfer of an interest in the Franchise granted under these ordinances or rights held by the Franchisee under the Franchise granted under these ordinances to the parent of the Franchisee or to another Affiliate of the Franchisee; (c) any action that is the result of a merger of the parent of the Franchisee; (d) any action that is the result of a merger of another Affiliate of the Franchisee; or (e) a transfer in trust, by mortgage, or by assignment of any rights, title, or interest in the Franchisee in the Franchise or System used to provide Cable Service in order to secure indebtedness.

4.603 Grant of Authority and General Provisions.

- A. Franchise Required. It shall be unlawful for any Person or Entity to construct, operate, or maintain a Cable System or MVPD facility or to provide Cable Service, Video Programming, or other MVPD services, including OVS, in the Franchise Area without a Franchise from Grantor authorizing the same, unless applicable federal or state law prohibits the Grantor’s enforcement of such a requirement.
- B. Grant of Franchise. Any Franchise that is granted in City shall be subject to the terms and conditions contained herein.
- C. Grant of Nonexclusive Authority.
1. Grantee shall have the right and privilege to construct, erect, operate, and maintain, in, upon, along, across, above, over, and under the streets, public ways, and public places now laid out or dedicated and all extensions thereof, and additions thereto in

Franchise Area, existing poles, wires, cables, underground conduits, manholes, and other television conductors and fixtures necessary for the maintenance and operation in this Franchise Area of a Cable System. Grantee is not authorized to erect any new poles without express written permission of the Grantor.

2. A Franchise shall be nonexclusive, and Grantor reserves the right to grant a similar use of said streets to any MVPD at any time, provided, however, that all Franchises shall contain the same terms and conditions as this Franchise in order that one MVPD is not granted a competitive advantage over another. In the event a MVPD commences operation without a Franchise or is granted a Franchise to operate by the Grantor, the terms and conditions of which do not comply with these ordinances, other Grantees shall have the right either (i) to opt in to the competitor's Franchise by providing ten (10) days prior written notice to the Grantor; or (ii) to petition the Grantor for modifications to its Franchise, in which case the Grantor shall work in good faith with the affected Grantee(s) to review and adopt modifications which the Grantee(s) deem necessary, review, and approval by the Grantor shall not be unreasonably denied.
3. Before granting an additional franchise, the Grantor shall give written notice to all Grantees of any new application, identifying the applicant for such additional Franchise and providing at least thirty (30) days prior notice of the date, time, and place at which the Grantor shall consider whether such additional Franchise should be granted.
4. Every Franchise shall apply to the entire Franchise Area of the Grantor, as it exists now or may later be configured.
5. Neither City nor Grantee(s) may unilaterally alter the material rights and obligations set forth in this Franchise. In the event of a conflict between any other ordinance and this Franchise, the Franchise shall control. Nothing in this Franchise shall impair the right of the Grantee to terminate this Franchise and, at Grantee's option, negotiate a renewal or replacement franchise, license, consent, certificate or other authorization with any appropriate governmental entity, whether federal, state, or local.

D. Franchise Term. A Franchise shall be in effect for a period of up to fifteen (15) years from the date of acceptance by a Grantee, unless renewed, revoked, or terminated sooner as herein provided.

E. Territorial Area Involved. A Franchise shall be granted for the corporate boundaries of Grantor, as it exists from time to time. In the event of annexation by Grantor, or as development occurs, any new territory shall become part of the Franchise Area covered. Grantor shall advise Grantee whenever property is annexed. Whenever Grantee shall receive a request for service from at least fifteen (15) residences within 1,320 cable-bearing strand feet (one-quarter cable mile) of its trunk or distribution cable, it shall extend its

system to such subscribers concurrently with its build-out plans for the system at no cost to said subscribers for system extension, other than the usual collection fees for all subscribers; provided that such extension is technically feasible, and if it will not adversely affect the operation, financial condition, or market development of the system; provided that nothing shall require Grantee to complete build-out of its system sooner than five years after the date of this Franchise.

F. No Discrimination. The Grantee shall not discriminate or permit discrimination between or among any person in the availability of Cable Services or other services provided in connection with the Cable System in the Franchise Area. It shall be the right of all persons to receive all available services provided on the Cable System so long as such person's financial or other obligations to the Grantee are satisfied, unless the person has engaged in theft of the Grantee's cable services, vandalism of its property or harassment of its representatives. Nothing contained herein shall prohibit the Grantee from offering bulk discounts, promotional discounts, package discounts, or other such pricing strategies as part of its business practice. Grantee shall assure that access to cable services is not denied to any group of potential residential cable subscribers because of the income of the residents in the local area in which such group resides.

G. Written Notice. All notices, reports, or demands required to be given in writing under these ordinances shall be deemed to be given when delivered personally to any officer of Grantee or Grantee's Administrator of these ordinances as specified in a Franchise.

4.604 Application for New Franchise.

A. Application Information. An application for an initial Franchise to provide Video Programming shall provide the following information in writing:

1. Applicant's name and business address.
2. Names of Applicant's officers and directors.
3. Name and contact information of a designated contact for the Applicant.
4. Proposed Franchise Area and whether Applicant holds an existing authorization to access the Rights-of-Way in the City and a map of the areas where such authorization exists if for an area other than the entire City.
5. Resume of prior history of Applicant, including the legal, technical, and financial expertise of Applicant in the Cable Service field.
6. Proposed construction and schedule to provide Cable Service or Video Programming to subscribers.

7. Proposed plan for public, educational, and government access channels, including funding, facilities, and equipment and capacity on the System to be dedicated for educational and governmental use if applicable.
8. A description of financial qualifications of the Applicant to construct and operate the System, including a balance sheet, income statement sources, and uses of funds statements and pro forma projections for at least three (3) years of operation subsequent to System completion.
9. The term of the agreement proposed by the Applicant.
10. The amount of franchise fee the Applicant offers to pay.
11. Any additional information required by State or local laws.

B. Evaluation. The initial Franchise Application may be evaluated according to the following criteria and approved within one-hundred eighty (180) days after Grantor deems the application is complete. In the event Applicant is already authorized to occupy the streets, the time for review and approval will be ninety (90) days.

1. The evidence of legal, technical, and financial ability required in the Applicant's proposal will be such as to assure the ability to complete the entire System within a reasonable time from the date the Franchise is granted. The City will also consider the Applicant's ability to operate the System and provide the necessary Cable Services or Video Programming in compliance with the terms of these ordinances.
2. The City Administrator or designee shall prepare a report and make recommendations respecting such application to City Council.
3. A public hearing held at a regularly scheduled council meeting shall be set prior to any grant of a Franchise, at a date and time approved by the City Council. Within thirty (30) days after the close of the public hearing, the City Council shall make a decision based upon the evidence received at the hearing as to whether the Franchise(s) should be granted, and, if granted subject to what conditions.
4. The City may consider any additional information that it deems applicable.

4.0605 Construction and Operations Standards

A. Conditions on Street Use.

1. A Grantee shall obtain all required permits from Grantor before commencing any construction upgrade or extension of the System.
2. The Grantor shall impose no permit fees upon a Grantee for access to the public way.

3. All transmission and distribution structures, existing poles, other lines, and equipment installed or erected by Grantee pursuant to the terms hereof shall be located so as to cause minimum interference with the proper use of public ways and with the rights and reasonable convenience of property owners who own property that adjoins any such public ways.
4. If during the course of Grantee's construction, operation, or maintenance of the system, there occurs a disturbance of any public way by Grantee, it shall, at its expense, replace and restore such public way to a condition reasonably comparable to the condition of the public way existing immediately prior to such disturbance as determined by the City Administrator or designee. The restoration shall take place within thirty (30) days unless otherwise approved by Grantor.
5. If, at any time during the period of this Franchise, Grantor elects to alter or change the grade or location of any street, alley or other public way, a Grantee shall, at its own expense, upon reasonable notice by Grantor, remove and relocate its poles, wires, cables, conduits, manholes, and other fixtures of the System. If Grantor reimburses other occupants of the street, the Grantee shall be similarly reimbursed.
6. Grantee shall, on required of any person holding a moving permit issued by Grantor, temporarily move its wires or fixtures to permit the moving of buildings with the expense of such temporary removal to be paid by the person required the same, and a Grantee shall be given not less than ten (10) days advance notice to arrange for such temporary changes.
7. A Grantee shall have the authority to trim any trees upon and overhanging the streets, alleys, sidewalks, or public easements of Grantor to prevent the branches of such trees from coming in contact with the wires and cables of the Grantee. Except for emergency situations, Grantee must provide Grantor and affected homeowners reasonable advance notice of Grantee's intent to trim trees. Grantee shall reasonably compensate Grantor for any damages caused by such trimming, or shall, in its sole discretion and its own cost and expense, reasonably replace all trees or shrubs damaged as a result of any construction of the system undertaken by Grantee.
8. Nothing contained in these ordinances shall relieve any person from liability arising out of the failure to exercise reasonable care to avoid injuring Grantee's facilities.
9. In areas where all other utility lines are placed underground, Grantee shall construct and install its cables, wires, and other facilities underground. In any area where one or more public utilities are aerial, Grantee may construct and install its cables, wires, and other facilities from the same pole with the consent of the owner of the pole.

10. A Grantee shall at all times construct and operate its System in accordance with applicable FCC Technical specifications.
11. In the event that the use of any part of the system is discontinued for a continuous period of twelve (12) months, or in the event such systems or property has been installed in any street or public place without complying with the requirements of these ordinances, or the rights granted hereunder have been terminated, cancelled, or have expired, the Grantee shall, subject to the rights of the City to acquire the system herein, promptly remove from the streets, or public places, all property and poles of such system other than any which the City may permit to be abandoned in place. In the event of such removal, Grantee shall promptly restore the street or other area from which such property has been removed to a condition satisfactory to the City.
12. Any property of Grantee to be abandoned in place shall be abandoned in such a manner as the City may prescribe. Upon permanent abandonment of the property of Grantee in place, it shall submit to the City an instrument to be approved by the City, transferring to the City the ownership of such property.
13. All cable and passive equipment for cable television reception service installed by Grantee at a subscriber's location shall remain the property of Grantee. Grantee shall have the right to remove said cable and equipment. Upon termination of services to any subscriber, the Grantee shall promptly remove all its above ground facilities and equipment from the premises of such subscriber upon his request.
14. No poles of other wire-holding structures shall be erected by the Grantee without prior approval of the City with regard to locations, height, type, or any other pertinent aspect, which approval shall not be unreasonable withheld. However, no locations of any pole or wire-holding structure of the Grantee shall be a vested interest and such poles or structures shall be removed or modified by the Grantee at its own expense whenever the City or its designated representative determine that the public convenience would be enhanced thereby.
15. Where poles or other wire-holding structures already exist in use in serving the City are available for use by Grantee, but it does not make arrangements for such use, the City may require the Grantee to use such poles and structures if it determines that public convenience would be enhanced thereby and the terms of the use available to the Grantee are just and reasonable.
16. Where the City or a public utility service the City desires to make use of poles or other wire-holding structures of the Grantee but agreement therefore with the Grantee cannot be reached, the City Council may require the Grantee to permit such use for consideration as is reasonable and upon such terms as the Council determines the use would enhance the public convenience and would not unduly interfere with the Grantee's operations.

17. Grantee shall at all times maintain on file with the City Administrator or designee, a schedule setting forth all rates and charges to be made to subscribers for basic cable service, including installation charges.

18. During the term hereof, the City may regulate rates only if authorized to do so by FCC regulations and then such regulations shall only be in accordance with the provisions of such regulations.

4.0606 System Provisions and Public Services.

A. Operation and Maintenance of System. A Grantee shall render effective service, make repairs promptly, and interrupt service only for good cause and for the shortest time possible.

B. Service to Schools and City. Grantee shall, subject to line extension requirements herein, provide one (1) drop and one (1) outlet of Basic Cable Service at no cost to public and parochial elementary and secondary schools in City and three (3) city buildings to be mutually agreed upon by City and Grantee.

C. PEG Channel. The Grantee shall allocate one channel to the City as a public, educational, or governmental access channel. Until such time as the city files a written request with Grantee for full-time use of the channel, Grantee shall have the right to use that portion of the channel capacity that is not being used by the City. Grantee shall have a reasonable period after notification to vacate its use of the channel. Grantee shall assist the City in obtaining necessary licenses and frequency clearance to enable the City to use said channel.

D. Emergency Use. In case of any emergency or disaster, Grantee shall, upon request of the City Council, City Administrator, or designee, make available its facilities to the City for emergency use. A Grantee shall comply with the emergency alert requirements of federal law.

E. Viewing Controls. The Cable System and related equipment provided by or through Grantee shall have features that allow a Subscriber to block the viewing of Subscriber-related Video Programming.

4.0607 Operation and Administration Provisions.

A. Indemnification of Grantor.

1. A Grantee shall indemnify, defend, and hold harmless Grantor, its officers, boards, committees, councils, elected officials, employees and agents, from and against all liability, damages, and penalties which they may legally be required to pay as a result of the exercise of a Franchise granted pursuant to this Ordinance, except claims covered by worker's compensation insurance or any claims arising from or related to Grantor's negligence. Nothing in these ordinances relieves a person from liability arising out of the failure to exercise reasonable care to avoid injuring the Grantee's

facilities while performing work complete with grading, regarding, or changing the line of a street or public place or with the construction or reconstruction of a sewer or water system.

2. For Grantor to assess its rights to be indemnified, defended, and held harmless, Grantor must with respect to each claim:

i. Promptly notify Grantee, in writing, of any legal proceeding which gives rise to such right;

ii. Afford Grantee the opportunity to participate in and fully control any compromise, settlement, or other resolution or disposition of any claim or proceeding; and

iii. Fully cooperate with reasonable requests of Grantee, at Grantee's expense, in its participation in, and control, compromise, settlement or resolution or other disposition of such claim or proceeding subject to paragraph (ii) above.

B. Insurance. A Grantee shall maintain in full force and effect at its sole expense, a comprehensive general liability insurance policy, including contractual liability coverage, in protection of Grantor in its capacity as such. The policies of insurance shall be in the sum of not less than One Million Dollars (\$1,000,000) for personal injury or death of any one person, and Three Million Dollars (\$3,000,000) for personal injury or death of two or more persons in any occurrence. Five Hundred Thousand Dollars (\$500,000) for property damage to any one person and One Million Dollars (\$1,000,000) for property damage resulting from any one act or occurrence. Grantee shall provide Grantor with a Certificate of Insurance naming the Grantor as an additional insured.

C. Franchise Fee.

1. A Grantee will pay the Grantor a monthly franchise fee in the amount of five (5%) percent of Grantee's gross revenues or the maximum then allowed by federal law.

2. The franchise fee shall be payable monthly, together with a brief report showing the basis for the computation.

3. The period of limitation for recovery of any franchise fee payable hereunder shall be three (3) years from the date on which payment by the Grantee is due.

D. Compliance and Monitoring.

1. In accordance with applicable law, the Grantor shall have the right to oversee, regulate, and, with reasonable prior written notice and in the presence of a Grantee's employee, periodically inspect the construction, operation, and

maintenance of the Cable System in the Franchise Area, and all parts thereof, as necessary to monitor Grantee's compliance with these provisions.

2. The Grantee shall make available for inspection by the authorized representatives of the Grantor, its books, accounts, and financial records at reasonable times and upon reasonable notice for the purpose of verifying payments. Grantee shall not be required to disclose any information that it reasonably deems to be proprietary or confidential in nature. Grantee shall not be required to provide subscriber information in violation of applicable law regarding subscriber privacy.
3. The Grantee shall maintain records required to compute all operational and customer service compliance measures outlined in these provisions to demonstrate that all measures are being met for at least three (3) consecutive years.

4.0608 Revocation, Abandonment, and Sale or Transfer

A. Grantor's Right to Revoke. Grantor reserves the right to revoke, terminate, or cancel a Franchise, if after strictly following the procedures required in these provisions, it is determined that a Grantee has violated any material provision of its Franchise or this ordinance and has failed to substantially cure said violation.

B. Revocation, Procedures.

1. Grantor shall provide a Grantee with written notice of a cause for revocation and the intent to revoke and shall allow Grantee sixty (60) days subsequent to receipt of the notice in which to substantially cure the violation or to provide adequate assurance of performance. Grantor shall provide Grantee with a statement containing the basis of the revocation with the notice.
2. Grantee shall be provided the right to a public hearing before the City Council prior to revocation. The public hearing shall follow the sixty (60) day notice provided in the paragraph (a) above. Grantor shall provide Grantee with a written notice of its decision together with finding of fact supplementing said decision.
3. After the public hearing and upon written determination by Grantor to revoke the Franchise, Grantee may appeal said decision to the appropriate state or federal court or agency.
4. During the appeal period, the Franchise shall remain in full force and effect unless the term thereof sooner expires.
5. Upon satisfactory correction by Grantee of the violation upon which said notice was given, the initial notice shall become void.

C. Sale or Transfer of Franchise. No sale or transfer of a Franchise shall take place without the written approval of the Grantor, which approval shall not be unreasonably withheld. All

rights, privileges, obligations, duties, and liabilities created by this Franchise shall pass to and be binding on the successor or assignee of a Grantee. Said approval shall not be required where a Grantee grants a security interest in its Franchise and assets to secure indebtedness.

4.0609 Miscellaneous Provisions.

- A. Franchise Renewal. Any renewal of a Franchise shall be done in accordance with applicable federal law.
- B. Amendment of Franchise. A Grantee and Grantor may agree, from time to time, to amend a Franchise. Such written amendments may be made at any time.
- C. Marketing. A Grantee shall have the right to conduct direct selling in the Franchise Area, including door to door sales, subject to the registration and compliance provisions of Grantor's existing ordinances.
- D. Severability. If any section, sentence, clause, or phrase of this ordinance is for any reason held to be invalid, unenforceable, or unconstitutional by a decision of any authority or court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance and the remainder shall remain in full force and effect.
- E. Cost of Publication. Grantee shall assume the cost of publication of this Franchise as such publication is required by law. Such payment shall be made by Grantee to the City within thirty days after receiving a written statement of such expense.

4.0610 Publication, Effective Date.

- A. Publication; Effective Date. This ordinance shall be in full force and effect from and after its passage, approval, and publication as required by law.

First Reading:
Second Reading:
Published:
Effective:

- B. Acceptance.
 - 1. Grantee shall accept this Franchise by executing same. Such acceptance by the Grantee shall be deemed the grant of this Franchise for all purposes. With its acceptance, Grantee shall also deliver any insurance certificates required herein that have not been previously delivered.
 - 2. Upon acceptance of this Franchise, Grantee shall be bound by all terms and conditions contained herein.

TITLE 5 – GARBAGE COLLECTION AND DISPOSAL

Chapter 5.01 – Definitions.

Chapter 5.02 – Littering Prohibited.

Chapter 5.03 – Littering from Motor Vehicle Prohibited. Transporting Litter of Highway or Street Receptacles Prohibited.

Chapter 5.04 – Commercial Garbage Hauler License.

Chapter 5.05 – Application.

Chapter 5.06 – Transfer.

Chapter 5.07 – Expiration.

Chapter 5.08 – Renewal.

Chapter 5.09 – Revocation.

Chapter 5.10 – Insurance Requirement.

Chapter 5.11 – Rate Structure.

Chapter 5.12 – Random Load Inspections.

Chapter 5.13 – Frequency of Collection.

Chapter 5.14 – Recyclable Materials.

Chapter 5.15 – Prohibited Material/Effective Dates.

Chapter 5.16 – Vehicle/Equipment Requirements.

Chapter 5.01 – Definitions.

Terms used in this Title shall have the following meanings:

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

- 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, but does not include mining waste in connection with a mine permitted under Title 45, hazardous waste as defined under SDCL Chapter 34A-11, solid or dissolved materials in domestic sewage or dissolved materials in irrigation return flows or industrial discharges which are point sources subject to permits under section 402 of the Federal Water Pollution Control Act, as amended to January 1, 1989, or source, special nuclear or by-product material as defined by the Atomic Energy Act of 1954, as amended to January 1, 1989.

- C. “Garbage” shall be synonymous with the term “solid waste”.

All other terms whose definitions may be reasonably questioned shall have the same meanings as prescribed by applicable South Dakota statutes.

Chapter 5.02 – Littering Prohibited.

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

- A. The property has been designated by the city or any of its authorized employees or agents for the disposal of litter;
- B. The litter is placed into a receptacle or other container intended by the owner or tenant in lawful possession of that property for the deposit of litter;
- C. The person is the owner or tenant in lawful possession of the property or has first obtained the consent of the owner or tenant in lawful possession, or unless the act is done under the personal direction of the owner or tenant and does not create a public health or safety hazard, a public nuisance, or a fire hazard;
- D. The person is acting under the direction of proper public officials during special cleanup days; or
- E. The person is lawfully acting in or reacting to an emergency situation where health and safety is threatened, and removes and properly disposes of such litter when the emergency situation no longer exists.

Chapter 5.03 – Littering from Motor Vehicle Prohibited. Transporting Litter to Highway or Street Receptacles Prohibited.

No person shall dump, deposit, drop, throw, discard or otherwise dispose of litter from any motor vehicle upon any public highway, upon any public or private property or upon or into any river, lake, pond, stream or body of water in the city except as permitted by law, nor shall any person transport by any means

garbage or refuse from any dwelling, residence, place of business, farm or other site to and deposit such material in, around or on top of trash barrels or other receptacles placed along public highways or streets. ~~A person convicted of violating this section while operating a motor vehicle shall be considered to have been convicted of a moving traffic violation, and a report of such conviction may be forwarded to the appropriate state authorities~~ A violation of this section is classified as a Class 2 misdemeanor.

Chapter 5.04 – Commercial Garbage Hauler License.

It shall be unlawful for a commercial garbage hauler to use the streets or roads within the City of Crooks for the collection, removal or disposal of any solid waste, without first having obtained a Commercial Garbage Hauler License from the City Council.

Chapter 5.05 – Application.

The application for a Commercial Garbage Hauler License, and renewal thereof, shall be obtained from the Municipal Finance Office, and upon completion, shall be returned to such Office. The application shall include:

- A. Applicant’s name and address;
- B. Trade or Business name, if other than applicant’s name;
- C. If a partnership, the names and addresses of all partners;
- D. If a corporation, the names and addresses of all officers and directors;
- E. Business address, if other than applicant’s address;
- F. Description of collection operations including trade area, frequency of collection, routes of travel and hours of operation;
- G. Such other information as may be required by applicable state statute or city ordinance;
- H. Such other information as may be required by the City Council;
- I. The following supplemental information and fee(s):
 1. Proof of registration with the Sioux Falls Health Department that the applicant will be allowed to deposit solid waste collected from Crooks in the Runge Landfill;
 2. Proof of insurance coverage, as described in Chapter 5.10;
 3. Proposed rate structure, as described in Chapter 5.11; and

4. A license fee ~~of \$150.00~~ set by resolution of the City Council.

Chapter 5.06 – Transfer.

No license issued under the provisions of this Chapter shall be transferrable.

Chapter 5.07 – Expiration.

Every license issued under the provisions of this Chapter shall expire at the end of the calendar year for which it was issued.

Chapter 5.08 – Renewal.

The holder of a current valid license may apply to renew the same in the same manner as original application therefore.

Chapter 5.09 – Revocation.

Any licensed issued under the provisions of this Chapter may be revoked by the city council or designated City personnel for the violation by the licensee of any applicable provision of federal law, state law, city ordinance, or other lawful authority.

Chapter 5.10 – Insurance Requirement.

Every licensed garbage hauler shall have and continually maintain liability insurance coverage for property damage, injury or death, with minimum coverage of \$250,000.00 per occurrence, and an annual minimum aggregate limit of \$500,000.00.

Chapter 5.11 – Rate Structure.

Beginning with applications for licenses for the year 1995, each applicant for a Commercial Garbage Hauler License shall provide a schedule of the rates which the applicant is proposing to charge its customers. The rate structure shall demonstrate that the applicant's proposed rates are volume based, meaning that the rates charged to customers shall be related to the volumes collected from those customers. The rate structure should provide financial incentives to encourage source reduction, re-use and recycling. If applicable, charges shall be categorized as to residential, commercial, and any other special charges. A license holder may change the rate structure during the term of the license, but any change will require a filing of the new rates with the City.

Chapter 5.12 – Random Load Inspections.

No holder of a Commercial Garbage Hauler License shall violate any rule or policy established by the City of Sioux Falls for the Runge Landfill. All vehicles transporting solid waste to the Runge Landfill shall be subject to random load inspections performed by the Sioux Falls Health Department.

Chapter 5.13 – Frequency of Collection.

Each holder of a Commercial Garbage Hauler License shall collect solid waste from its customers at least ~~twice~~once per week. In cases where a customer produces a type or quantity of solid waste which requires more frequent collection to protect public health, sanitation or safety, the City Council may direct the license holder to collect solid waste from that particular customer on a more frequent basis.

Chapter 5.14 – Recyclable Materials.

Beginning January 1, 1995, every licensed garbage hauler shall provide recycling opportunities as a part of their regular pickup. Recyclables shall be presorted into the kinds or categories specified by the garbage hauler and bagged, boxed or otherwise packaged as the garbage hauler shall require.

Chapter 5.15 – Prohibited Material/Effective Dates.

The following materials and items shall be prohibited from being deposited in any landfill, collected by any licensed garbage hauler, or otherwise placed in the “waste stream” by any person, from and after the following dates:

- A. Yard waste.....January 1, 1995.
- B. Tires, whole or processed.....July 1, 1995.
- C. Lead acid batteries.....July 1, 1995.
- D. Waste motor oil.....July 1, 1995.
- E. White good appliances.....January 1, 1996.
- F. Office and computer paper.....July 1, 1996.
- G. Printed paper products, corrugated paper, and cardboard paper...January 1, 1997.
- H. Glass, plastic, aluminum and steel containers.....July 1, 1997.

In addition, should any of said items be banned from the Sioux Falls Runge Landfill prior to the date(s) specified above, the date of prohibition for the Runge Landfill shall be the applicable date.

Chapter 5.16 – Vehicle/Equipment Requirements.

All solid waste collection or transportation equipment operated by license holders are required to meet the following standards:

- A. Vehicles shall be water tight;

- B. Vehicles shall be covered, with no openings which would allow the contents or odors to escape or allow the contents to be seen;
- C. Vehicle boxes shall be of all metal construction, and shall have metal doors which shall be in a closed position whenever the vehicle is in motion;
- D. Containers must be attached or bolted to the frame when in transport;
- E. All vehicles and containers must be manufactured or designed for hauling solid waste;
- F. Vehicles and containers shall be thoroughly washed at such times as may be necessary to keep the same in proper sanitary condition or as otherwise directed by the City Council, Sioux Falls Health Department or other proper governmental authority.
- G. Vehicles shall be loaded so that solid waste does not spill out, fall out, blow out or otherwise leave the vehicle or container while it is collecting or transporting solid waste.

Legislative History

Ordinance #30

Ordinance #70, Adopted 12/5/1994

Ordinance #76, Adopted 12/4/1995

Ordinance #253, Adopted 10/14/2019

TITLE 6 – VEHICLES AND TRAFFIC

Chapter 6.01 – General Provisions

Chapter 6.02 – Speed Restrictions.

Chapter 6.03 – Parking and Stopping.

Chapter 6.04 – Compression Release Type Engine Brakes Prohibited

Chapter 6.05 – Truck Routes

Chapter 6.06 – Golf Carts

Chapter 6.01 – General Provisions.

- 6.0101 State Traffic Code Adopted by Reference. The provisions of SDCL Title 32 are hereby adopted by reference to the extent permitted by law. It is unlawful for any person to violate any of the provisions of such title within the City.
- 6.0102 Authority to Install Traffic Control Devices. The City Council or designated personnel shall place and maintain traffic control signs, signals, and devices when and as required under the traffic code of the City to make effective the provisions of said code, and may place and maintain such additional traffic control devices as may be necessary to regulate traffic. (SDCL 32-14-5)
- 6.0103 Evidence of Traffic Violations. In any proceeding for violations of the provisions of this chapter relating to the operation or parking of motor vehicles, the registration plate displayed on such motor vehicle shall constitute in evidence a prima facie presumption that the owner of such motor vehicle was the person who was operating or parked such motor vehicle at the point where such violation occurred.
- 6.0104 Use of Compression Release Type Engine Brakes Prohibited. It is unlawful for vehicles equipped with a compression release type braking system, known as "Jake Brakes" to use such braking systems or devices on any public streets, roads, or highways within the City Limits. Compression release type braking system means any devices equipped on certain commercial vehicles, including but not limited to, tractors, semi-trucks, motor carriers and buses that utilize engine compression release or engine retarders as a means of slowing or braking the speed of the vehicle in lieu of applying the clutch or brakes. Any violation of this section shall be a Class 2 misdemeanor and shall be punishable by a fine established by resolution of the City Council.

Legislative History

Ordinance #154, Adopted 6/9/2008

Chapter 6.02 – Speed Restrictions.

- 6.0201 General. It shall be unlawful for any person, to drive a vehicle on any highway, street, or alley located in the City of Crooks at a speed greater than is reasonable and prudent under the conditions then existing or at speeds in excess of those fixed by this chapter.
- 6.0202 Local Speed Limits. Where no special hazard exists on any section of a highway, street, or alley which section is not zoned and posted by action of the City Council, the following speeds shall be lawful, but any speed in excess of said limits shall be unlawful, and shall be prima facie evidence that the speed is not reasonable or prudent.
- A. Twenty-five (25) miles per hour on all highways and streets within the City limits unless otherwise posted.
 - B. Fifteen (15) miles per hour on all alleys within the City limits unless otherwise posted.
 - C. Fifteen (15) miles per hour when passing a school during school recess in a school zone, or while children are going to or leaving school, or during opening and closing hours of such school, or during the hours of operation of such school. A “school zone” is any area marked with an appropriate school zone sign and appropriate speed limit signs. (SDCL 32-25-14)

The speed limits set forth in this chapter shall not apply to authorized emergency vehicles when responding to emergency class provided that drivers thereof sound audible signals by siren or horn and display two (2) lighted red lights to the front, or one (1) beacon light visible 360 degrees. This provision shall not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons using the street nor shall it protect the driver or any such vehicle from the consequence or a reckless disregard of the safety of others.

Chapter 6.03 – Parking and Stopping.

- 6.0301 Vehicles Must Stop at Certain Thru Highways or Streets. The City Council shall by authorizing the placement of octagonal shaped “Stop” signs, determine at what intersections vehicles shall come to a complete stop. It shall be unlawful not to obey said signs.
- 6.0302 Vehicles Must Yield at Certain Thru Highways or Streets. The City Council shall by authorizing the placement of triangular shaped “Yield Right of Way” signs determine at what intersections certain vehicles shall have a preferential right of way. The driver of a vehicle approaching a yield sign 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 he is driving, and to any vehicle in the

intersection or approaching on another highway so closely as to constitute an immediate hazard. Said driver having so yielded may proceed and the drivers of all other vehicles approaching the intersection shall yield to the vehicles so proceeding.

- 6.0303 Parking or Stopping on Streets or Highways. Unless otherwise necessary to avoid conflict with other traffic, a pedestrian, or in compliance with law, no person shall stop, stand, or park a vehicle on a roadway in a location other than designated by signs or markings for the purpose of stopping, standing, or parking vehicles.
- 6.0304 Removal of Vehicles Illegally Parked. All vehicles found to be in violation of this chapter may be summarily removed by the City's contracted police department and all charges or expenses incurred during such removal including any storage for such vehicle, shall be assessed by the court having jurisdiction over any offense brought hereunder against the owner or driver of such vehicle in addition to the other penalties provided for in this Code.
- 6.0305 Parking of Commercial Vehicles-Exceptions. It shall be unlawful for any person or business to park, store, leave, or permit the parking, storing, or leaving of any commercial or construction vehicle, equipment, or materials upon any City street.

This provision shall not apply to:

- A. Emergency vehicles.
- B. Personal passenger vehicles.
- C. Vehicles that are disabled, provided they are not left on a public right-of-way longer than twenty-four (24) hours.
- D. Light delivery trucks delivering goods from place to place.
- E. Garbage trucks in the site-to-site collection of refuse.
- F. Vehicles in the process of loading and unloading.
- G. Vehicles, immobile equipment, or materials parked in connection with a construction site in which a building permit has been issued.
- H. Vehicles or equipment which are properly signed and parked temporarily in connection with the performance of a construction or maintenance service to property on or under the public right-of-way.

A violation of this section shall be punishable by a one hundred dollar (\$100.00) fine for each occurrence. Each twenty-four (24) hour interval in which a violation of this section continues shall be deemed a separate occurrence.

6.0306 No Parking Zones. The City hereby establishes the following no parking zones:

- A. A no parking zone shall apply to the entire length of Fourth Street and to both sides of said street.

Legislative History

Ordinance #97-84, Adopted 7/14/1997

Ordinance #123, Adopted 9/9/2002

Chapter 6.04 – Compression Release Type Engine Brakes Prohibited.

6.0401 Purpose. The purpose of this Chapter is to make it unlawful for vehicles equipped with compression release type braking systems, sometimes known as “Jake Brakes” to use such braking systems or devices upon any public streets, roads, or highways within the limits of the City for the peace, health and comfort of the citizens of Crooks and the public.

6.0402 Definition. For the purpose of this Chapter, compression release type braking system shall mean any devices equipped on certain commercial vehicles, including but not limited to, tractors, semi-trucks, motor carriers and buses that utilizes engine compression release or engine retarders as a means of slowing or braking the speed of the vehicle in lieu of applying the clutch or brakes.

6.0403 Prohibitive Acts. Every driver of any vehicle who shall cause their vehicle to brake or slow by any method which increases the noise emission levels of the engine such as, but not limited to engine compression release or engine retarder in lieu of applying the clutch or brakes upon any public streets, roads or highways within the limits of the City of Crooks upon conviction shall be guilty of a Class 2 misdemeanor.

6.0404 Punishment. Violation of this Chapter shall be punishable by a fine or not more than One Hundred Dollars (\$100.00) for each offense plus court costs. Each violation shall constitute a separate offense.

Legislative History

Ordinance #249, Adopted 9/9/2019

Chapter 6.05 – Truck Routes.

6.0401 Authority. Pursuant to SDCL 32-14-7, a municipality may prohibit the operation of trucks or other commercial vehicles or impose limitations as to the weights of such vehicles on designated highways.

6.0402 Definitions. The terms used in this chapter, unless the context plainly requires otherwise, are defined as follows:

A. “*Truck*” means a truck tractor and trailer(s) and/or semi-trailer(s) with a gross vehicle weight of more than twenty-six thousand (26,000) pounds.

6.0403 Designation of Truck Routes. The City Council or designated personnel shall designate which streets, or portions thereof, within the City shall be through truck routes, local delivery truck routes, no truck routes, or construction truck routes. All designated truck routes shall be identified by signs or markings erected and maintained under the direction of the ~~City Operations Superintendent~~. All trucks using designated truck routes shall comply with all posted limitations including, but not limited to, weight per axle, width, height, length, and/or weight limits.

6.0404 Use of Truck Routes, Exceptions. All trucks within the City shall be operated only over and along designated truck routes, unless (1) they are directed to take another route by an authorized municipal employee, law enforcement officer, or an officially established detour; or (2) they are authorized to take another route by express written permission of the City Council or designated city personnel.

6.0405 Truck Parking. No trucks or other commercial vehicles shall be parked in a public right-of-way within the City except where the parking is temporarily required for the loading or unloading of cargo or freight and delivery of the same. The parking shall be limited to the period of time, usually no more than twelve (12) hours, reasonably required to accomplish the purpose thereof.

Legislative History

Ordinance #46, Adopted 8/7/1984

Chapter 6.06 – Golf Carts.

6.0501 Authority. Pursuant to SDCL 32-14-14, a municipality may adopt traffic regulations permitting the use of golf carts on a highway within its platted boundaries.

6.0502 Definitions. The terms used in this chapter, unless the context otherwise plainly requires, are defined as follows:

A. “*Golf cart*” means a four wheeled vehicle originally and specifically designed and intended to transport one or more individuals and golf clubs for the purpose of playing the game of golf on a golf course. (SDCL 32-14-13)

B. “*Highway*” means the entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public as a matter of right for purposes of vehicular travel. (SDCL 32-14-1(11))

6.0503 Permit Required. It shall be unlawful to operate a golf cart on the public streets, alleys, and other roadways within the City unless the owner has received a permit from the City of Crooks.

The proper application form shall be furnished and prepared by the Finance Officer. 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. Permits shall be issued for a one (1) year period beginning on January 1st and ending on December 31st. Any permit issued after January 1st will only be effective for that calendar year. New permits need to be obtained by January 1st of each successive year. If the ownership of the vehicle changes, the new owner shall be required to apply for a permit.

- 6.0504 Golf Cart Operation. Golf carts shall not be allowed to operate within the City except as authorized by the 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, any roadway with a speed limit in excess of twenty-five (25) miles per hour, and any sidewalk, recreational trail, and bike trail. A golf cart may operate on said portions of County Highway 137 under the jurisdiction of the City of Crooks. A golf cart may cross the highway at a right angle but only after stopping and yielding the right-of-way to all approaching traffic and crossings as closely as possible to the intersection or approach. An operator of a golf cart shall comply with all City and State traffic rules and regulations applying to vehicles generally, except that a golf cart shall be required to have lights, a rear-view mirror, and a slow-moving vehicle sign, but shall not be required to have a bell, horn, or directional signals. Golf carts may only be operated from dawn until dusk. All occupants of the golf carts must be always seated. There cannot be more people in or on said vehicle than the vehicle seating capacity.
- 6.0505 Revocation. Any permit issued under this section may be revoked by the Finance Officer for the violation by licensee of any applicable provision of this Chapter, state law, or other city ordinance, or for good cause. Notice of revocation shall be given to the owner in person or by mail via US Postal Service. The suspension period for a permit shall be one (1) year upon revocation.
- 6.0506 Operator's License and Insurance, Required. 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 maintains proof that the golf cart is covered by a policy of liability insurance. Instructed or restricted minor's permits are neither allowed nor accepted.
- 6.0507 Fee. The fee for a golf cart permit shall be established via resolution as determined from time to time. Fees shall not be prorated based upon the date when a permit will be issued.
- 6.0508 Penalty for Violation. A violation of this Chapter is punishable by a fine of one-hundred dollars (\$100.00) plus ~~any~~ court costs. Each violation of this Chapter shall constitute a separate offense.

Ordinance #326, Adopted 8/14/2023

TITLE 7 – PUBLIC NUISANCES

Chapter 7.01 – Prohibited and Defined

Chapter 7.02 – Public Nuisances Affecting Health and Safety

Chapter 7.03 – Public Nuisances Affecting Peace, Quiet, and Comfort

Chapter 7.04 – Abandoned, Nuisance, Wrecked, Dismantled, or Inoperative Motor Vehicles

Chapter 7.05 – Trees, Shrubs, Noxious Weeds, and Other Vegetation

Chapter 7.06 – Dilapidated Buildings and Structures

Chapter 7.07 – Noise

Chapter 7.08 – Other Public Nuisances

Chapter 7.09 – Exception for Officially Approved Conduct or Activities

Chapter 7.10 – Public Nuisance Remedies

Chapter 7.11 – Enforcement

Chapter 7.12 – Non-Emergency Nuisance Abatement

Chapter 7.13 – Emergency Nuisance Abatement

Chapter 7.14 – Penalties

Chapter 7.01 – Prohibited and Defined.

- 7.0101 Public Nuisances Prohibited. No person shall create, commit, maintain, or permit to be created, committed, or maintained any public nuisance within the City.
- 7.0102 Public and Private Nuisances Defined. A public nuisance is one which affects at the same time an entire community or neighborhood, or any considerable number of persons, although the extent of the annoyance or damage inflicted upon the individuals may be unequal. Every other nuisance is private. (SDCL 21-10-3)
- 7.0103 Definitions. The terms used in this chapter, unless the context otherwise plainly requires, are defined as follows:
- A. Abandoned Property. Any abandoned vehicle, household appliances, or equipment of any type, except in an authorized junk yard, that constitutes 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 tends to lower the value of adjacent real property because of its unsightliness.

- B. **Abandoned Vehicle.** Any vehicle that is left unattended or stored on any public property in the same or substantially the same place within the City for a period longer than seventy-two (72) hours.
- C. **Food Waste.** Animal and vegetable waste resulting from the handling, preparation, cooking, and serving of food.
- D. **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 another essential part required for the mechanical operation of the vehicle, or which does not have lawfully affixed unexpired license plates.
- E. **Vehicle.** Any carriage or other contrivance propelled or drawn by mechanical power and used for the transportation of passengers, property, and/or cargo.

Chapter 7.02 – Public Nuisances Affecting Health and Safety.

The following are specifically declared to be public health nuisances, but this list is not comprehensive and other nuisances may exist and be regulated by this chapter:

- 7.0201 Unsightly Accumulations. The accumulation of food wastes, garbage, rubbish, junk, manure, ashes, discarded containers, paper, debris, trash, hay, yard wastes, litter, inoperable equipment, old furnishings, or similar items which, by themselves or in conjunction with other items, are detrimental to public health, safety, or are unsightly, or create an offensive odor or condition.
- 7.0202 Breeding Areas for Pests. The accumulation of rubbish, filth, manure, garbage, stagnant water, or anything whatsoever which may or does serve as a breeding area for flies, mosquitos, rodents, or other pests.
- 7.0203 Unreasonable Odors. Any use of property, substances, items, or things within the City which emit or cause any foul, offensive, noisome, nauseous, noxious, or unreasonably disagreeable odors, gasses, or stenchs extremely repulsive to the physical senses of ordinary persons.
- 7.0204 Polluting Waters. Polluting any public well or cistern, stream, lake, canal, or other body of water by sewage, industrial wastes, or other substances.
- 7.0205 Unenclosed Storage of Dangerous Objects. The unenclosed storage of machinery, equipment, lumber, logs, or other objects which are attractive, dangerous, and accessible to children.

- 7.0206 Unenclosed Dangerous Locations. An open pit, quarry, cistern, excavation, or other dangerous location without safeguards or barriers to prevent such places from being accessed by children.
- 7.0207 Bonfires and Burning Garbage. Burning, causing, or permitting to be burned any filth, manure, garbage, sweepings, leaves, wood, ashes, paper, food, bones, any foul, putrid or obnoxious liquids, or any waste and rubbish of any kind.
- 7.0208 Dead Animals. The owner or keeper of a dead animal permitting it to remain undisposed for longer than twenty-four (24) hours after its death.

Legislative History

Ordinance #84, Adoption Unknown

Chapter 7.03 – Public Nuisances Affecting Peace, Quiet, and Comfort.

The following are hereby specifically declared to violate the peace, quiet, and comfort of the community, but this list is not comprehensive and other nuisances may exist and be regulated by this chapter:

- 7.0301 Unreasonably Loud Noises. The making or causing any loud, boisterous, and unreasonable noise or disturbance any time at a volume louder than is necessary for the convenient hearing of those who are voluntary listeners.
- 7.0302 Construction Work at Unreasonable Hours. Construction work or related activities which are abutting, adjacent, or in close proximity to a residential property, except between the hours of 7 a.m. and 7 p.m. on weekdays, and between the hours of 8 a.m. and 8:00 p.m. on Saturday and Sunday. For purposes of this chapter, the term “construction” shall mean any site preparation, assembly, erection, substantial repair, alteration, demolition, excavation, or similar action, for or on either public or private property.
- 7.0303 Dynamic Braking Devices. The use of a dynamic breaking device, commonly referred to as a Jacobs brake, on any motor vehicle is prohibited except to avert imminent danger. For purposes of this chapter, the term “dynamic braking device” refers to any device that converts the internal combustion engine to an air compressor for the purpose of braking without the use of wheel brakes.
- 7.0304 Exceptions. The following noise related occurrences are specifically declared to not constitute a nuisance under this chapter:
- A. All safety signals, warning devices, or any other device used to alert persons to any emergency or used during the conduct of emergency work including, but not limited to, police, fire, and rescue vehicle sirens.
 - B. The repair and maintenance of government facilities, services, or public utilities when such work must be accomplished outside daytime hours.

- C. Snow removal equipment operated within the manufacturer’s specifications and in proper operating condition.
- D. Musical, recreational, and athletic events conducted by and on the site of a school, educational institution, park, or other recreational area.
- E. Construction or repair work which must be done to address an emergency health or safety concern that cannot either wait until or be accomplished during daytime hours and which does not constitute normal maintenance and repair.

Chapter 7.04 – Abandoned, Nuisance, Wrecked, Dismantled, or Inoperative Motor Vehicles.

7.0401 Definitions. For the purpose of this chapter, unless otherwise apparent from the context, certain words and phrases used shall be defined as follows:

- A. *Abandoned or Nuisance Vehicle.* Any vehicle which is left unattended or stored on any public or private property in the same or substantially same place for a period longer than twenty-four (24) hours.
- B. *Inoperable Vehicle.* Any vehicle which is not in operating condition due to damage, removal, or inoperability of one (1) or more tires and/or wheels, the engine or any other essential part required for the operation of the vehicle, or which does not have affixed thereto a valid state license plate, or which constitutes a health, safety, fire, or traffic hazard.
- C. *Private Property.* Any real property within the City which is not public property.
- D. *Private Driveway.* A surface improved by concrete, asphalt, gravel, rock, or similar material which is contiguous with or adjacent to a street or alley.
- E. *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.
- F. *Removal Agency.* Any public body, private, or nonprofit organization authorized by the City to remove and salvage abandoned or inoperable vehicles.
- G. *Vehicle.* Any conveyance which is designed to travel along the ground or in the water and shall include, but not be limited to, automobiles, buses, motorbikes, motorcycles, trucks, tractors, trailers, pull trailers, go-carts, golf carts, boats, campers, and trailers.

7.0402 Storing, Parking or Leaving Vehicles Declared Nuisance. The presence of an abandoned, unattended, discarded, wrecked, burned, dismantled, inoperable, junked, or partially dismantled vehicle or parts thereof on public or private property is hereby declared a nuisance, which may be abated as such in accordance with the provisions of this Title. It is unlawful to keep or place any of such vehicles or vehicle parts:

- A. Upon public streets or property except on an emergency basis; or
- B. Upon the private property of any person owning, in charge of, or in control of any real property in the City, whether as an owner, tenant, occupant, lessee, or otherwise, for longer than seven (7) days unless it is within a fully enclosed building or structure. A 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 property.

Exceptions. This article shall not apply to the following:

- A. Operative vehicles parked on private driveways;
- B. One (1) inoperable vehicle kept on private property without being shielded from public view if licensed and parked 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 (14) days.
- C. Filling stations, automobile repair shops, or other motor vehicle related businesses in compliance with applicable city ordinances may place inoperable vehicles being repaired or offered for sale on the property.

Legislative History

Ordinance #84, Adoption Unknown

Ordinance #86, Adoption Unknown

Chapter 7.05 – Trees, Shrubs, Noxious Weeds, and Other Vegetation.

7.0501 Purpose. This ordinance is designed and intended to protect, promote, and enhance the welfare, safety, health, and property of the general public by maintaining diseased, dying, or overgrown trees or shrubbery located in both the public rights-of-way or easements and on private properties within the City of Crooks.

7.0502 Definitions. The terms used in this chapter, unless the context otherwise plainly requires, are defined as follows:

- A. Noxious Weeds. Any noxious weed as defined, characterized, and enumerated by the State Weed Control Commission of the State of South Dakota and the County Weed Board of Minnehaha County, South Dakota.
- B. Public Right of Way or Easement. The area between the lot's pins and the public street, including sideways and alleyways, whether paved or not.
- C. Tree. A tree or shrubbery in any public right of way or easement or located on a private property within the City.

7.0503 Duties of Property Owners. It shall be the duty of any person growing a tree or other vegetation on private property or within the public right of way or easement adjoining their private property to:

- A. Trim all trees and shrubbery so as not to interfere with the proper lighting of public streets or easements or impede the flow of persons or traffic in the City. All large established trees shall be trimmed to sufficient height to allow free passage of pedestrians and vehicular traffic and in such manner to allow sixteen (16) feet clearance over arterial or collector streets.
- B. Keep their property free from noxious weeds and to otherwise keep the grass and other vegetation properly trimmed or cut. Maximum length of grass and similar vegetation shall be twelve (12) inches.
- C. Treat and remove any tree, shrubbery, or other vegetation so diseased or insect ridden as to constitute a health hazard to the public or other vegetation.
- D. Remove any tree, shrubbery, or other vegetation that constitutes a safety hazard to the general public.

7.0504 Planting of Trees, Shrubberty, and Other Vegetation. A tree, shrubbery, or other vegetation planted in any public right of way or easement shall meet the following requirements:

- A. Only approved species and varieties of trees, shrubbery, and other vegetation may be planted;
- B. No tree shall be planted where the clear space between the curb and the sidewalk is less than five (5) feet;
- C. No tree shall be planted closer than three (3) feet from the curb;
- D. Trees shall not be planted under power lines unless approved by the City;

- E. Trees shall be planted at least forty (40) feet apart except where otherwise approved by the City;
- F. Trees shall be planted at least ten (10) feet from a fire hydrant;
- G. Trees shall be planted at least ten (10) feet from a driveway;
- H. Trees shall be planted at least twenty (20) feet from a streetlight;
- I. Trees on a corner lot shall be planted at least forty (40) feet back from the corner;
- J. Trees shall be planted at least twenty (20) feet back from a stop/yield sign or an official traffic control device or signal; and
- K. All deciduous trees shall have a 1 ¾ caliper and all coniferous trees shall have a five (5) foot minimum size.

Ordinance #30, Adopted 7/6/1982

Ordinance #84, Adopted Unknown

Ordinance #113, Adopted 11/5/2001

Ordinance #235, Adopted 12/10/2018

Ordinance #247, Adopted 9/9/2019

Chapter 7.06 – Dilapidated Buildings and Structures.

7.0601 Purpose. The purpose of this chapter is to protect, promote, and enhance the welfare, safety, health, and property of the general public by prohibiting the keeping or maintaining of properties at variance with and inferior to the level of maintenance of surrounding properties.

7.0602 Definitions.

- A. **Building.** Any structure designed or intended for the support, enclosure, shelter, or protection of persons or property.
- B. **Premises.** A lot or parcel of land, improved or unimproved, parking areas thereon, walkways, and sidewalks.
- C. **Sidewalk.** A strip of property lying in front of and between the curb line and property line of the adjoining or abutting lot, piece, or parcel of land within the City.

7.0603 Maintenance of Premises and Buildings. It shall be unlawful for any person owning, leasing, occupying, or having charge or possession of any buildings or premises in the City to keep or maintain such building or premises in a manner which is at variance with and inferior to the level of maintenance of surrounding properties.

7.0604 Enumeration. A building or premises is maintained or kept in a manner which is at variance with and inferior to the level of maintenance of surrounding properties and is hereby declared to constitute a public nuisance where there exists upon any building or premises any of the following condition or conditions:

- A. Buildings which are abandoned, boarded up, partially destroyed or partially constructed and uncompleted subsequent to the expiration of building permit.
- B. Buildings with deteriorating or peeling paint that allows the exterior building coverings to deteriorate or to permit the effects of sun and water penetration so as to encourage decay, dry rot, warping, and cracking.
- C. Broken windows and doors.
- D. Overgrown vegetation which is unsightly and/or likely to harbor rats or vermin.
- E. Dead, decayed, or diseased trees, weeds, and other vegetation.
- F. Trash, garbage, or refuse cans, bins, boxes, bags, or other such containers permanently stored in front yards visible from public streets.
- G. Lumber, junk, trash, tires, debris, or salvage materials maintained upon any premises which is visible from a public street, alley, or adjoining property.
- H. Abandoned, discarded, or unused furniture, stoves, sinks, toilets, cabinets, or other household fixtures or equipment stored so as to be visible at ground level from a public alley, street, or adjoining premises.
- I. Abandoned, wrecked, dismantled, or inoperative trailers, campers, boats, and unlicensed motor vehicles which are accumulated or stored in yard areas.
- J. Any like and similar condition or conditions.

7.0605 Sanitation of Premises and Buildings Required. It shall be unlawful to permit by act or omission the following specific acts, conditions, and things which are hereby also declared to be public nuisances:

- A. Failing, refusing, or neglecting to keep the sidewalk in front of a house, place of business, or premises in a clean and safe condition.
- B. Maintaining upon a premise any unsightly, partly complete or partly destroyed buildings, structures, or improvements in the City which may endanger or injure neighboring properties or the public health, safety, or general welfare.

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

Legislative History

Ordinance #52, 8/5/1985

Ordinance #84, Adoption Unknown

Chapter 7.07 – Noise

- 7.0701 Specific Violations. The following noises and disturbances, when unreasonable in time, manner or volume and injurious to, or interferes with, the public health, safety, welfare, peace, comfort, convenience, repose, or other interests of persons in the vicinity or on nearby properties are declared to be a violation of this Chapter. Each of the following acts is declared unlawful and prohibited, but this enumeration shall not be deemed to be exclusive.
- A. It is unlawful between the hours of 11:00 p.m. to 6:00 a.m. for any person to make, create, maintain, or permit any loud, unnecessary noise of such character, intensity, or duration, either steadily or intermittently, at any place which annoys, disturbs, endangers, or impairs the comfort, health, convenience, safety, welfare, enjoyment, and peace and quiet of other persons in the vicinity.
 - B. Erecting, excavating, demolishing, altering, or repairing any building or premises in any part of the City, and including the streets and highways, in such a manner as to emanate unreasonable or excessive noise, or disturbance annoying to other persons, other than between the hours of 7:00 a.m. to 9:00 p.m.
 - C. Operating any proving ground, testing area, obstacle course for motor vehicles, motor cycles, boats, automobiles, or vehicles of any kind or nature in any area of the City where the noise emanating from it would be disturbing and upsetting to another person in the vicinity.
- 7.0702 Exceptions. Non of the above-listed prohibitions shall apply to the following:

- A. Any police vehicle, ambulance, fire engine, or emergency vehicle while engaged in emergency activities;
- B. Excavation or repair of bridges, streets or highways or other property on behalf of the State of South Dakota, Minnehaha County, City of Crooks, or other entity within jurisdiction of same;
- C. Farming;
- D. Industrial activities conducted in a properly zoned light or heavy industrial area;
- E. Warning devices emitting sound for warning purposes as authorized by law;
- F. School sporting events that run into overtime;
- G. Any event that receives a special events permit from the City Council that allows noise from that event between 11:00 p.m. and 6:00 a.m.;
- H. Domestic power equipment (including but not limited to generators, power saws, drills, grinders, lawn and garden tools, and other domestic power equipment intended for use in residential areas by a homeowner) in emergency situations only; or
- I. Refuse and delivery vehicles

7.0703 Violations of Noise Regulations. Violations under any provision of this Chapter shall be subject to a \$100.00 fine per offense plus court costs. In addition to the imposition of penalties, violations of this Chapter are deemed and declared a nuisance, and as such may be subject to summary abatement by means of a restraining order or injunction issued by a court of competent jurisdiction.

Ordinance 290 – 1/10/2022

Chapter 7.08 – Other Public Nuisances.

- 7.0801 Keeping or Maintaining Livestock or Fowl Without Permit. Keeping or maintaining any livestock or fowl on private property without obtaining a permit in violation of Chapter 8.05.
- 7.0802 Failure to Remove Ice and Snow from Sidewalks. Failure to remove ice and snow from sidewalks in violation of Chapter 9.0402.
- 7.0803 Creating or Failing to Remove Graffiti. Creating or failing to remove any writing, printing, marks, signs, symbols, figures, designs, inscriptions, or other drawings which are scratched,

scrawled, painted, drawn, or otherwise placed on any exterior surface of a building, wall, fence, sidewalk, curb, or other permanent structure on public or private property and which has the effect of defacing the property.

Legislative History

Ordinance #84, Adoption Unknown

Chapter 7.09 – Exception for Official Approved Conduct or Activities.

Notwithstanding any provision of this chapter to the contrary, it is expressly declared that a person shall not be charged with a violation of this chapter and no relief shall be sought against a person under the provisions of this chapter when the conduct or activity alleged to constitute a public nuisance is authorized by permit, license, or otherwise approved by the United States of America, the State of South Dakota, the City of Crooks, or any agency or department of those governmental entities.

Chapter 7.10 – Public Nuisance Remedies.

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 state law and rules relating thereto. (SDCL 21-10-5)

Chapter 7.11 – Enforcement.

Abatement shall be the primary enforcement mechanism of this chapter; however, if the City Council determines that abatement efforts have failed to remedy the nuisance or would be ineffective in doing so, they may refer the matter to the City Attorney for either civil action or criminal enforcement.

Chapter 7.12 – Non-Emergency Nuisance Abatement.

7.1201 General. Non-emergency nuisance abatement proceedings shall take place when the City Council or any authorized enforcement official determines that a nuisance is or has occurred, that it is of a non-emergency nature, and abatement efforts are capable of eliminating the threat to the public health, safety, and welfare.

7.1202 Courtesy Letter. Upon determination of the City Council or any authorized enforcement official that a non-emergency nuisance exists and it is capable of being abated, a courtesy letter shall be sent by first class mail or personally delivered to the owner, occupant, lessee, and/or agent of the property where the nuisance is or has occurred. At a minimum, the courtesy letter shall include:

- A. A description of the property, by street address or legal description, where the nuisance is alleged to have occurred or is occurring.
- B. A description of the nuisance and a brief summary of what must be done on the property in order to abate the nuisance.
- C. A statement that, unless the nuisance is abated, the City will begin formal abatement procedures within seven (7) days of mailing or hand delivery of the Courtesy Letter.
- D. A statement that, unless the nuisance is abated, the City may abate the nuisance and the costs arising from those activities will be assessed on the taxes for the property or a possessory lien placed upon the vehicle, whichever is applicable.
- E. A statement that failure to abate the nuisance may result in the imposition of civil or criminal penalties.

7.1203 Courtesy Letter Exceptions. The City Council finds that certain nuisances exist that happen routinely and consistently that make the repeated delay caused by issuing a Courtesy Letter to be both redundant and a substantial barrier to protecting the health, safety, and welfare of the community. In these cases, in lieu of delivering a Courtesy Letter as required by Chapter 7.1102, the Finance Officer may annually, on or before May 1st of each year for violations of Chapter 7.0503 or on or before October 1st of each year for violations of Chapter 7.0702, publish once a week for two (2) consecutive weeks a Notice to Property Owners generally setting forth the duty to abate certain nuisances. If such notice is published, the City may immediately send a Notice of Violation and Demand to Abate to the property's owner, occupant, lessee, and/or agent in conformance with Chapter 7.1104.

For purposes of this chapter, those nuisances which do not require a courtesy letter shall be as follows:

- A. Nuisances arising from unmown grasses and weeds. (Chapter 7.0503)
- B. Nuisances arising from the failure to remove ice and snow from sidewalks. (Chapter 7.0702)

7.1204 Notice of Violation and Demand to Abate. If the nuisance is not abated within seven (7) days of delivery of the Courtesy Letter, the City will deliver by certified mail a Notice of Violation and Demand to Abate to the property's owner, occupant, lessee, and/or agent. Failure to accept delivery or pick up a certified letter does not invalidate service. The Notice and Demand shall include:

- A. A description of the property, by street address or legal description, where the nuisance is alleged to have occurred or is occurring.

- B. A description of the nuisance and a brief summary of what must be done on the property in order to abate the nuisance.
- C. A statement that the City has started formal nuisance abatement procedures and a time period by which the nuisance must be abated. This time period shall be determined by the Finance Office and shall be a reasonable amount of time to allow the recipient to adequately abate the particular nuisance.
- D. A statement that unless the nuisance is abated by the date specified, the City may abate the nuisance and the costs arising from those activities will be assessed on the taxes for the property.
- E. A statement that failure to abate the nuisance may result in the imposition of civil or criminal penalties.

7.1205 Abatement by City. If the nuisance has not been abated by the date specified on the Notice of Violation and Demand to Abate, the City or the City's agent(s) may come upon the property and abate the nuisance. If they do so, they shall document actions taken to abate the nuisance in a reasonable manner, such as through still photographs, videotape, or other recordings. All items removed from the property during the abatement process shall be disposed as provided by law, or in a commercially reasonable manner if no method of disposal is specifically required by law.

7.1206 Cost of Abatement. All of the costs incurred by the City in abating a nuisance shall be billed to the person or persons responsible for the property after completion of the work. The City's cost shall be established by resolution of the City Council when known, or be reasonable and related to the expenses actually incurred when determined. If not fully paid within thirty (30) days of the invoiced date, the remaining balance shall be taxed against the property on which the nuisance occurred as a special assessment and shall become a lien against the property. The assessment shall be subject to review and equalization the same as assessments or taxes for general purposes. 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 taking the cost by special assessment.

Chapter 7.13 – Emergency Nuisance Abatement.

An emergency nuisance situation shall be deemed to exist for any condition which presents an imminent danger to public health, safety, or welfare. Where an emergency situation is determined to exist by the City Council, any authorized enforcement official, or any law enforcement officer, any and all reasonable actions may be immediately taken to protect the public against the peril presented by the nuisance. As soon as is practicable following the implementation of the remediation or abatement of an emergency nuisance

situation, the property owner, occupant, lessee, and/or agent shall be notified by mail or in person of the need for any additional actions that need to be taken to fully abate the nuisance. Once the situation has ceased to be an emergency, the remaining nuisance, if any, shall be dealt with as a non-emergency nuisance in conformance with Chapter 7.11.

Chapter 7.14 – Penalties.

Any person who creates, commits, maintains, or fails to abate a public nuisance as required under the provisions of this chapter shall be subject to a fine not to exceed five hundred dollars (\$500.00), unless otherwise specifically provided, if the matter is brought through the criminal justice system. If the nuisance is enforced as a civil matter, the penalty imposed shall be a reasonable amount based upon the severity of the nuisance. Pre-determined penalties deemed reasonable by the City Council, which may include increased penalties in cases of chronic nuisance occurrences, may be established on a fee schedule set by resolution of the City Council. The amount of the fine may be appealed by the person alleged to have committed the nuisance to the City Council. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues to occur.

TITLE 8 – GENERAL REGULATIONS

Chapter 8.01 – Open Burning

Chapter 8.02 – Fleeing from Law Enforcement Officers

Chapter 8.03 – Curfew for Minors

Chapter 8.04 – Animals

Chapter 8.05 – Discharge and Use of Firearms

Chapter 8.06 – Fireworks

Chapter 8.07 – Tobacco

Chapter 8.08 – Alcohol Consumption in Parks

Chapter 8.01 – Open Burning.

- 8.0101 Purpose. The purpose of this chapter is to protect, promote, and enhance the welfare, safety, health, and property of the general public by restricting open burning within city limits.
- 8.0102 Definitions. For the purpose of this chapter, the following definitions shall apply:
- A. *Fire Pit*. A hole, indentation, or recess into the surrounding ground, at least twelve (12) inches in depth and not to exceed thirty-six (36) inches in diameter, which uses a non-combustible material to border such hole, indentation, or recess as to prevent nearby objects from catching fire.
 - B. *Outdoor Fireplace*. A noncombustible container not to exceed thirty-six (36) inches in height or diameter, covered with a wire screen of ½ inch or smaller mesh, or other suitable noncombustible cover so as to prevent pieces or particles from blowing away.
- 8.0103 Containment. It shall be unlawful for any person to start or maintain any fire outside of those explicitly allowed by the following regulations:
- A. All fires shall be contained in an Outdoor Fireplace or Fire Pit that meets the defined specifications. Fires shall not exceed thirty-six (36) inches in height or diameter.
 - B. Any person who operates or maintains a fire in an approved apparatus shall have a means to extinguish the fire within twenty-five (25) feet of the location of the fire. Acceptable methods of extinguishment are:
 - 1. A U.L. approved fire extinguisher.
 - 2. A garden hose or other such immediate source of water.
 - 3. A cover or lid that will extinguish the fire by removing the source of air.

- C. No Outdoor Fireplace or Fire Pit shall be installed on any wooden deck or balcony, or any other combustible surface.

8.0104 Fuel. Only clean, dry seasoned firewood shall be burned. No person shall set, make, or attempt to set or make any outdoor fire of garbage, rubbish, trash, green tree trimmings, grass, leaves, lawn refuse, petroleum products, plastics, rubber, shingles, painted or treated lumber, or any material or substance causing noxious or offensive odors, at any time of the day or night.

8.0105 Supervision.

- A. Persons shall not leave any burning or smoldering fire unattended.
- B. Fires should be completely extinguished when no longer supervised.

8.0106 Exemptions.

- A. Fires purposely set for the instruction or training of firefighter personnel.
- B. Fires deemed necessary by the Fire Chief of the Crooks Volunteer Fire Department.

8.0107 Penalty for Violations. Any violation of this chapter shall result in a ~~minimum fine of one hundred dollars (\$100.00)~~ fine as established via resolution of City Council plus any court costs for the first offense. Each subsequent offense occurring in the same calendar year shall result in a fine ~~of two hundred and fifty dollars (\$250.00)~~ as established via resolution of City Council plus any court costs. Each violation shall constitute a separate offense.

Legislative History

Ordinance #151, Adopted 10/8/2007

Ordinance #330, Adopted 8/14/2023

Chapter 8.02 – Fleeing from Law Enforcement Officers.

No person shall willfully fail or refuse to stop, or otherwise flee when given a visual or audible signal to stop by a uniformed law enforcement officer. The signal given by the law enforcement officer may be by hand, voice, emergency light, or siren.

Legislative History

Ordinance #90, Adopted 10/5/1998

Chapter 8.03 – Curfew for Minors.

- 8.0301 Curfew Hours for Minors Under Sixteen. No minor under the age of sixteen (16) years shall be or remain in or upon the public streets, alleys, parks, playgrounds, public buildings, public places of amusement and entertainment, vacant lots, or other unsupervised public places of the City, between the hours of 11:00 P.M. and 6:00 A.M. of the following day.
- 8.0302 Curfew Hours for Minors Sixteen and Under Eighteen. No minor of the age of sixteen (16) years and under the age of eighteen (18) years shall be or remain in or upon the public streets, alleys, parks, playgrounds, public buildings, public places of amusement and entertainment, vacant lots, or other unsupervised public places of the City, between the hours of 12:00 midnight and 6:00 A.M. of the following day.
- 8.0303 Exceptions. The provisions of this chapter shall not apply to a minor accompanied by his or her parents, guardian, or other adult person having the care and custody of the minor, or where the minor is upon an emergency errand or legitimate business directed or authorized by his or her parent, guardian, or such other adult person having the care and custody of the minor, or where the minor is at or returning home from an official school or church sponsored function.
- 8.0304 Responsibility of Parents. It shall be unlawful for the parents, guardian, or other adult person having the care and custody of a minor under the age of eighteen (18) years to knowingly permit such minor to be or remain in or upon the public streets, alleys, parks, playgrounds, public buildings, public places of amusement and entertainment, vacant lots, or other unsupervised public places of the City, between the hours of 11:00 P.M. and 6:00 A.M. of the following day in the case of a minor under sixteen (16) years of age or between the hours of 12:00 midnight and 6:00 A.M. of the following day in the case of a minor sixteen (16) years of age and under eighteen (18) years of age except when the minor is accompanied by his or her parent, guardian, or other adult person having the care and custody of the minor or when the minor is upon an emergency errand or legitimate business directed or authorized by his or her parent, guardian, or other adult person having the care and custody of the minor, or where the minor is at or returning home from an official school or church sponsored function.
- 8.0305 Responsibility of Officer. It shall be the right of any law enforcement officer to arrest and detain any minor violating this chapter and to keep said minor detained until a parent, guardian, or custodian is notified, when said minor may be released upon the giving of a promise by the minor and his or her parent, guardian, or custodian that such minor together with his or her parent, guardian, or custodian shall appear at the stated time before the proper authority to answer to the charges.
- 8.0306 Violations. ~~Any violation of this chapter shall result in a fine as established via resolution of City Council plus any court costs. Any minor violating the provisions of this chapter shall be dealt with in accordance with applicable law, and, if applicable, in accordance with Juvenile Court Law and Procedure.~~

Legislative History

Ordinance #65, Adopted 9/1/1992

Chapter 8.04 – Animals.

8.0401 Keeping of Animals.

- A. It shall be unlawful to keep, maintain, harbor, or possess more than four (4) domestic pets of any age. No more than six (6) chickens (domestic fowl of a Galliformes in the genus of Gallus Gallus domesticus) may be kept on private land within properties zoned single-family residential in the City with an approved license in accordance with this Chapter or with an approved conditional use. For purposes of interpreting this Section, canaries, parakeets, parrots, and other similar caged birds, as well as hamsters, gerbils, guinea pigs, ferrets, rabbits, and similar caged animals shall not be included under the definition of “domestic pets”.
- B. It shall be unlawful to keep, maintain, harbor, or possess: swine (including pot bellied pigs), sheep, cattle, horses, ponies, goats, poultry (except that poultry of the genus Gallus Gallus domesticus), llamas, or peacocks on any non-agricultural lot within the City.
- C. It shall be unlawful to keep, maintain, harbor or possess wild animals such as, but not limited to: skunks, fox, raccoons, birds of prey, coyotes, bears, wolves, wolf hybrids or the offspring of wild animals crossbred with domestic dogs or cats.
- D. Any person possessing more than four (4) domestic pets shall obtain a **Conditional Use Permit** issued by the City.
 1. To obtain a **Conditional Use Permit**, the applicant shall file an application, therefore, in writing on a form furnished by the Animal Control Officer or Finance Officer. Every application shall contain the following information:
 - (a) Name and address of each owner of the property.
 - (b) Name, address, phone number and signature of the applicant.
 - (c) The number of animals sought to reside on the property, together with the animal’s species, age and breed.
 2. All applications for a **conditional use permit** shall be accompanied by a fee in the amount of \$250 which is payable to the City. No fee will be refunded.
 3. Any **conditional use permit** must be approved by the City Council.
 4. Prior to the approval of a **Conditional Use Permit**, the Animal Control Officer shall meet with the applicant to review the application. After review of the application,

the Animal Control Officer shall make a recommendation to the City Council to either approve or not approve said application. The Animal Control officer's recommendation shall include a summary of the application, and the reasons and justification for either approval or disapproval of the application.

5. The Finance Officer shall set the date, time and place for a public hearing to be held by the Council. The Authorized Official shall notify the applicant by mail, and shall post notices of the public hearing at the City Office no less than seven (7) days prior to the scheduled public hearing. No less than ten (10) days before the public hearing, the Finance Officer shall publish notice of the public hearing in a legal newspaper of the City.
6. The factors to be considered in determining if a **Conditional Use Permit** shall be granted are:
 - (a) If the use will endanger the public health, safety and general welfare or be otherwise detrimental to the public in terms of such factors as noise, sanitation and safety.
 - (b) If the use will be injurious or detrimental to adjoining or abutting property.
 - (c) Statements regarding approval/disapproval of surrounding neighbors relative to the address applied for.
 - (d) Past history of animal control complaints relating to the animals of the applicant at the address for which the kennel is applied for.
 - (e) Facility specifications/dimensions in which the animals are to be maintained.
 - (f) Number, characteristics, type and breed of animals to be kept.
 - (g) The City Council may require additional reasonable stipulations at their discretion to protect the health, safety, and general welfare in the issuance of such conditional use permit. Specific conditions precedent to granting the use may be imposed which conditions may include:
 - (1) Requiring structural features such as fences or enclosures.
 - (2) Imposing conditions similar to those set forth in Chapter 8.0312 necessary to establish parity with uses permitted in the same zone in their freedom from nuisance.
 - (3) Requiring the spaying or neutering of any or all animals.

- (h) In all cases, the impact of the proposed use on adjacent properties shall be considered when imposing conditions.
7. The following procedure shall be followed by the City Council in considering the recommendation of the Animal Control Officer and the factors for consideration:
- (a) The public hearing shall be held. Any person may appear in person, or by agent or attorney. Minutes of the public hearing shall be recorded and kept in the records of the City.
 - (b) Before any Conditional Use Permit shall be granted, the City Council shall make findings that a Conditional Use Permit is consistent with the intent of this ordinance. The concurring vote of two-thirds (2/3) of the members of the City Council shall be necessary to approve any conditional use permit.
8. A Conditional Use Permit shall expire one year from the date upon which it becomes effective. Upon written request to the Animal Control Officer and prior to the conditional use permit expiration date, a one-year time extension for the Conditional Use Permit may be granted by the Animal Control Officer, subject to the following conditions.
- (a) There was no public objection presented during the public hearing process for the original Conditional Use Permit;
 - (b) There have been no citations issued under this Ordinance since the effective date of the Conditional Use Permit.
- E. Any person who intentionally or unintentionally breeds a female dog or cat, or who owns or has custody of, or control over a litter of puppies or kittens must obtain an Animal Litter Permit. The annual fee for an Animal Litter Permit shall be \$250.00 per year. The fee must be paid within seven days of the litter's birth. The Permit shall authorized the whelping of no more than one litter per female dog or cat identified in the permit per domestic household in any 12-month period. No more than one Animal Litter Permit shall be issued per domestic household in any 12-month period. No Animal Litter Permit shall be issued until an inspection of the premises by a City authorized animal control officer, who finds compliance with Chapter 8.0312.

8.0402

Licensing. Any owner or keeper of a dog or cat of the age of six (6) months or over shall within 30 days of the acquisition of such animal or within 30 days of the time such animal becomes six (6) months old, cause such animal to be licensed with the City. All applications for license certificates must be accompanied by a rabies immunization certificate and the licensing fee as determined by the City Council. A license certificate and tag shall be issued an official of the City and such tag shall be firmly attached to a durable collar. The tag must be renewed on a

yearly basis. Failure to properly license under this section will result in a fine as established via resolution of City Council.

8.0403 Immunization Required.

- A. Every dog, cat, or other animal held as a domestic pet in the City, six (6) months of age or older, is required to be immunized against rabies and distemper by a licensed veterinarian or other qualified person designated by the City. No dog or cat shall be licensed until the owner thereof presents a current, one 1-year rabies and distemper shot certificate. Immunization against rabies and distemper shall be given at such intervals as to guarantee immunity.
- B. Any owner acquiring a dog, cat, or other animal held as a domestic pet by purchase, gift, birth, or otherwise shall have such animal immunized against rabies or distemper within one month following acquisition or within one month after the animal is six (6) month old, whichever last occurs.

8.0404 Rabies Infection.

- A. No person shall knowingly harbor or keep any animal infected with hydrophobia or rabies, or any animal known to have been bitten by an animal known to have been infected with hydrophobia or rabies.
- B. Any person who shall suspect that any animal in the City is infected with rabies or hydrophobia shall report his or her suspicion to the City Council, City Animal Control Officer, Human Society or any other public safety official describing the animal and giving the name of the owner, if known; and if, upon examination by a licensed veterinarian it appears that the animal may have rabies or hydrophobia, the animal shall be impounded for observation and testing, and if the animal proves to be infected with the disease, the animal may be destroyed.
- C. If a licensed veterinarian shall determine that an animal found in the City is infected with rabies or hydrophobia, the mayor may, upon written advice from the health authorities that the public safety and general welfare require it, order by proclamation that all animals be muzzled when off the premises of the owner, and that all un-muzzled animals when found off the premises of the owner be immediately seized and impounded, and may further order that, after the proclamation has been published for forty-eight (48) hours, either by posting or printing in a newspaper of general circulation in the City, all animals found off the premises of the owner un-muzzled shall be seized, impounded, and destroyed, except that a designated City official may immediately kill and such un-muzzled animal, if with reasonable effort it cannot first be seized and impounded. All animals seized and impounded during the first forty-eight (48) hours after the publishing of any such proclamation, shall, if claimed within ten (10) days be returned to the owner

thereof without any impounding charge or cost, if not infected with hydrophobia or rabies, but after the ten (10) days such animals may be destroyed.

8.0405 Responsibility. Anyone walking an animal on public or private property other than his own shall carry with him the means of cleaning up any fecal matter left by the animal. If such animal defecates upon public or private property, the owner, keeper, caretaker, or attendant must immediately and thoroughly clean the fecal matter from such property. Animals used in parades or involved in law enforcement are exempt from this section.

8.0406 Disturbing the Peace.

- A. The owner or custodian of an animal shall not allow the animal to disturb the peace of any other person. Disturbing the peace shall include barking, howling, yipping, whining or otherwise creating any noise or disturbance sufficient to disturb the peace or tranquility of another.
- B. Upon receipt of a written or verbal complaint of any animal disturbing the peace, the City shall cause a warning letter to be issued to the owner or custodian of the animal asking the person for his or her cooperation in keeping the animal from disturbing the peace.
- C. Upon receipt of a second written or verbal complaint involving the same animal, the City or its authorized agent or representative of the Sioux Falls Humane Society shall be authorized to seize and impound the animal. In addition, failure to comply with the first complaint and warning letter described above shall constitute an offense and subject the owner or custodian for fine therefore. The owner or custodian shall pay all costs and fine(s) according to the terms of this Chapter.

8.0407 Running at Large.

- A. The term “running at large” as referred to within this Chapter shall include any animal not restricted on property with a pen, building or leash. Any animal not restricted on property will be under the direct control of the owner or responsible person by use of a leash or other acceptable method whereby the animal cannot bother, threaten or disturb other persons, pets or property. Allowing more than one animal to run at large at any one time shall constitute more than one offense at that time.
- B. In addition to any complaint or citation, the City Council or its authorized City Official or agent, or the Sioux Falls Humane Society, or any law enforcement officer is hereby authorized to impound any animal running at large or otherwise in violation of any of the provisions of this Chapter. If the animal is a licensed dog or cat, said person may, at his or her discretion, contact the owner and/or issue a citation in lieu of impoundment. Any impounded dog or cat transported to the Sioux Falls Humane Society will be kept and handled according to Human Society procedures. If the impounded animal is not licensed, it will be transported immediately to the Sioux Falls Humane Society and be handled in

accordance with Human Society procedures for strays. No animal will be returned until all costs and fines are paid. The costs shall be the impound fee, daily shelter fee, and cost(s) of vaccination(s) and immunization(s), if necessary, and any other cost of the Humane Society or other impounding authority in capturing, impounding and otherwise dealing with the animal. Impoundment releases may be issued by the Municipal Finance Officer or other authorized City official or Human Society official when all fines and fees are paid and proof of vaccinations furnished as stipulated in this Chapter.

- 8.0408 Harboring of Stray Animals. It is unlawful for any person to harbor or to keep any lost or strayed animal. Whenever any animal shall be found which appears to be lost or strayed, it shall be the duty of the finder to notify the City Animal Control Officer. The City shall provide for the safe and humane custody of the animal.
- 8.0409 Injured Animals. If an animal is injured and its owner is not readily known, it will be the duty of the animal control officer to determine if that animal for humane reasons due to the extent of the injury and the suffering may be humanely destroyed. The City, Humane Society and animal control officer shall not be held liable in any way for this humane act.
- 8.0410 False Information. It shall be unlawful for any person to give any false information or statement concerning the owner of any animal, concerning the condition or health of any animal, or in connection with the procuring of a license for any animal.
- 8.0411 Vicious Animals.
- A. The owner of an animal that bites a person and the person bitten shall report such occurrence to an animal control officer within 24 hours of the occurrence. The owner of an animal that bites a person shall surrender said animal to an animal control officer or may board said animal at a qualified veterinarian or humane society for a period of ten days from the date of bite. The owner of the animal shall bear the cost of confinement. The animal control officer may consent to confinement in the owner's premises, provided the type of confinement is approved by the City, but only if the owner can produce evidence of a current vaccination at the time the bite was inflicted.
 - B. An authorized representative of the Sioux Falls Humane Society or any law enforcement officer may declare an animal to be vicious, or the attending physician of the victim of an animal bite or scratch may request such declaration, under the following guidelines:
 - 1. An animal which, when unprovoked, in a vicious or terrorizing manner approaches in apparent attitude of attack, or bites, inflicts or causes 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 apparent attitude of attack, or bites, or inflicts or causes injury, or otherwise

attacks a mailman, meter reader, serviceman, journeyman, deliveryman, or other person or other animal who is on private property by invitation or permission of the owner or occupant of such property or who is lawfully 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 was committing a willful trespass or other unlawful act or 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, or otherwise where the animal control officer determines that the bite or injury was justified.
- C. When an animal has been declared vicious, the Animal Control Officer shall notify the owner of such declaration in writing that such animal must be registered as a vicious animal within five business days after the receipt of such written notice. Said notice shall be served either in person or by mailing such notice by certified mail.
- D. The owner of an animal that has been declared vicious shall make application to the animal control officer to register such vicious animal and shall comply with the following:
- (1) The owner of the animal shall notify animal control of any changes in the following:
 - (a) Ownership of the animal.
 - (b) Name, address, and telephone number of a new owner.
 - (c) Address change of the owner or any change in where the animal is housed.
 - (d) Any change in the health status of the animal.
 - (e) Death of the animal.
 - (2) If the animal is indoors, the animal shall be under the control of a person over 18 years old.
 - (3) If the animal is outdoors and attended, the animal shall be muzzled, on a leash no longer than 6 feet, and under the control of a person over 18 years of age.
 - (4) If the animal is outdoors and unattended, the animal must be locked in an escape-proof kennel approved by animal control. Minimum standards shall include the following:
 - (a) Fencing materials shall not have openings with a diameter of more than 2 inches, in the case of a wooden fence the gaps shall not be more than 2 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 bottom secured to the sides, the sides shall be imbedded into the ground or concrete.
 - (d) The pen or structure shall protect the animal from the elements.
 - (e) The pen or structure may be required to have double exterior walls to prevent the insertion of fingers, hands, or other objects.
- (5) 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.
 - (6) The owner shall carry \$100,000.00 liability insurance covering the medical and/or veterinary costs resulting from the vicious actions or any other damage the animal may do or cause to be done. Proof of such insurance shall be filed with animal control.
 - (7) The owner shall present proof of current rabies vaccination and current city license of the animal to animal control.
 - (8) The owner shall present proof the animal has been altered to prevent reproduction to animal control.
- E. The vicious animal shall be impounded by animal control at the owner's expense until such time as all provisions of subsection (D) are complied with.
 - F. If the conditions in subsection (D) are not complied within ten (10) days of the mailing of the notice of declaration, the animal shall be euthanized in a humane manner and proof of euthanasia filed with the City Animal Control Officer.
 - G. Any vicious animal found off the premises of its owner, other than provided for in this Chapter, shall be seized by the animal control officer or any law enforcement officer and impounded. If the animal cannot be captured, it may be destroyed.
 - H. If the animal has been running at large, or bites a person, or bites another animal, the animal control officer or any police officer may order the owner to deliver the animal to the humane society within 24 hours. If the owner of the animal fails to deliver the animal as ordered, the animal control officer or any police officer shall use such means as is necessary to impound the animal.

8.0412 Commercial Kennels.

- A. A “commercial kennel” is defined as an establishment where there is collection of dogs or cats, whether maintained for breeding, boarding, sale, training, hunting, or other purposes, and including any shop where dogs and cats are for sale.
- B. No commercial kennel may be maintained in a residential area or within 1,000 feet of an area zoned for residential use.
- C. No person may operate a commercial kennel without a Commercial Kennel Permit. The annual fee for a Kennel Permit shall be \$250.00 per year.
- D. No Kennel Permit shall be issued until an inspection of the premises by a City authorized animal control officer finds compliance with the minimum standards of this Chapter. Failure to meet these standards shall be grounds of denial of a permit or revocation of a permit. The following standards shall be met:
 - 1. Animal enclosures must be provided which allow adequate protection against all weather extremes. Floors of buildings, runs and walls, must be constructed with an impervious material to permit proper cleaning and disinfecting.
 - 2. Building temperatures shall be maintained at a comfortable level. Adequate ventilation and adequate lighting shall be maintained at all times.
 - 3. Each animal shall have sufficient space to stand up, lie down and turn around without touching the sides or tops of cages.
 - 4. Cages shall be of material and construction that permit adequate cleaning and sanitation.
 - 5. Cages shall be of an impervious, washable material, radiantly heated, and shall have a resting board or some kind of bedding.
 - 6. Rooms shall provide an adequate exercise area and protection from the weather. Runs shall have an impervious surface.
 - 7. Animals shall have ample exercise time and human contact.
 - 8. All animal quarters and rooms are to be kept clean, dry and in a sanitary condition.
 - 9. Animal food shall be free from contamination, shall be wholesome, palatable and of sufficient quantity and nutritive value to meet the normal daily requirements for the condition, age, and size of the animal.
 - 10. All animals shall have fresh, potable water available at all times. Water vessels shall be mounted or secured in a manner that prevents tipping and be of a removable type.

- E. The animal control officer is authorized to inspect at any reasonable hour, the premises of a person holding a permit under this Chapter. By accepting a permit, the permittee is agreeing to surrender the premises for inspection at a reasonable time upon the request of an animal control officer.
- F. Any permit issued pursuant to this Chapter may be revoked if an animal control officer has reasonable cause to believe that the standards set forth herein are not being met, or if the permittee or the person caring for or having control of the kenneled animals has violated this Chapter, or is in violating of any zoning, health, safety, or building ordinance relating to the keeping, care, or use of any animal.

8.0413 Keeping of Fowl

- A. **License Required.** No person shall keep chickens on any property zoned single-family residential within the City without first obtaining a license from the City. The keeping of chickens on a residential property shall be limited to single-family residential zoned parcels.
- B. **Type of Fowl, Permitted.** Only domestic fowl of the Galliformes in the genus of Gallus Gallus domesticus (domestic chicken) are permitted. No other form of fowl is permitted, nor available by conditional use permit.
- C. **Application.** An application for a license to keep fowl shall be made to the City on a form provided by the City. The applicant must provide all information on the form and pay a one-time, non-refundable fee of fifty dollars (\$50.00) to the City.
- D. **Granting Issuance of License.** The Authorized Official or designee may grant a license provided the following have been met:
 - 1. All required information is complete on the application;
 - 2. Appropriate one-time, non-refundable fee of fifty dollars (\$50.00) is paid; and
 - 3. The application filed demonstrates all requirements of this subsection including the shelter and enclosure requirements.
- E. **Revocation of License.** A license may be revoked by the City for a violation of the conditions of this Chapter or any other restriction, limitation, conditions, or prohibitions that may be placed on the property as recorded on the issued permit.
- F. **Shelter and Enclosure Requirements for Fowl.**

1. A separate coop or loft is required to house the fowl with a reasonable satisfactory yard, run or yard fencing so as to keep fowl confined at all times. The coop size shall, at a minimum, provide six (6) feet of space per fowl. Garages both attached and detached are acceptable to be used as coops or lofts.
2. The structure is to be located in the rear or side yard and not to be placed on any drainage or utility easements.
3. Any structure to house the fowl must meet setbacks and all other applicable zoning regulations as established for accessory buildings.
4. Coops and lofts must be maintained in good repair and must be construed of materials consistent with the requirements for accessory buildings; in particular, they must have finished exterior surfaces (painted, stained, sealed, etc.)
5. A floor is not required for a building housing fowl.
6. The structure as well as any manure storage shall be kept at least twenty (20) feet from the floor or window of any dwelling of an occupied structure other than the owner's dwelling.

G. **Additional Standards for the Keeping of Fowl.** Any person keeping fowl on residential lots must comply with the following:

1. No more than six (6) total fowl are permitted. No roosters or adult male fowl are permitted.
2. The owner of the fowl shall live in the dwelling on the property.
3. The raising of fowl for breeding or commercial purposes is prohibited, as is selling of the product of the fowl.
4. The owner or custodian of any fowl shall not allow the fowl to disturb the peace of any other person.
5. Butchering of fowl shall not be permitted outside of a residence.
6. No leased or rented premises shall be permitted to be used for keeping fowl.

H. **Conditions and Inspections.** No person(s) who own(s) or control(s), keep(s), maintain(s), or harbor(s) fowl shall permit the premises where the animal(s) are kept to be or remain in an unhealthy, unsanitary, or noxious condition, or permit the premises to be in such a condition that noxious odors to be carried to adjacent public

or private property. Any building to house fowl or enclosed area for the fowl authorized under this ordinance may be inspected at any reasonable time by the Authorized Official or designee to inspect for compliance with this Chapter and other relevant laws and regulations.

- I. **Cleaning.** All premises on which fowl are kept or maintained shall be kept clean from filth, garbage, and any substances which attract rodents, and other varmint. The coop and its surrounding area must be cleaned frequently enough to control odor. Manure and coop waste shall not be allowed to accumulate in a way that causes any unsanitary condition or causes odors detectible on another property. Manure and coop waste that is not composted or immediately spread as fertilizer must be secured and double bagged in a solid waste bag and kept in a solid waste container.
- J. **Food Storage and Removal.** All stored food for fowl must be kept either indoors or in a weather-resistant rodent proof container. Uneaten food shall be removed daily to prevent animals and insects.
- K. **Enforcement.** If an animal control officer has reasonable cause to believe that the standards set forth in this section are not being met, the officer shall be authorized to impound such confined animal or shall be authorized to issue a complaint or citation for a violation of this Chapter.
- L. **Expiration of License.** If ownership of property changes, license to keep fowl shall expire. Licensure shall not transfer if owner moves within the jurisdiction of the City of Crooks.
- M. **Conditional Use, Required.** Any applicant(s) desiring to keep domestic fowl on premises not zoned ~~single~~single-family residential shall apply for a conditional use to obtain permission. The conditional use petition will require all steps of the application to be completed as outlined above. Upon receipt of all requisite documents, a hearing shall be scheduled. The Finance Officer shall cause a notice to be published at least ten (10) days prior to the hearing in the designated newspaper for the City of Crooks.

Ordinance #338, Adopted 4/29/2024

8.0414 Complaint or Citation; Impoundment.

- A. In addition to proceeding under any other remedy available at law or in equity for a violation of this Chapter, the Animal Control Officer, the Sioux Falls Humane Society representative, or any law enforcement officer shall be authorized to issue a complaint or citation. Any person who violates this Chapter is subject to a monetary penalty. The

penalties for a first violation of this ordinance shall be established by resolution, as periodically passed by the Crooks City Council.

- B. A second or subsequent violation of the same provision of this Chapter within one year shall double the penalty for the second or subsequent violation.
- C. Upon issuance of a citation for Unlawful Keeping of Animals in violation of Chapter 8.0301; Failure to Obtain a Permit in violation of Chapters 8.0301, 8.0302, and 8.0413; Failure to License in violation of Chapter 8.0302; Failure to Immunize in violation of Chapter 8.0303, any further failure to comply with the requirements of this Chapter within ten days shall constitute a subsequent offense.

Ordinance 280 – Adopted 7/21/2021

Legislative History

Ordinance #38, Adopted 4/4/1983
Ordinance #57, Adopted 2/3/1986
Ordinance #67, Adopted 4/5/1993
Ordinance #77, Adopted 1/8/1996
Ordinance #82, Adopted 4/7/1997
Ordinance #174, Adopted 7/12/2011

Chapter 8.05 – Discharge and Use of Firearms.

- 8.0501 Discharge and Use of Firearms Prohibited-Exception. No person shall discharge any species of firearm, air gun, or other weapon, or throw any missile in the City. The following uses are exempt from this Chapter:
- A. Proper use of weapons in a licensed shooting gallery;
 - B. Use by law enforcement or Animal Control Officers in the discharge of their official duties, or to persons who are authorized by law enforcement and have been issued a special access permit by the state department of game, fish, and parks for a specific area being hunted;
 - C. Use by persons at field archery courses on City property that conform to target course and safety requirements of the National Field Archery Association.
 - D. Fireworks in accordance with Chapter 8.06.
- 8.0502 Defenses. It shall be a defense to a charge of violation of this Chapter 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.

8.0503 Violation, Penalties. Any person guilty of having violated this Chapter shall be guilty of a Class 2 Misdemeanor and fined two-hundred dollars (\$200.00) per violation. Each violation of this Chapter shall constitute a separate offense.

Legislative History

Ordinance #264, Adopted 7/13/2020

Ordinance #314, Adopted 11/12/2022

Chapter 8.06 – Fireworks.

8.0601 Fireworks Prohibited-Exception. The use, throwing, lighting, firing, display, or sale of fireworks with the City shall only be authorized in accordance with SDCL Chapter 34-37 and this Code. The provisions of this chapter shall not apply to any person, firm, or corporation permitted by the City Council to discharge fireworks for public entertainment at any public celebration in the City.

8.0602 Permissible Hours/Dates. It shall be unlawful for a person to discharge fireworks within the City, except during the period beginning June 27th and extending through July 5th and during the period beginning December 31st and extending through January 1st. Fireworks may be discharged on those dates between the hours of 9:00 a.m. and 10:00 p.m., except for July 4th when fireworks may be used from 8:00 a.m. until 12:30 a.m. on July 5th and December 31st when fireworks may be discharged from 8:00 a.m. until 12:30 a.m. on January 1st.

8.0603 Public Safety Exception. Notwithstanding the terms of Chapter 9.0702, the City Council may in their discretion prohibit the use of fireworks in cases of extremely dry seasons in which a significant fire hazard exists.

8.0604 Violations. Any violation of this chapter shall result in a fine as established via resolution of City Council.

Legislative History

Ordinance #72, Adopted

Ordinance #205, Adopted 12/7/2015

Chapter 8.07 – Tobacco

8.0701 Definitions. The following definitions shall apply unless the context clearly indicates or requires a different meaning.

TOBACCO PRODUCT: Any product made or derived from tobacco that is intended for human use, including any component part, or accessory of a tobacco product. A tobacco product includes, but is not limited to, cigarettes, cigars, pipes, electronic smoking devices,

cigarette tobacco, roll-your-own tobacco, smokeless tobacco, and dissolvable tobacco.

ELECTRONIC SMOKING DEVICE: Any device that can be used to deliver an aerosolized solution that may or may not contain nicotine to the person inhaling from the devices, including, but not limited to, an e-cigarette, e-cigar, e-pipe, vape pen, e-hookah, or other simulated smoking device. Nicotine products approved by the United States Food and Drug Administration for tobacco cessation shall be allowed.

YOUTH ACTIVITIES: Activities in which the intended participants are those under eighteen (18) years of age.

- 8.0702 Conduct, Prohibited. No person shall smoke or carry lighted tobacco products in any form in any building or upon any premises or portion thereof where the owner or persons in charge thereof have posted signs declaring the building or premises or portion thereof to be smoke free or otherwise stating that smoking is prohibited.
- 8.0703 Locations, Tobacco Free. The use of tobacco products and electronic smoking devices is hereby prohibited in all vehicles owned, leased, or operated by the City; all City parks; all City buildings and facilities; and all City land.
- 8.0704 Fines, Violations. A violation of this Chapter shall be punishable by a fine not more than One Hundred Dollars (\$100.00) plus any court costs. Any person in violation of this Chapter may be removed from any facility, building, and/or park at which youth activities take place.

Ordinance #308, Adopted 9/12/2022

Chapter 8.08 – Alcohol Consumption in Parks

- 8.0801 Alcoholic Beverages, Prohibited. It shall be unlawful for any person to drink or consume any alcoholic beverages within the following areas in City Parks: playground areas and bathrooms. The consumption of alcohol shall be prohibited in any area of a City-owned park during school-sanctioned activities and youth events occurring in the park.
- 8.0802 Violation, Fee. The fee for a violation of this Chapter shall be twenty-five dollars (\$25.00) plus any court costs.

Ordinance #310, Adopted 10/11/2022

TITLE 9 – STREETS, SIDEWALKS, AND PUBLIC PLACES

Chapter 9.01 – General Provisions

Chapter 9.02 – Naming of Streets and Numbering of Buildings and Lots

Chapter 9.03 – Curb Lines and Grades

Chapter 9.04 – Excavations

Chapter 9.05 – Sidewalks

Chapter 9.06 – City Parks

Chapter 9.07 – Snow Removal

Chapter 9.08 – Street Oiling

Chapter 9.01 – General Provisions.

9.0101 Names of Streets. Pursuant to SDCL 9-45-2, the names of all streets in the City of Crooks shall be assigned and adopted in accordance with an official map of the City on file with the Finance Officer. Any such act of naming, renaming, establishing, or vacating any street, alley, or other public thoroughfare in the City shall be approved by the City Council, and shall be so designated on such official map.

All streets running east and west shall be designated as Streets and all streets running north and south shall be designated as Avenues. In addition, any street running northeast and southwest shall be designated as Lane, any street running northwest and southeast shall be designated as Drive, any street with two (2) openings which enters and exits on the same street shall be designated as Court, and all cul-de-sacs shall be designated as Circle. The City Council shall not authorize subdivision plats which use the name of Square, Ridge, Pass, Way, ~~Trail~~, or Place as a suffix for a street name.

9.0102 Address Numbering Plan. A numbering plan for lot addresses 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 with the Finance Officer. The Finance Officer shall be responsible for assigning new numbers, updating the list of such numbers, and updating of the location map.

9.0103 Deposits on Public Property Prohibited. No person shall shovel or deposit snow, leaves, materials, or other substances of any kind and description from private property onto any public street, alley, or public right-of-way.

- 9.0104 Building on Public Property Prohibited. No person may erect or maintain any building or structure in a location or position that the building or structure shall stand, in whole or in part, upon any public street, road, alley, sidewalk, or public right-of-way.
- 9.0104 Trees. No person may plant or maintain any type of tree closer than six (6) feet from the lot line of any lot within the City. Further, all trees shall be kept trimmed so that no limbs thereof project over a sidewalk at an elevation of less than eight (8) feet above the level of the sidewalk, or over a public street at an elevation of less than fourteen (14) feet above the level of the street. (See Chapter 7.0504)
- 9.0105 Drainage. No person shall erect, build, construct, maintain, deposit, or place any structure or device of any kind that restricts the flow of drainage on City streets on or adjacent to the street curb or that impedes drainage in any way.

Chapter 9.02 – Naming of Streets and Numbering of Buildings and Lots.

Legislative History

Ordinance #36, Adopted 2/7/1983

Chapter 9.03 – Curb Lines and Grades.

- 9.0201 Curb Lines. The curb lines in the City of Crooks heretofore established by ordinances of the City and as shown and set forth on plats on file in the office of the ~~Turner~~ Minnehaha County Register of Deeds, as of the date of adoption of this Code, are hereby established and adopted as the official curb lines in the City and said plats are hereby incorporated herein by reference with the same full force and effect as though set forth at length herein.
- 9.0202 Street Grades. The center line grade on the public streets hereinafter named shall be and are hereby established as follows:

Florida Street: (First Street) East line of Outlot 46	96.20
West line of Lincoln Avenue	98.00
East line of Lincoln Avenue	99.00
West line of Broadway	
	97.00
West line of Cedar Avenue	95.50
East line of Cedar Avenue	95.00
West line of Juniper Avenue	91.50
East line of Juniper Avenue	90.96
West line of Main Avenue	90.00

East line of Main Avenue		
	90.00	
West line of Poplar Avenue		91.80
East line of Poplar Avenue		91.00
Second Street		
East line of Sub lot "G"		
	98.75	
West line of Lincoln Avenue		97.75
East line of Lincoln Avenue		97.50
West line of Broadway		
	97.40	
150' east of east line of Lincoln Avenue		98.00
East line of Broadway		
	96.90	
West line of Cedar Avenue		95.76
East line of Cedar Avenue		95.50
West line of Juniper Avenue		94.36
East line of Juniper Avenue		94.11
West line of Main Avenue		93.00
East line of Main Avenue		
	91.00	

Lincoln Avenue

200' south of north line of Outlot 48	97.00
North line of Outlot 48	95.10
South line of Second Street	97.00
North line of Second Street	98.00
South line of First Street	99.00
North line of First Street	98.50
South line of Florida Street	97.40
North line of Florida Street	97.40

Broadway Avenue

South line of Block "E"	102.50
100' north of south line of Block "E"	103.00
25' north of south line of Block "C"	95.50
South line of Fourth Street	97.60
North line of Fourth Street	98.60
South line of Third Street	98.60
North line of Third Street	97.40
Center line of alley east of Second Street	98.00
South line of First Street	97.60
North line of First Street	97.00
South line of Florida Street	97.40

North line of Florida Street	97.20
753' north of north line of Florida Street	92.30
167' south of south line of State Street	94.50
South line of State Street	92.90
North line of State Street	92.20
350' north of north line of State Street	89.50
Cedar Avenue	
South line of Block "E"	99.00
170' north of south line of Block "F"	97.30
50' north of south line of Block "G"	94.30
250' north of south line of Block "G"	93.50
50' north of south line of Block "I"	96.00
South line of Fourth Street	94.80
North line of Fourth Street	94.80
South line of Third Street	95.80
North line of Third Street	95.80
Center line of alley of Block 17	96.80
South line of Second Street	95.80
	North line of Second Street
	95.50
	Center line of alley of Block 6
	95.00
	South line of First Street
	95.50
	North line of First Street
	95.50
	150' north of north line of First
Street	96.00
Main Avenue	
	North line of Third Street
	94.00
	150' north of north line of
Third Street	95.00
	South line of Second Street
	93.00
	North line of Second Street
	92.50
	200' north of north line of
Second Street	89.00
	South line of First Street
	89.50
	North line of First Street
	90.00

Street	150' north of north line of First	93.00
First Street	300' northeast of north line of	94.00
Juniper Avenue	North line of Third Street	93.00
	South line of Second Street	94.40
	North line of Second Street	94.40
Second Street	150' north of north line of	93.80
	South line of First Street	91.50
	North line of First Street	91.50
Street	150' north of north line of First	91.00
Broadway Avenue	North line of State Street	93.00
Street	South line of Washington	90.00
Street	North line of Washington	89.50
Washington Street	580' north of north line of	85.00
Nebraska Avenue	North line of State Street	95.00
Street	South line of Washington	93.60
Street	North line of Washington	93.10
Florida Street	200' west of east line of Sub-	93.00
lot "K"	East line of Sub lot "K"	93.50
"K"	300' east of east line of Sub lot	96.18
	West line of Lincoln Avenue	96.92

	East line of Lincoln Avenue	97.10
	West line of Broadway	98.14
Third Street	East line of Broadway Avenue	98.60
	West line of Cedar Avenue	95.80
	East line of Cedar Avenue	95.00
	West line of Juniper Avenue	93.00
	East line of Juniper Avenue	93.00
	West line of Main Avenue	93.60
Washington Street	East line of Broadway Avenue	93.00
	East line of Outlot 32	93.50
	West line of Dakota Street	94.33
	East line of Dakota Street	94.33
Broadway Avenue	900' east of east line of	95.40
	West line of Nebraska Avenue	93.60
State Street	East line of Broadway Avenue	94.00
Broadway Avenue	1,000' east of east line of	97.00
	West line of Nebraska Avenue	95.40

The datum plan from which all elevations herein described was previously established in the 2002 Revision of the Certain Ordinances of the City of Crooks, South Dakota, as being one hundred (100) feet below the top of the water table at the southwest corner of the intersection of Broadway Avenue and Florida Street.

The proper vertical curves are to be constructed at all points of the intersecting grades on the center lines of the street described herein.

Chapter 9.03 – Excavations.

9.0301 Permit Required. No person shall make or cause to be made any excavation except as hereafter provided, in or under any street, sidewalk, alley, or public ground or remove any earth, soil, paving, gravel, or materials therefrom without first having obtained a permit to do so from the ~~City Council~~Authorized Official.

9.0302 Application-Required Information. Any person before receiving a permit to make excavations or remove any soil, earth, paving, gravel, or material from any street, parking lot, alley, sidewalk, right-of-way, or other public ground shall provide the Finance Officer a list of all excavations that he or she wishes to perform pursuant to the permit. This list must be supplied prior to the issuance of the permit. Any modifications thereto may either be made to the permit or require an additional permit at the discretion of the Finance Officer.

If at any time the work for which the permit was issued has not been properly refilled, the excavator shall be notified in writing that the work must be put in satisfactory condition within three (3) days and if the excavator fails to comply with the terms of the notice, then the City shall cause such work to be done in a proper and satisfactory condition and shall charge the expense therefore to the permittee. If the permittee fails to pay the full total of all charges due, the City may pursue all legal remedies to recoup such funds.

9.0303 Application Fee. As part of the license application, an administrative fee shall be assessed in an amount set by resolution of the City Council. The ~~City Council~~Authorized Official shall not approve or deny an application until the license fee has been paid in full.

9.0304 Cutting Pavements. Where pavement is cut in making any street excavation, such pavement shall be replaced by the contractor and the contractor or person making such excavation shall pay for and be liable for the cost of such replacement. If the contractor fails to repair the pavement within the dates, times, or duration stated on the permit, the City shall arrange to repair the pavement and the contractor must reimburse the City for the cost of the repair.

9.0305 Protection of Public. Any person performing excavations within any street, alley, sidewalk, or public ground shall, during the progress and continuance of the work, erect, keep, and maintain about and around the excavation during both day and night, suitable guards, fences, warning lights, and signals as described in the latest version of the Manual of Uniform Traffic Control Devices published by the Federal Highway Administration to prevent injury to persons, animals, or vehicles as a result of such excavations. Any person making such excavation shall, when the excavation is completed, promptly and without delay, backfill the excavation in accordance to the standards stated on the permit.

- 9.0306 Interfering with Barricades. No person shall move, interfere with, break, destroy, or carry away any barricades or safety devices used by the City or any excavator to guard unsafe or dangerous places until the excavation is fully repaired and restored in a manner acceptable to the City.
- 9.0307 Excavator's Responsibility. The excavator shall coordinate with the City for street or alley construction, rebuilding, resurfacing, and repair to minimize multiple disturbances of the same area. The excavator shall leave the city property and right-of-way in as good and safe condition as it was before the commencement of work by the excavator, its agents and contractors, and shall repair and restore any city property or right-of-way which is disturbed, damaged, or injured by construction, maintenance, or operations of the excavator. The ~~City Operations Superintendent~~ Authorized Official shall determine whether adequate repair and restoration has been completed by the excavator. In the event the excavator fails to repair or restore affected city property or right-of-way in a manner acceptable to the City, the City may, after allowing the excavator a reasonable period to complete the repair and restoration, make such repairs and restoration and the excavator shall pay the costs incurred by the city for such repairs and restoration.
- 9.0308 Duration of Street or Alley Closures. The dates, time, and duration of any street or alley closures shall be stated on the permit and will be subject to approval by the City Council. Requests for changes to such dates, times, or duration of street or alley closures stated on the permit must be made in writing to the City Operations Superintendent prior to expiration of the permit.
- 9.0309 Warranty. The excavator is responsible for workmanship, materials, trench settlement, or any other deficiencies caused by their work during the corrective period of five (5) years following excavation, and the contractor shall repair and/or replace all deficiencies during the corrective period at no cost to the City. Any surface restoration costs incurred because of the repairing and/or replacing of deficiencies shall be solely borne by the excavator.
- 9.0310 Violations and Enforcement. In addition to the general penalties prescribed in Chapter 1.08 of this Code, the City may in addition to other remedies, institute injunction or other appropriate actions or proceedings to prevent such unlawful excavation or construction, and may also correct or abate such violation.

Legislative History

Ordinance #35, Adopted 3/10/1983

Chapter 9.04 – Sidewalks.

- 9.0401 Cement Sidewalks Required. All sidewalks hereafter installed or maintained in the City of Crooks shall be constructed from cement using good and practical engineering and drainage standards and shall be approved by the City Council prior to commencement of construction.
- 9.0402 Specifications. All sidewalks shall be built or maintained on the established grade of its adjacent street. Sidewalks shall be of a width established by the City Council, but shall in no case be

narrower than ~~five~~ four (45) feet. Additionally, all new sidewalk construction shall be in accordance with applicable Americans with Disabilities Act requirements and any Design Standards as adopted by the City.

- 9.0403 Responsibility to Maintain. Any property owner who fails to keep the sidewalk(s) fronting or abutting his or her property in good condition shall be liable for any damage(s) or injury caused by the lack of maintenance.
- 9.0404 Removal of Snow and Ice from Sidewalks. It shall be the duty of the owner, tenant, or person in possession of any property abutting on any sidewalk to keep such sidewalk free from snow and ice and to clean or remove any accumulated snow or ice from such sidewalk within forty-eight (48) hours after the conclusion of every fall or accumulation of snow or ice.
- 9.0405 Removal of Snow and Ice from Proximity of Mailbox. It shall be the duty of the owner, tenant, or person in possession of any property upon which any mailbox is affixed to keep the immediate area around such mailbox free from snow and ice in such a manner so as not to obstruct or interfere with the delivery or collection of the United States mail, and to remove or cause to be removed all accumulation of snow or ice within forty-eight (48) hours after every fall or accumulation of snow or ice.
- 9.0406 Removal of Snow and Ice from Proximity of Fire Hydrants. It shall be the duty of the owner, tenant, or person in possession of any property upon which any fire hydrant is affixed to keep the immediate area around such fire hydrant free from snow and ice in such a manner so as not to obstruct or interfere with access to the fire hydrant, and to remove or cause to be removed all accumulation of snow or ice within forty-eight (48) hours after every fall or accumulation of snow or ice.
- 9.0407 Disposal of Snow and Ice. It shall be the duty of the 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 or ice when removed shall not be deposited upon any sidewalk or within or upon any public street or alley, or in a manner that will obstruct or interfere with the passage or vision of vehicle or pedestrian traffic.
- 9.0408 Sanding Sidewalks. In an event that snow or ice on a sidewalk have become so hard that such accumulation cannot be removed without the likelihood of damage to the sidewalk, the owner, tenant, or person in possession charged with the removal of such accumulation, within forty-eight (48) hours, cause enough sand or other abrasive to be put on the sidewalk to make travel thereon reasonably safe and shall then, as soon thereafter as weather permits, remove, or cause to be removed all accumulation of snow or ice within forty-eight (48) hours.
- 9.0409 Snow Removal by City. If the owner or person in possession of any lot, house, or other building, or the person having in his or her charge any school-house, church, or other public building, abutting on any sidewalk, fails to remove the snow and ice from such sidewalks within the time above specified, the City may have the snow and ice removed at the property owner's expense

and charge the cost thereof against the abutting property each time the snow and ice are so removed. Nothing in this subchapter shall be interpreted as preventing the enforcement of this Code pursuant to Chapter 1.08.

- 9.0410 Costs Assessed. In the event any owner, tenant, or person in possession of any property shall neglect or fail 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.

Legislative History

Ordinance #250, Adopted 9/9/2019

Chapter 9.05 – City Parks.

- 9.0501 Registration Required. It shall be unlawful for any person to camp within the City parks unless he or she registers with the Finance Officer. Registration must be complete prior to the first (1st) night that he or she wishes to camp in the parks.
- 9.0502 Camping Approval and Rates. Any person wishing to camp within the City parks for more than seven (7) days shall be charged a rate for camping in an amount set by resolution of the City Council.
- 9.0503 Parks Not to be Used as Residence. As part of the grant of permission to camp within the City parks, the person or persons camping shall expressly agree that they are merely a visitor and will not be maintaining a permanent or semi-permanent residence. This provision shall be included as part of the registration required in Chapter 9.0501.
- 9.0504 Reservations. The City parks and/or facilities may be made available for the exclusive use of persons and groups by reservation with the City. See Chapters 9.0507 and 10.0508 for organized activities reservations.
- 9.0505 Injuring Park Property. Littering, damaging, or defacing buildings, equipment, or other city property located within a park is prohibited and shall be grounds for immediate expulsion.
- 9.0506 City Sponsored Events. All City sponsored events within the city parks take precedent over any other event.
- 9.0507 Organized Activities Defined. An organized activity is defined as any game, tournament, contest, or other activity in which more than twelve (12) persons participate, and in which the time, place, and rules for participation have been pre-determined by either the participants or any other person or organization. The wearing of uniforms by players shall constitute evidence of organized activity.

~~9.0508 Use of Park for Organized Activities. The use of any city park for an organized activity must be approved by the Parks Committee with a fourteen (14) day advance notice and may be scheduled no more than one (1) year in advance. The amount of any fees for the use of parks and park facilities operated by the City shall be set by resolution of the City Council.~~

~~9.0509~~9.0508 Inspection and Closure of Park. Any park, facility, or portion thereof, may be inspected and declared closed to the public at the direction of the ~~City Operations Superintendent~~Authorized Official at any time and for intervals of time, either temporarily or at regular and state intervals (daily or otherwise) for reasons including, but not limited to: (1) public liability; (2) damage to buildings, equipment, or other city property; (3) public service; and/or (4) public health. Such closure may be partial, so as to limit certain activities, as the City may reasonably find necessary.

Legislative History

Ordinance #41, Adopted 9/7/1983

Chapter 9.06 – Snow Removal.

9.0601 Removal of Snow. It shall be unlawful for a property owner, tenant, or person in possession of any private driveway, parking lot, or parking area within the City to dispose of accumulated snow by relocating it to any public street, alley, or right-of-way, or do so in any manner that will obstruct or interfere with the safe passage or vision of vehicles or pedestrians.

9.0602 Removal Costs Assessed. If the property owner, tenant, or person in possession of any private driveway, parking lot, or parking area within the City disposes of accumulated snow in a manner contrary to the requirements of Chapter 9.0601, the City may remove any illegally relocated snow at the property owner's expense and charge the cost thereof against the property each time such illegal disposal is removed. Nothing in this subchapter shall be interpreted as preventing the enforcement of this Code pursuant to Chapter 1.08.

9.0603 Parking of Vehicles on Streets after Snow Alert Prohibited. If he or she deems it necessary to protect the health and safety of the public, the City Operations Superintendent may declare a snow alert to expedite the removal and cleaning of snow. During the snow alert, it shall be unlawful for any person to park any vehicle upon the streets, alleys, or public rights-of-way for a period of twenty-four (24) hours following such snowfall, or until snow removal operations have been completed, whichever event shall occur first. Parking, if otherwise lawful, may resume on of any such street, alley, or public right-of-way, or portion thereof, on which snow removal operations have been completed.

9.0604 Removal of Vehicles; Authorization. Vehicles parked on a street, alley, or public right-of-way which has not been plowed in conformance with Chapter 9.0603 are subject to a fifty-dollar (\$50.00) parking ticket plus any court costs, and the vehicle may be towed.

- 9.0605 Removal of Vehicles; Recovery. No person shall recover any vehicle towed in accordance with Chapter 9.0604 except as provided therein. Before the owner or person in charge of such vehicle shall be allowed to recover it from the place where it has been placed or impounded, he or she shall present to a member of the city's contracted police department evidence of his or her identity and right of possession of said vehicle, shall sign a receipt for its return, shall pay the cost of any fine, removal charges, and storage fees. Until paid, these charges constitute a lien on the vehicle, which may be enforced in accordance with the provisions of South Dakota law.
- 9.0606 Removal of Vehicles; Record. It shall be the duty of the city's contracted police department to keep a record of each vehicle removed in accordance with Chapter 9.0604. The record shall include a description of the vehicle, its license number, the date and time of its removal, where it was removed from, its current location, the name and address of its owner, if known, its final disposition, and the parking violation involved.

Legislative History

Ordinance #13, Adopted 10/4/1979

Chapter 9.07 – Street Oiling.

- 9.0701 Street Surfacing for New Street Oiling or Paving and Oiling and Paving on Previously Unpaved or Oiled Streets – Costs to be Assessed to Owners. The initial hard surface oiling or paving of new streets, or streets that have not been previously oiled, shall be at the expense of the owners of the properties abutting the streets to be surfaced, with materials to be approved by the City Council. The initial street oiling or paving shall be a double coat the first (1st) year and a single coat the following year. Total costs of 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 such street or alley intersection shall be assessed on a front foot basis to all lots or property included within the project area.

The property owner or owners shall petition the City Council pursuant to the provisions of SDCL 9-43 and/or SDCL 9-45 prior to the City approving any street oiling for new streets or streets that have not been previously oiled or paved.

TITLE 10 – MUNICIPAL UTILITIES

Chapter 10.01 – Public Utilities Generally

Chapter 10.02 – Water Service Regulations

Chapter 10.03 – Sewer Service Regulations

Chapter 10.04 – Discharges into Municipal Wastewater System

Chapter 10.05 – Municipal Natural Gas Utility System

Chapter 10.01 – Public Utilities Generally.

10.0101 General Provisions. The city-owned public utilities of the City of Crooks are its [natural gas](#), water and sewer systems. The City reserves the right and power to amend this Title as needed, and the rates and charges herein specified may be increased or decreased, provided that as so amended, the gross receipts of the systems shall be sufficient each year to pay all costs of their

operation and maintenance, depreciation, principal and interest on indebtedness therefor, and reserves as required.

10.0102 Service Connections- Fees Required. The fee per connection to the municipal water and sewer system (“Water/Sewer Tap fee”) shall be set by resolution as determined by City Council. The fee per connection to the municipal natural gas system (“Natural Gas Tap fee”) shall be set by resolution as determined by City Council. The fee shall be collected upon issuance of a building permit for a new structure and in instances of currently existing structures without a connection prior to the connection. The Water/Sewer Tap fee shall be deposited fifty percent (50%) into the Water (602) fund and fifty percent (50%) into the Sewer (604) fund. The Natural Gas Tap fee shall be deposited in its entirety into the Natural Gas (617) fund.

The fee established in this section shall be established per connection to the natural gas, water and sewer systems. In cases of single-family residential or small businesses with only one connection, only one fee will be assessed. In instances of buildings or facilities with multiple units, each having their own connections, the fee established will be assessed per unit.

Ordinance 275 – Adopted 6/14/2021

Ordinance 316, Adopted 12/29/2022

10.0103 Connection Fees-Use of Revenue. Any revenues received pursuant to this Chapter may be used for capital expansions or replacements of the water or sewer system, major repairs and maintenance of the water or sewer system, and debt service payments ~~made out of~~made from the Water (602) fund or Sewer (604) fund.

Ordinance 275 – Adopted 6/14/2021

Ordinance 306 – Adopted 8/8/2022

10.0104 Utility Service. Any person desiring initial activation of an existing service connection with the city-owned public utility systems shall apply for service on a form provided by the City. The application shall include the applicant’s name, the name of the property owner (if different), the address of the dwelling or property for which the service is requested, and any and all documentation showing that the applicant has legal authority to seek activation of public utility services at the dwelling or premises. A separate application shall be made for each building or premises to be served. No service connection shall be activated until the service deposit required in Chapter 10.0104, and Chapter 10.0105 if applicable, has been fully paid or billed.

~~10.0104~~10105 Activation Deposit. Along with the application for utility service, an applicant shall be required to pay the City a deposit for natural gas service and water service as established, from time to time, by resolution of the Crooks City Council. Deposits shall be charged on customer’s first utility bill. No deposits may be waived.

The utility deposits shall be credited towards the final bill upon termination of municipal utility services at the location indicated on the application by the customer. Any excess deposit will

be refunded to the customer in the form of a check or direct deposit after approval at the regular monthly meeting following the termination of services. Excess deposit amounts shall be disbursed in form of a check or direct deposit.

~~10.0105 — Renters; Activation Deposit. In addition to the activation deposit charged to the property owner customer pursuant to Chapter 10.0104, new renters moving into homes or apartments in the City of Crooks shall be required to pay a separate activation deposit of an amount set by resolution of the City Council. In the event the renter moves out before the amount of their outstanding water and/or sewer bill(s) equals the amount of their deposit, the difference shall be refunded to the renter customer. If a bill is not paid in full by a renter, it is the responsibility of the property owner customer to pay the bill before water and/or sewer service is restored to the property.~~

~~10.0106~~106 Utility Service Not Available to Debtors. The City may decline or fail or cease to furnish utility service to any person who may be in debt to the City for any reason, except ad valorem taxes and special assessments.

~~10.0107~~107 Water and Sewer Rates. ~~The following rates are hereby established~~City Council will establish rates via resolution for the water consumers and sewer users connected to the municipal water and sewer systems ~~of the City effective beginning the Month of January 2020.~~

Gallons Used	Water	Sewer	Total
2,000	27.05	42.40	69.45
3,000	31.55	44.00	75.55
4,000	36.05	45.60	81.65
5,000	40.55	47.20	87.75
6,000	45.05	48.80	93.85
7,000	49.55	50.40	99.95
8,000	54.05	52.00	106.05
9,000	58.55	53.60	112.15
10,000	63.05	55.20	118.25
11,000	67.55	56.80	124.35
12,000	72.05	58.40	130.45
13,000	76.55	60.00	136.55
14,000	81.05	61.60	142.65
15,000	85.55	63.20	148.75
16,000	90.05	64.80	154.85
17,000	94.55	66.40	160.95
18,000	99.05	68.00	167.05
19,000	103.55	69.60	173.15
20,000	108.05	71.20	179.25

~~All water in excess of 20,000 gallons shall be at the rate of \$4.40 per one thousand (1,000) gallons. All sewer in excess of twenty thousand (20,000) gallons shall be at a rate of \$1.60 per one thousand (1,000) gallons. The foregoing rates shall apply to locations within the city limits~~

~~and those outside of city limits for water and sewer consumption for one (1) month period for residential users and commercial usages.~~

~~Beginning January 2020 and thereafter, the water and sewer rates shall be adjusted annually in conjunction with the State of South Dakota consumer price index (CPI).~~

10.01070108 Payment/Delinquency/Deactivation/Restoration of Service. Bills for city-owned public utility services are net, due, and payable on the fifth (5th) day of the month. A consumer bill shall be considered delinquent if any such bill is not paid by the fifth (5th) day of the month, provided, however, when the due date falls on a weekend or holiday, the bills will not be delinquent until the start of the next regular business day. Bill payments must be received by the City of Crooks on the due date; postmarks, payment initiations via vendor in electronic form, and other payment attempts are not considered ~~on~~ timely payment. Service will not be reactivated until all charges due are paid, including all late penalty charges and a reactivation fee of an amount set by resolution of the City Council. The current and past due charges are indicated on the utility bill forms furnished by the City of Crooks. The City of Crooks, at its discretion, may adopt additional forms of notification for past due amounts.

If utility bills are not paid in full, they shall be considered delinquent and subject to disconnection of services. All past due amounts must be received by the twentieth (20th) of the following month. Failure to submit payment by the twentieth (20th) of the following month shall result in disconnection on the next business day following the twentieth (20th). If the 20th day falls on a Friday, weekend, or a holiday, the payment must be received at 8:00 a.m. on the next regular business day.

Reactivation of services shall only be made between the hours of 8 a.m. and 5 p.m., excluding weekends and holidays. The reconnect fee shall be established via resolution of the Crooks City Council. The reconnect fee shall be assessed immediately after services have been discontinued due to non-payment. Services will only be reconnected after payment of full outstanding balance plus applicable late fees and reconnection fee have been made; no partial payments or payment arrangements can be made once services have been disconnected.

The owner of the 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. These provisions shall apply equally to the owner of the property as well as the consumer, lessee, or occupant.

10.01080109 Service Charge for Bad Checks. The Finance Officer is hereby authorized to assess and collect a service charge for every check that is returned for non-payment because of insufficient funds, the account has been closed, or for any other reason that payment is not made. The amount of such charge shall be set by resolution of the City Council.

10.~~0109~~0110 Cash Only Accounts. The Finance Officer is hereby authorized to designate certain accounts be “cash only” when he or she reasonably believes such a step is necessary to secure payment. For purposes of this chapter, “cash only” shall mean that the City shall accept only physical currency and not payment through any other method.

10.~~0110~~0111 Termination of Service. The City shall have the right to disconnect or refuse to connect any municipal utility service for the following reasons (SDCL § 9-47-1):

- A. Failure to meet the applicable provisions of the law;
- B. Violation of the rules and regulations pertaining to utility services;
- C. Nonpayment of bills;
- D. Willful or negligent waste of service due to improper or imperfect pipes, fixtures, appliances, or otherwise;
- E. Tampering with any meter, seal, or other equipment controlling or regulating the supply of the utility service;

F. Theft or diversion and/or use of service without payment thereof;

~~F.G.~~ Willful denial to reasonable access to utility infrastructure; or

~~G.H.~~ Vacancy of premises.

The City shall give the municipal utility service customer at least ten (10) days’ notice of the termination of municipal utility service. At any time before the date of termination, a customer may dispute the correctness of all or a part of the amount shown on the utility bill or the determination that a violation of this Section has occurred giving rise to termination hereunder. A customer shall not be entitled to dispute the correctness of all or a part of the amount shown on the municipal utility bill if all or a part of the amount shown were the subject of a previous dispute under this Chapter.

10.~~0111~~0112 Customer Disputes. The procedure for customer disputes shall be as follows:

- A. Before the date of deactivation, the customer shall notify the Finance Officer, either orally or in writing, that he or she disputes all or a part of the amount shown on the public utility bill or the City’s determination that a violation of this Title has occurred and the basis for the dispute.

- B. If the Finance Officer determines that the present dispute is untimely or invalid pursuant to Section 10.~~0110~~0111 above, the Finance Officer shall notify the customer and proceed as if the customer had notified the municipal utility of the dispute.
- C. If the Finance Officer determines that the present dispute is timely and valid pursuant to Section 10.~~0110~~0111 within three (3) days after the receipt of the customer's notice, the Finance Officer shall arrange an informal meeting between the customer and the Finance Officer.
- D. Based upon the municipality utility's records, the customer's allegations and all other relevant materials available to the official, the Finance Officer shall resolve the dispute, attempting to do so in a manner satisfactorily to both the municipal utility and customer.
- E. Within five (5) business days after the meeting, the Finance Officer shall mail to the customer a copy of the Finance Officer's decision resolving the dispute.
- F. If the decision is unsatisfactory to the customer, within five (5) business days of receipt of the decision, the customer may request, in writing, a formal hearing before City Council. The customer shall be responsible for all costs of the public hearing notice.
- G. The formal hearing shall be held within thirty (30) days of the receipt of the request.
- H. At the hearing, the municipal utility and the customer are entitled to present ~~all~~ evidence that is, in the City Council's view, relevant and material to the dispute, be presented by counsel, and examine and cross-examine witnesses.
- I. Based upon the record established at the hearing, the City Council shall issue its written decision formally resolving the dispute which shall be final and binding upon the municipal utility and the customer.

Utilization of this dispute procedure shall not relieve a customer of his or her obligation to timely and completely pay any amount required by the City Council's decision and any additional bills incurred during the time period of the customer dispute. Failure to pay shall subject the customer to deactivation.

10.~~0112~~20113 Termination After Customer Disputes. Until the date of the ~~City Operations Superintendent's~~Authorized Official or the City Council's decision, whichever is later, the City shall not terminate the city-owned utility services of the customer and shall not issue a notice of termination solely for nonpayment of the disputed bills. If it is determined that the customer shall pay some or all of the disputed amounts, the City shall promptly mail to or personally serve upon the customer a notice of termination containing the following:

- A. The amount to be paid;

- B. Date of notice of termination;
- C. Date of termination which shall be at least five (5) business days after the date the notice of termination is sent to the customer; and
- D. Notice that unless the City receives complete payment of the amount shown prior to the date of termination, city-owned utility services shall be terminated.

10.011~~34~~ Voluntary Termination of Services. It shall be the responsibility of the property owner to notify the City if he or she wishes city-owned public utility services to be shut off or terminated for a period of one (1) month or more. If the City is not notified, the property owner shall be financially responsible for paying all bills incurred. A fee for the reactivation of city-owned public utility services shall be set by resolution of the City Council. Reactivation of services shall only be made between the hours of 7:30 a.m. and 4:30 p.m., excluding weekends and holidays. Voluntary termination of services does not waive any fixed charges or unpaid amounts.

10.~~01140~~115 Disconnection. The property shall be responsible for disconnecting his or her private service lines and facilities from the city-owned utility system if he or she wishes to permanently terminate services to the building or premises. All disconnections shall be inspected and approved by the City Operations Superintendent. In the event the owner fails to do so, after ten (10) days' notice, the City may do so and assess costs against the property.

10.~~01150~~116 Excavation Requirements. All excavations required for and to connect with any city-owned utility service shall be open trench work or ditch, unless otherwise approved by the City's designated utility personnel ~~Council~~. The City Operations Superintendent, or his or her designee, shall be allowed to inspect the work at any stage of construction. Any person seeking to connect to city-owned utility services shall notify the City when the work is ready for final inspection and before underground portions are covered.

10.~~01160~~117 Emergencies/Restricting Use. The City reserves the right to at any time restrict or prevent the use of any city-owned utility service due to backflow of the sewage system, failure of water supply, interruption of service, emergency, or from any other cause outside the direct control of the City.

10.~~01170~~118 City-Extension of LinesResponsibility. Tapping of any water or sewer main for the purpose of making connection shall be done only by authorized personnel of the City. Distribution or collection mains shall be provided at the discretion of the City Council, in streets, avenues, or alleys abutting the property to be served. Water and sewer facilities for hookups shall be provided, unless otherwise specified by the Council, to the curb line from the distribution or collection main. Extension of distribution or collection mains shall be only as specified by the Council in its discretion.

Any property owner may petition for a new hookup or connection to any city water and sewer line. The City Council, in its discretion, may allow such connection or hookup provided that the petitioning property owner pays the cost for said hookup or connection from the point it joins the City distribution or collection main for the total frontage to the petitioning property owners' lot line. This shall hereinafter be referred to as the extension line. The City Council may require said extension line to the farthest end of the petitioning property owners' lot line.

Any additional property owners desiring hookups from the extension lines thus paid for by the petitioning property owners shall reimburse the petitioning property owner for their pro rata share of the actual costs as provided herein. The pro rata share of the actual costs shall be determined by multiplying the actual costs by a fraction, the numerator of which is the total front footage of the additional property owner desiring a hookup from the extension line and the denominator of which is the total front footage provided by the extension line which was paid for by the petitioning property owner. Said charge to be paid by the additional property owners desiring hookups shall be payable only for the benefit of the petitioning property owner, and shall not run with the land. The actual costs referred to herein shall be documented by the petitioning property owner by paid receipts filed in the office of the City Finance Officer. The City shall only be responsible for the creation and maintenance of the city-owned public utility network up to the locations described herein. For new developments that are outside the City's existing utility service network, the City shall be responsible for bringing the city-owned utility services to the property owner's lot line. For existing developments and those other areas already served by the City's existing utility service network, the City shall be responsible for bringing the city-owned utility services to curb stop of the property to be serviced. The costs of doing so are designed to be paid for, at least in part, by the applicable service connection fee(s) charged in Chapter 11.0102. The City may serve water or sewer customers outside the municipal corporate limits solely at the discretion of the City Council. Said water and sewer lines shall be constructed and maintained by the customer, with all parties connecting onto such lines being regulated and charged connection and other fees as set forth via resolution of City Council.

10.01180119 Liability of City. The City shall not be liable for any damage to the property of any customer of any city-owned utility service due to backflow of the sewage system, failure of water supply, interruption of service, emergency, or from any other cause outside the direct control of the City.

10.01190120 Utility Service; Use Assumed. All buildings or premises connected to any city-owned utility service shall be assumed to be using the service and the owner or occupant shall be charged therefor as long as the premises shall remain connected with the utility service. For purposes of this section, the term "connected" shall mean a physical connection exists between the city-owned utility system and the property's utility facilities. Additionally, for water services, a water meter must be located on the property.

10.01200121 Right of Entry for Inspections. Any person authorized by the City shall have free access at any time to all buildings and properties supplied with any city-owned utility service for the

purpose of reading the water meter, general inspection, or testing of equipment and related apparatuses.

10.012~~24~~ Damage/Trespass of Equipment. It shall be unlawful for any person, not having authority or permission from the City Council or designated City personnel, to open any water hydrant or tamper with any city-owned utility service equipment or apparatuses furnished by the City to its customers, or to in any way molest, damage, or trespass upon any equipment or premises belonging to the City connected with any such service.

10.012~~32~~ Unlawful Use. No person, other than those authorized by the City Council or designated City personnel, shall connect, turn on, turn off, or disconnect any city-owned utility service offered by the City, or remove, replace, or repair any equipment or apparatus connected to any such service.

10.012~~43~~ Interruption of Service. Customers of any city-owned utility service are hereby notified that the supply of the utility may be temporarily shut off at any time. Notice shall be given, if feasible, of the contemplated shutoff, but accidents may render this impossible; hence the City hereby warns those dependent upon its utility services for any purpose of this hazard. Immediately upon finding the supply shut off it becomes the duty of the occupant of the premises to take prompt precautions to prevent damages.

10.012~~54~~ Transfer of Service. It shall be unlawful for any customer to resell or transfer any city-owned ~~u~~ utility service or capacity therefor to others except upon written agreement with the City Council.

If a customer moves within the service area to a new location at which services are furnished by municipal utility; each new address shall be considered a separate application and subject to an activation~~utility~~ deposit.

10.012~~64~~ Violations. The City may, in its discretion, notify any person violating any provision of this Title with written notice stating the nature of the violation and providing a reasonable time for the correction thereof, but such notice shall not be necessary for the prosecution of any violators hereof.

Any person, whether receiving such notice or not, violating any provision of this Title shall be liable to the City for any expense, loss, or damage, occasioned by City by reason of such violation. All provisions of this Title shall be subject to applicable state and federal law.

10.012~~75~~ Surcharges.

Clean Water – 04 (“CW-04): In addition to the normal sewer system user fee, the City hereby establishes a surcharge of \$9.20 payable by all users of the Sewer System for the project financed by CW-04 loan with the borrower bond Series 2021. The collection of the surcharge shall start on September 10, 2021. The surcharge shall remain in effect until such time as the

borrow bond is paid in full, it shall be collected at the same time as other charges of the system, and establish a surcharge account to segregate the income from other system income for bookkeeping purpose to be pledged to the South Dakota Conservancy District. The surcharge shall be reviewed from year to year and modified in order to provide the required one hundred and ten percent (110%) debt coverage.

Clean Water – 05 (“CW-05”): In addition to the normal sewer system user fee, the City hereby established a surcharge of four dollars (\$4.00) payable by all users of the Sewer System for the project financed by CW-05 loan with the borrower bond Series 2022. The collection of the surcharge shall start on August 5, 2022. The surcharge shall remain in effect until such time as the borrower bond is paid in full. It shall be collected at the same time as other charges of the system, and establish a surcharge account to segregate the income from other system income for bookkeeping purpose to be pledged to the South Dakota Conservancy District. The surcharge shall be reviewed from year to year and modified in order to provide the required one hundred and ten percent (110%) debt coverage.

Drinking Water – 03 (“DW-03”): In addition to the other charges, the City hereby establishes a surcharge of fourteen dollars and twenty five cents (\$14.25) payable by each customer of its system who receives or benefits from the services of the project financed by the DW-03 loan with the borrower bond. The collection of the surcharge shall start on January 1, 2024. The surcharge shall remain in effect until such time as the borrower bond is paid in full, it shall be collected at the same time as other charges of the system and establish a surcharge account to segregate the income from other system income for bookkeeping purposes to be pledged to the South Dakota Conservancy District. The surcharge shall be reviewed from year to year and modified in order to provide the required one hundred and ten percent (110%) debt coverage.

10.012~~7~~⁶ Base Rate Charged. The base rate shall be charged regardless of metered gallons. The base charge shall apply to each unit in those structures with multiple units.

10.012~~8~~⁷ CPI and Commodity Cost Adjustment. The water and sewer rates shall be adjusted annually in conjunction with the State of South Dakota consumer price index (CPI). The water and sewer rates shall be adjusted annually for increases in cost for the base commodity as communicated by the City’s water supplier(s). The increase shall be added to the metered gallons.

Legislative History

- Ordinance #109, Adopted 2/5/2001
- Ordinance #111, Adopted 7/2/2001
- Ordinance #119, Adopted 5/15/2002
- Ordinance #126, Adopted 1/4/2003
- Ordinance #127, Adopted 1/13/2002
- Ordinance #135, Adopted 1/12/2004
- Ordinance #138, Adopted 3/8/2004
- Ordinance #142, Adopted 1/10/2005
- Ordinance #175, Adopted 5/9/2011
- Ordinance #203, Adopted 12/7/2015

Ordinance #238, Adopted 2/11/2019
Ordinance #246, Adopted 7/8/2019
Ordinance #255, Adopted 12/30/2019
Ordinance #263, Adopted 7/13/2020
Ordinance #327, Adopted 7/10/2023

Chapter 10.02 – Water Service Regulations.

- 10.0201 Water Meters. Any structure which contains a connection to the water system furnished by the City shall be required to have a meter with a remote reading device for the measurement of usage. The remote device connected to the inside water meter shall be located so that it is easily accessible to City personnel. All meters and remote readers shall be approved, installed by, and remain the property of the City.
- 10.0202 Inspection of Meters. Any person authorized by the City Council to read water meters or make inspections shall be allowed free access at all reasonable hours to any structure or premises where the water system furnished by the City is used. If such persons are denied access, the City, in its discretion, may estimate the water use, terminate water service, or take any other action not inconsistent with federal, state, or local law.
- 10.0203 Repair and Return of Meters. The repair and return of meters shall be done without cost to property owners or customers unless the cause necessitating the repairs to the meter resulted from the property owner's or customer's negligence, misuse, or other violation of federal, state, or local law. At the time of return, any additional repairs needed on the property owner's pipes or property necessary to install such meter will be the sole responsibility of the property's owner.
- 10.0204 Replacement of Meters. The City's designated personnel ~~Operations Superintendent~~ shall determine if water meters which are no longer working properly need to be replaced, rather than repaired. The City shall provide a new replacement meter and install it at no charge unless the cause necessitating the replacement of the meter resulted from the property owner's or customer's negligence, misuse, or other violation of federal, state, or local law. At the time of replacement, any additional repairs needed on the property owner's pipes or property necessary to install such meter will be the sole responsibility of the property's owner.
- 10.0205 Connections with Water System. ~~As stated in Chapter 101.0117, the City is responsible for either bringing the city-owned water services to the property owner's lot line or curb stop. Unless state otherwise, it~~ is the responsibility of the property owner to pay all costs associate with connection to the water system, including, but not limited to, piping, fixtures, digging, and appurtenances necessary to connect/tap his or her facilities into the city-owned distribution mains, as well as the costs of a qualified plumber making the installation. No hookups shall be made unless such service connection was approved and all relevant tap fees paid pursuant to Chapter 10.0102.

10.0206 Water Line Specifications; Maintenance/Replace. All private water system lines designed to connect with the city's distribution mains shall be one (1) inch type K copper service pipe or another material approved by the South Dakota State Plumbing Code. All service pipes shall be laid at least five (5) feet below the surface of the ground and not more than one (1) building or premises shall be severed or supplied from the same tap.

All persons taking water from city-owned distribution mains shall keep their private service pipes and fixtures connected therewith in good repair and protected from frost at their own expense and shall prevent all unnecessary waste. When it becomes necessary to replace an old connection with new pipe, the new pipe shall be of a like type and material to the pipe it is replacing.

10.0207 Payment. All meters shall be read monthly and following such reading, any amount due for water used shall be billed as outlined in Chapter 10.0107.

Legislative History

Ordinance #111, Adopted 7/2/2001

Chapter 10.03 – Sewer Service Regulations.

10.0301 Unlawful Waste Disposal. It shall be unlawful for any person to:

- A. 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 the City, any human or animal excrement, garbage, or other objectionable waste; and/or
- B. Discharge to any natural outlet within the City or in any area under the jurisdiction of the City, any wastewater or other polluted waters, except where suitable treatment has been provided in accordance with this chapter.

10.0302 Use of Public Sewer System Required. Unless approved by the City Operations Superintendent pursuant to Chapter 10.0303, it shall be unlawful for any person to construct or maintain any privy, privy vault, septic tank, cesspool, or other private facility intended or used for the disposal of wastewater.

10.0303 Private Wastewater Disposal Permit. The City Operations Superintendent shall permit the installation, maintenance, and use of a private wastewater facility if he or she determines that the city-owned sewer system: (1) does not exist within two hundred (200) feet of the building or premises to be serviced; (2) no plans exist in the immediate future to connect the building or premises to the system; and (3) the type, capacity, location, and layout of the private wastewater facility complies with all federal, state, and local requirements.

- 10.0304 Private Wastewater Disposal Permit Application. A person applying for a permit pursuant to the provisions of Chapter 10.0303 shall provide such information as reasonably requested by the City Operations Superintendent, which includes, but is not limited to, the following:
- A. The applicant's name, address, and telephone number.
 - B. The name, address, and telephone number of the owner of the building or premises subject of the permit application, if different.
 - C. The address or legal description of the building or premises that is the subject of the permit application.
 - D. A site plan of sufficient detail to show the location and dimensions of all structures located on the lot, including any buildings that are the subject of the permit application.
- 10.0305 Application Fee. An application fee shall be charged and due upon submission of the permit application to the Finance Officer. The amount of this fee shall be set by resolution of the City Council.
- 10.0306 Inspection Required. Before any permitted private wastewater facility can be used, the City Operations Superintendent or his or her designee shall be allowed to inspect the premises. If the facility is determined to not comply with the provisions of Chapter 10.03 or otherwise poses a risk to the health, safety, and welfare of the community, it may not be utilized until such time as it is brought into compliance or the risk posed to the community is terminated.
- 10.0306 Maintenance and Operation of Private Wastewater Disposal Facilities. All private wastewater disposal facilities shall be operated in a sanitary manner at all times, at no expense to the City.
- 10.0307 Limited Duration of Private Wastewater Disposal Permit. A private wastewater disposal permit shall become invalid at such time that the city-owned sewer system becomes available to the building or premises served by a private wastewater disposal system. Once notice is provided to the permittee, he or she shall have sixty (60) days to connect the building or premises that was the subject of the permit to the city-owned sewer system. Once connected, all privies, privy vaults, septic tank, cesspools, or other private facilities shall be cleaned of sludge and filled with suitable materials.
- 10.0308 Connections with Sewer System. ~~As stated in Chapter 10.0117, 11.0117, the City is responsible for either bringing the city-owned water services to the property owner's lot line or curb stop.~~ It is the responsibility of the property owner to pay all costs including, but not limited to, piping, fixtures, digging, and appurtenances necessary to connect/tap his or her facilities into the city-owned collection mains, as well as the costs of a qualified plumber making the installation. No hookups shall be made unless such service connection was approved and all relevant tap fees paid pursuant to Chapter 10.0102.

10.0309 Sewer Line Specifications; Maintenance/Replace. All private sewer system lines designed to connect with the city's collection mains shall comply with the South Dakota State Plumbing Code or as otherwise approved by the City Operations Superintendent. Whenever possible, a building's sewer lines shall be brought into the building at an elevation below the basement floor. In cases where a building drain is too low to permit gravity flow to the city-owned sewer system, sanitary sewage carried by such drain shall be lifted by an approved means to its connection with the city-owned sewer system.

All persons connecting with city-owned collection mains shall keep their private service pipes and fixtures connected therewith in good repair and protected from frost and blockages at their own expense. When it becomes necessary to replace an old connection with new pipe, the new pipe shall be of a like type and material to the pipe it is replacing.

10.0310 Waste Oils and Solid Refuse Materials Prohibited in Sewer System. No person shall deposit or cause to be deposited any waste oils, grease, kerosene, gasoline, acids, or solid refuse materials such as garbage, hair, rags, ashes, or other solid matters into the city-owned sewer system or place any such waste or solid refuse materials so that they may be washed or carried into the sewer system.

10.0311 Certain Wastes Prohibited in Sewer System. The discharge of any waters containing toxic or poisonous solid, liquids, or gases in sufficient quantity, either singly, or by interaction with other wastes, that contaminate the sludge of any city-owned utility systems, or that 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 sewer system are hereby prohibited.

10.0310 Clear Water Connections Prohibited. No person shall make connection of roof down spouts, exterior foundation drains, sump pumps, 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 city-owned sewer system. See Chapter 10.0311 for a limited exception for sump pumps.

10.0312 Connection of Sump Pump Lines to City-Owned Sewer System. The City Operations Superintendent may allow sump pump connections to be made into the city-owned sewer system when such connections will not be unduly burdensome. Any person wishing to do so must submit an application and pay a fee in an amount set by resolution of the City Council. If the application is denied, the fee shall be returned to the applicant, less any expenses incurred by the City in determining the feasibility of the request. The City reserves the right to suspend or terminate approved sump pump connections when it determines doing so is necessary to protect the health, safety, and welfare of the community. If such a determination is made, the City shall not be obligated to return the sum of or any portion of the fee to the permittee.

10.0313 Sewer Rates. Rates for sewer service shall be set by resolution of the City Council.

10.0314 Payment. Any amount due for usage of the city-owned sewer system shall be billed as outlined in Chapter 10.0107.

Legislative History

Ordinance #111, Adopted 7/2/2001

Chapter 10.04 – Discharges into Municipal Wastewater System.

- A. 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. Furthermore, water from down spouts, foundation drains, sump pumps, or other sources of surface run off or ground water shall be directed to the street or a designated waterway.
- B. Any person, owner, lessee or occupant who has presently made or permitted to be made, or shall make or permit to be made, any connection or installation in violation of Section A shall immediately remove that connection or correct that installation. If not removed or corrected within 30 calendar days after notice of violation has been delivered personally or by mail to that person, owner, lessee or occupant, the City may impose a surcharge of \$100 per month on the sewer bill of the property owners who are not in compliance. All properties found during regular or periodic re-inspection programs that violation Section A will be subject, at the discretion of the City, to the imposition of the monthly fee for all months between the two most recent inspections.

Legislative History

Ordinance #225, Date of Adoption Unknown

Chapter 10.05 – Municipal Natural Gas Utility System.

10.0401 Authorization. The City of Crooks, South Dakota, does hereby exercise its power authorized by SDCL Chapter 9-40, to purchase, construct, or otherwise acquire, establish, equip, maintain, operate, extend or improve any system or part of a system for the purpose of providing natural gas for municipal, industrial, and domestic purposes. The utility system shall be authorized to supply the municipality or any specified portion of the municipality or adjacent territory within ten miles of its corporate limits and the inhabitants thereof with natural gas service.

10.0402 Inspection of Meters. Any person authorized by the City Council to read natural gas meters or make inspections shall be allowed free access at all reasonable hours to any structure or premises where the water system furnished by the City is used. If such persons are denied access, the City, in its discretion, may estimate the water use, terminate water service, or take any other action not inconsistent with federal, state, or local law.

Chapter 10.06 – Payment Arrangement Program.

10.0601 Payment Arrangement Program. The Payment Arrangement Program is hereby established. The City’s Finance Officer is hereby directed and authorized to implement the program, develop necessary forms, and policies. The City’s Finance Officer and designated personnel shall be authorized to sign payment arrangements on behalf of Crooks Municipal Utilities.

10.0602 Eligibility, Procedure, and Frequency Requirements.

- A. Customer shall be the owner or lessee of the subject property.
- B. Customer shall not have any payments returned for insufficient funds within the preceding twelve (12) month period of the date of application.
- C. Applicant shall not have negated on a previous Payment Arrangement within the previous two (2) calendar years.

10.0603 Procedure.

- A. Customer(s) desiring to participate in Payment Arrangement must contact the City’s Finance Office or designated City Finance Office personnel.
- B. City’s Finance Officer or designated City Finance Office personnel shall review request and ensure that all requirements of Section 2.01) have been met. City’s Finance Office shall then prepare Payment Arrangement Form for signature by Customer.
- C. Customer(s) shall prepare and sign the Payment Arrangement form.

10.0604 Payment Arrangement, Terms. Payment Arrangements shall be made only for payment of the full past due balance of a Customer’s utility account. All payments for Payment Arrangements shall be due at 5pm (central time) on the agreed upon date; the payment must be received by the Finance Office. Payment submitted will not be held. Payment Arrangements shall not be valid unless signed by the Customer and received by City Finance Office. Failure to honor agreed upon terms may result in disconnection of utility services until all account balances and reconnection fees are paid in full, as established by City Ordinances, Resolutions, Motions, or Regulations.

10.0605 Payment Arrangement Frequency, Limited. A maximum of two (2) Payment Arrangements may be established in a rolling twelve (12) month period.

10.0606 Late Fees. Late fee provisions and their applicability, as established by City Ordinances, Resolutions, Motions, or Regulations, shall continue to apply to customers who have established a Payment Arrangement.

10.0607 Waiving of Part of Ordinance. No section or provision of this ordinance shall be waived or modified.

Legislative History

Ordinance #78, Adopted 4/1/1996

Ordinance #336, Adopted 3/11/2024

TITLE 11 – BUILDING REGULATIONS

Chapter 11.01 – Moving Buildings

Chapter 11.02 – City Auditorium
Chapter 11.03 – Zoning Regulations
Chapter 11.04 – Subdivision Regulations
Chapter 11.05 – Building Codes
Chapter 11.06 – Design Standards for Public Improvements
Chapter 11.07 – Building Permit Fees

Chapter 11.01 – Moving Buildings.

- 11.0101 Definitions. The terms used in this chapter, unless the context otherwise plainly requires, are defined as follows:
- A. “*Building*” means any structure used or intended for supporting or sheltering any use or occupancy which, when loaded on any carrier of any kind, has a loaded height exceeding thirteen (13) feet and a loaded width exceeding twelve (12) feet.
- 11.0102 Building Mover’s License Required. No person, except a licensed house/building mover or manufactured home dealer or manufacturer, may remove or move from one lot to another any building or part of a building within the City of Crooks, and every person shall annually, before engaging in such occupation, obtain a license therefore; provided this chapter shall not apply to moving a building within the confines of a lot or contiguous lots when not necessary to move the same over public property or property belonging to another person.
- 11.0103 License Fee. Any person desiring to obtain a license as a building mover, shall make written application therefore to the City Council, and such application shall be granted by the affirmative vote of a majority of all the members of the City Council. Upon filing an application for a license fee, the applicant shall pay a fee of an amount set by resolution of the City Council.
- 11.0104 Moving Permit Required. No licensee shall move or prepare for moving any building over, along, or across any public street, alley, right-of-way, or other public place in the City without first obtaining a permit from the Finance Officer.
- 11.0105 Moving Permit Application. Written application for a moving permit shall be filed with the Finance Officer, and shall include the name of the applicant/licensee, the name of the owner of the building to be moved (if different), the address of the lot where the building to be moved currently exists (if within the City); the address of the lot to which it is to be moved (if within the City), the proposed route for moving the building, the date the move will occur, and the amount of time that the applicant expects the move to take. Any application so filed shall be submitted to the City Council for approval.
- 11.0106 Moving Permit Fee. Upon filing an application for a moving permit, the applicant shall pay a fee for an amount set by resolution of the City Council.

- 11.0107 Building Permit Prerequisite to Issuance; Time Limit on Permanent Installation.
- A. No permit for moving a building to a lot in the City shall be granted if a building permit has not been issued for such building on such lot.
 - B. No building shall be moved to a lot in the City for the purpose of storing such building on the lot. A building moved to a lot shall be permanently installed on its new foundation within sixty (60) calendar days of the date moved onto the lot.
- 11.0108 Insurance Requirement. Any person filing a moving permit application pursuant to Chapter 11.0105 of this Code shall file with the Finance Officer a liability certificate of insurance issued by an insurance company authorized to do business in South Dakota, protecting the applicant and the City and its officials, providing for sufficient coverage as determined by the Finance Officer. The insurance coverage may be a blanket insurance policy covering any building moving by the applicant. Such insurance shall inure to the benefit of the City, and the City shall be named insured herein for the use and benefit of any person intended to be protected thereby and shall be conditioned on the payment of any damage to public or private property and the payment for any damages or losses resulting from any malfeasance, misfeasance, nonfeasance, or negligence on the part of the mover in connection with any of the activities or conditions of the permit.
- 11.0109 Standards for Issuance of Moving Permit. The City Council shall refuse to issue a permit required by this chapter if:
- A. Any application requirements or any fee or insurance requirement has not been complied with.
 - B. The building is in such a state of deterioration or disrepair or otherwise so structurally unsafe that it could not be moved without endangering persons and/or property in the City.
 - C. The building or its placement on a lot would violate the City's zoning ordinance or other applicable law.
- 11.0110 Expiration of Permit. Any permit granted under this chapter shall expire if the move is not commenced and completed pursuant to the terms approved by the City Council as stated on the permit.

Chapter 11.02 – City Auditorium.

- 11.0201 Designation. The municipal building located at 398 N. Broadway Avenue in the City of Crooks is hereby designed as the City Auditorium.
- 11.0202 Management. The management, control, and general oversight of the City Auditorium shall at all times be entirely under the supervision of the Mayor and City Council. They shall have the exclusive and complete authority to allow its use for such public functions or other functions as they deem appropriate. Additionally, they shall be responsible for ensuring the City Auditorium is insured and in a good state of repair at all times.

Chapter 11.03 – Zoning Regulations.

A copy of the City’s Zoning Regulations can be obtained from the Finance Officer or found online on the City’s official website.

Legislative History

- Ordinance #6, Adopted 2/25/1980
- Ordinance #22, Adopted 2/25/1980
- Ordinance #167, Adopted 10/12/2009
- Ordinance #169, Adopted 6/14/2010

Chapter 11.04 – Subdivision Regulations.

A copy of the City’s Subdivision Regulations can be obtained from the Finance Officer or found online on the City’s official website.

Legislative History

- Ordinance #22, Adopted 3/20/1981
- Ordinance #54, Adopted 9/23/1985
- Ordinance #93, Adoption Date Unknown
- Ordinance #147, Adopted 10/9/2006
- Ordinance #180, Adopted 12/29/2011
- Ordinance #229, Adopted 4/9/2018

Chapter 11.05 – Building Codes.

11.0401 International Building Code.

- A. The *International Building Code*, 2021 edition, including Appendix C, Appendix I, and Appendix O as published by the International Code Council Inc., and amendments and additions thereto as provided in this article are hereby adopted as the building code by the City for regulating the erection, construction, enlargement, alteration, repair, moving, removal, demolition, conversion, occupancy, equipment, use, height, area, and maintenance of all buildings and structures in the City providing for the issuance of permits and collection of fees thereto.

- B. The minimum building standards in the 2021 edition of the *International Building Code* and amendments thereto shall be applied to any building permit issued after June 30, 2022.
- C. In the event of any conflict between the provisions of this code adopted by this subchapter and applicable provisions of this Code of Ordinances, state law, or city ordinance, rule, or regulations, the provisions of this Code of Ordinances, state law or city ordinance, rule or regulations shall prevail and be controlling.
- D. Amendments, Additions, and Deletions to the 2021 International Building Code. The following sections and subsections of the 2021 *International Building Code* shall be amended, added, or not adopted by the city as follows. All other sections or subsections of the 2021 *International Building Code* as published shall remain the same:

[A] 101.1 Title. These regulations shall be known as the building code of the city of CROOKS, hereinafter referred to as "this code."

[A] 101.4.1 Gas. The provisions of the *International Fuel Gas Code* or the plumbing code shall apply to the installation of gas piping from the point of delivery, gas appliances, and related accessories as covered in this code. These requirements apply to gas piping systems extending from the point of delivery to the inlet connections of appliances and the installation and operation of residential and commercial gas appliances and related accessories.

[A] 101.4.3 Plumbing. The provisions of the plumbing code shall apply to the installation, alteration, repair, and replacement of plumbing systems, including equipment, appliances, fixtures, fittings, and appurtenances, and were connected to a water or sewage system and all aspects of a medical gas system. Governed by the State inspections

101.4.8 Electrical. The provisions of the NFPA 70 shall apply to the installation of electrical systems, including alterations, repairs, replacement, equipment, appliances, fixtures, fittings, and appurtenances thereto. Governed by the State inspections

[A] 103.1 Creation of enforcement agency. Building services is hereby created and the official in charge thereof shall be known as the building official. The function of the agency shall be the implementation, administration, and enforcement of the provisions of this code.

[A] 103.2 Appointment. Not adopted by the city.

[A] 104.8 Liability. The building official, member of the board of appeals or employee charged with the enforcement of this code, while acting for the jurisdiction

in good faith and without malice in the discharge of the duties required by this code or other pertinent law or ordinance, shall not thereby be civilly or criminally rendered liable personally and is hereby relieved from personal liability for any damage accruing to persons or property as a result of any act or by reason of an act or omission in the discharge of official duties.

This code shall not be construed to relieve or lessen the responsibility of any person owning, operating, or controlling any building or structure for any damages to persons or property caused by defects, nor shall the city, or its officers and employees, be held as assuming any such liability by reason of the inspections authorized by this code or any permits or certificates issued under this code.

[A] 104.8.1 Legal defense. Any suit or criminal complaint instituted against an officer or employee because of an act performed by that officer or employee in the lawful discharge of duties and under the provisions of this code shall be afforded all the protection provided by the city's insurance pool and any immunities and defenses provided by other applicable state and federal law and defended by legal representatives of the jurisdiction until the final termination of the proceedings. The building official or any subordinate shall not be liable for cost in any action, suit, or proceeding that is instituted in pursuance of the provisions of this code.

[A] 104.10.1 Flood hazard areas. Not adopted by City.

[A] 105.1 Required. Any owner or owner's authorized agent who intends to construct, enlarge, alter, repair, move, demolish, or change the occupancy of a building or structure, or to erect, install, enlarge, alter, repair, remove, convert, or replace any electrical, gas, mechanical, or plumbing system, the installation of which is regulated by this code, or to cause any such work to be performed, shall first make application to the building official and obtain the required permit. The building official may exempt permits for minor work.

[A] 105.2 Work exempt from permit. Exemptions from permit requirements of this code shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of this code or any other laws or ordinances of this jurisdiction. Permits shall not be required for the following:

Building:

1. One-story detached accessory structures used as tool and storage sheds, playhouses, and similar uses, provided the floor area is not greater than 200 square feet (18.6 m²). A placement permit is required by the zoning division.
2. Fences not over 7 feet (2,134 mm) high. A fence permit is required by the zoning division.

3. Oil derricks.
4. Retaining walls that are not over 4 feet (1,219 mm) in height measured from the bottom grade elevation to the top of the wall, unless supporting a surcharge or impounding Class I, II, or IIIA liquids.
5. Water tanks supported directly on grade if the capacity is not greater than 5,000 gallons (18,927 L) and the ratio of height to diameter or width is not greater than 2:1.
6. Sidewalks and driveways not more than 30 inches (762 mm) above adjacent grade, and not over any basement or story below and are not part of an accessible route. A driveway permit is required by the zoning division. A sidewalk permit is required by the engineering division.
7. Painting, papering, tiling, carpeting, cabinets, countertops, and similar finish work.
8. Temporary motion picture, television, and theater stage sets and scenery.
9. Prefabricated swimming pools accessory to a Group R-3 occupancy that are less than 24 inches (610 mm) deep.
10. Shade cloth structures constructed for nursery or agricultural purposes, not including service systems.
11. Swings and other playground equipment accessory to detached one- and two-family dwellings.
12. Window awnings in Group R-3 and U occupancies, supported by an exterior wall that do not project more than 54 inches (1,372 mm) from the exterior wall and do not require additional support.
13. Nonfixed and movable fixtures, cases, racks, counters, and partitions not over 5 feet 9 inches (1,753 mm) in height.

Electrical:

1. **Repairs and maintenance:** Minor repair work, including the replacement of lamps or the connection of approved portable electrical equipment to approved permanently installed receptacles.
2. **Radio and television transmitting stations:** The provisions of this code shall not apply to electrical equipment used for radio and television transmissions, but do apply to equipment and wiring for a power supply and the installations of towers and antennas.
3. **Temporary testing systems:** A permit shall not be required for the installation of any temporary system required for the testing or servicing of electrical equipment or

apparatus.

Gas:

1. Portable heating appliance.
2. Replacement of any minor part that does not alter approval of equipment or make such equipment unsafe.

Mechanical:

1. Portable heating appliance.
2. Portable ventilation equipment.
3. Portable cooling unit.
4. Steam, hot, or chilled water piping within any heating or cooling equipment regulated by this code.
5. Replacement of any part that does not alter its approval or make it unsafe.
6. Portable evaporative cooler.
7. Self-contained refrigeration system containing 10 pounds (4.54 kg) or less of refrigerant and actuated by motors of 1 horsepower (0.75 kW) or less.

Plumbing:

1. The stopping of leaks in drains, water, soil, waste or vent pipe, provided, however, that if any concealed trap, drainpipe, water, soil, waste or vent pipe becomes defective and it becomes necessary to remove and replace the same with new material, such work shall be considered as new work and a permit shall be obtained and inspection made as provided in this code.
2. The clearing of stoppages or the repairing of leaks in pipes, valves, or fixtures and the removal and reinstallation of water closets, provided such repairs do not involve or require the replacement or rearrangement of valves, pipes, or fixtures.

105.3 Application for permit. To obtain a permit, the applicant shall first file an application therefor in writing on a form for that purpose. Such application shall:

1. Identify and describe the work to be covered by the permit for which application is made.
2. Describe the land on which the proposed work is to be done by legal description, street address, or similar description that will readily identify and definitely locate the proposed building or work.
3. Indicate the use and occupancy for which the proposed work is intended.
4. Be accompanied by construction documents and other information as required in Section 107.
5. State the valuation of the proposed work.
6. Be signed by the applicant, or the applicant's authorized agent.
7. Give such other data and information as required by the building official.

[A] 107.1 General. Submittal documents consisting of one complete set of plans in an electronic submittal in PDF format along with other construction documents, statement of special inspections, geotechnical report, and other data shall be submitted with each permit application. The construction documents shall be prepared by a registered design professional where required by the statutes of the jurisdiction in which the project is to be constructed. Where special conditions exist, the building official is authorized to require additional construction documents to be prepared by a registered design professional.

Exception: The building official is authorized to waive the submission of construction documents and other data not required to be prepared by a registered design professional if it is found that the nature of the work applied for is such that review of construction documents is not necessary to obtain compliance with this code.

[A] 107.3.1 Approval of construction documents. When the building official issues a permit, the construction documents shall be reviewed for compliance. One set of construction documents so reviewed shall be retained by the building official.

[A] 109.2 Schedule of permit fees. On buildings, structures, electrical, gas, mechanical, and plumbing systems or alterations requiring a permit, a fee for each permit shall be paid as required in accordance with the schedule as established by the applicable governing authority.

The fee schedules for the issuance of a building permit shall be as set by resolution.

Table No. 1-C. Other Inspections and Fees

1. Inspections outside of normal business hours, per hour*

- (Minimum charge one hour).....\$70.00
- 2. Reinspection fees, per hour* (minimum charge one hour).....\$70.00
- 3. Inspections for which no fee is specifically indicated, per hour*
(Minimum charge one-halfhour).....\$70.00
- 4. Additional plan review required by changes, additions, or revisions
to approved plans, per hour* (minimum charge one-half hour).....\$70.00

*Or the total hourly cost to the jurisdiction, whichever is the greater. This cost shall include supervision, overhead, equipment, hourly wages, and fringe benefits of the employees involve

- 5. Board of appeals fees. Before the board takes any action, the party or parties requesting such hearing shall deposit with the secretary of the board, or authorized agent, \$65.00 to cover the approximate cost of the procedure. Under no condition shall said sum or any part thereof be refunded for failure of said request to be approved.

Exception. Appeals referred to the board from the *International Property Maintenance Code*.

- 6. A mileage fee based on the current rate per mile authorized by the Internal Revenue Service shall be charged for any inspection occurring outside city limits.
- 7. When submittal documents are required by Section 106, a plan review fee shall be paid when it is deemed that a plan review is required. Said plan review fee shall be 25 percent of the building permit fee as specified on Table 1-B. The plan review fee specified herein is a separate fee from the building permit fee and is in addition to the building permit fee. When submittal documents are incomplete or changed so as to require additional plan review or when a project involves deferred submittals as defined in Section 106.3.4.2, an additional plan review fee may be charged at 25 percent of the building permit fee specified on Table 1-B.
- 8. Fee for late corrections. A \$100.00 administrative fee may be charged for failure to correct violations within the time specified on a contractor's correction report.
- 9. Fee for failure to request a required inspection. Where building construction work is completed without a request for an inspection, an administrative fee of \$250.00 may be charged.

Exception: Group R Division 3 and Group U occupancies.

109.7 Delinquent accounts. The city may refuse to issue permits or conduct inspections for any person or business whose account is delinquent.

[A] 110.3.1 Footing inspection. Footing inspections shall be made after excavations for footings are complete and any required reinforcing steel is in place. If an inspection is required for concrete foundations, any required forms shall be in place prior to inspection. Materials for the foundation shall be on the job, except where concrete is ready mixed in accordance with ASTM C 94, the concrete need not be on the job.

[A] 111.2 Certificate issued. After the building official inspects the building or structure and does not find violations of the provisions of this code or other laws that are enforced by the department of building safety, the building official shall issue a certificate of occupancy that contains the following:

1. The building permit number.
2. The address of the structure.
3. A statement that the described portion of the structure has been inspected for compliance with the requirements of this code for the occupancy and division of occupancy and the use for which the proposed occupancy is classified.
4. The name of the building official.
5. The edition of the code under which the permit was issued.
6. The use and occupancy, in accordance with the provisions of Chapter 3.
7. The type of construction as defined in Chapter 6.
8. The design occupant load.
9. If an automatic sprinkler system is provided, whether the sprinkler system is required.
10. Any special stipulations and conditions of the building permit.

[A] 113.1 General. In order to hear and decide appeals of orders, decisions, or determinations made by the building official relative to the application and interpretation of this code and the fire code, to review all prospective changes to the respective codes and to submit recommendations to the responsible official and the city council, to review requests for house moves, and to examine applicants for licensing and to investigate matters brought before the board, there shall be and is

hereby created a building board of appeals and examiners. The building official shall be an ex officio member of said board but shall not have a vote on any matter before the board. The board of appeals shall be appointed by the mayor with consent of the city council and shall hold office at its pleasure. The board shall adopt rules of procedure for conducting its business and shall render all decisions in writing to the appellant with a duplicate copy to the building and/or fire official.

[A] **114.3 Prosecution of violation.** If the notice of violation is not complied with promptly, the building official is authorized to request the legal counsel of the jurisdiction to deem the violation as a strict liability offense and institute the appropriate proceeding at law or in equity to restrain, correct, or abate such violation, or to require the removal or termination of the unlawful occupancy of the building or structure in violation of the provisions of this code or of the order or direction made pursuant thereto.

201.1 Scope. Unless otherwise expressly stated, the following words and terms shall, for the purposes of this code, have the meanings shown in this chapter. In addition, the following words and terms are being added and/or modified to the defined terms already incorporated by reference in Section 150.017 of this code.

FIRE AREA. The aggregate floor area enclosed and bounded by fire walls, fire barriers, exterior walls, or horizontal assemblies of a building.

STRICT LIABILITY OFFENSE. An offense in which the prosecution in a legal proceeding is not required to prove criminal intent as a part of its case. It is enough to prove that the defendant either did an act which was prohibited or failed to do an act which the defendant was legally required to do.

305.2.2 Twelve or fewer children. A facility having twelve or fewer children receiving such day care shall be classified as part of the primary occupancy.

305.2.3 Twelve or fewer children in a dwelling unit. A facility such as the above within a dwelling unit and having twelve or fewer children receiving such day care shall be classified as a Group R-3 occupancy or shall comply with the *International Residential Code*.

308.5.4 Twelve or fewer persons receiving care in a dwelling unit. A facility such as the above within a dwelling unit and having twelve or fewer persons receiving custodial care shall be classified as a Group R-3 occupancy or shall comply with the *International Residential Code*.

310.4.2 Lodging houses. Owner-occupied *lodging houses* with five or fewer *guest rooms* and 10 or fewer total occupants shall be permitted to be constructed in accordance with the *International Residential Code*.

423.4 Group E occupancies. All Group E occupancies with an occupant load of 50 or more shall have a storm shelter constructed to withstand a wind of 200 mph.

Exceptions:

1. Group E day care facilities.
2. Group E occupancies accessory to places of religious worship.
3. Buildings meeting the requirements for shelter design in ICC 500.

[F] 501.2 Address identification. New and existing buildings shall be provided with approved address identification. The address identification shall be legible and placed in a position that is visible from the street or road fronting the property. Address identification characters shall contrast with their background. Address numbers shall be Arabic numbers or alphabetical letters.

603.1.2 Piping. The use of combustible piping materials shall be permitted where installed in accordance with the limitations of the *International Mechanical Code* and the *Plumbing Code*.

706.6.2 Buildings with sloped roofs. Where a fire wall serves as an interior wall for a building, and the roof on one side or both sides of the fire wall slopes toward the fire wall at a slope greater than 2 units vertical in 12 units horizontal (2:12), the fire wall shall extend to a height equal to the height of the roof located 4 feet (1,219 mm) from the fire wall plus 30 inches (762 mm). In no case shall the extension of the fire wall be less than 30 inches (762 mm).

Exception: The fire wall may terminate at the underside of the roof sheathing, deck, or slab of the lower roof, provided:

1. The roof assemblies within 10 feet (3,048 mm) of the wall has not less than a 1-hour fire resistance rating and the entire length and span of supporting elements for the rated roof assembly has a fire-resistance rating of not less than 1 hour.
2. Openings in the roof on each side of the fire wall shall not be located within 10 feet (3,048 mm) of the fire wall.

714.5.1.2 Through-penetration fire-stop system. Through penetrations of the fire-resistive membrane shall be protected by an approved through-penetration fire-stop system installed and tested in accordance with ASTM E 814 or UL 1479, with a minimum positive pressure differential of 0.01 inch of water (2.49 Pa). The system shall have an F rating/T rating of not less than 1 hour but not less than the required rating of the floor penetrated.

Exceptions:

1. Floor penetrations contained and located within the cavity of a wall above the floor or below the floor do not require a T rating.
2. Floor penetrations by floor drains, tub drains, or shower drains contained and located within the concealed space of a horizontal assembly do not require a T rating.
3. Floor penetrations of maximum 4-inch (102 mm) nominal diameter penetrating directly into metal-enclosed electrical power switchgear do not require a T rating.

716.2.6.1 Door closing. Fire doors shall be latching and self- or automatic closing in accordance with this section.

Exceptions:

1. Fire doors located in common walls separating sleeping units in Group R-1 shall be permitted without automatic- or self-closing devices.
2. The elevator car doors and the associated hoist way enclosure doors at the floor level designated for recall in accordance with Section 3003.2 shall be permitted to remain open during Phase I emergency recall operation.
3. Interior doors located in exit enclosures, smokeproof enclosures, and exit passageways in Group R and I-I occupancies shall be automatic closing fire door assemblies in accordance with NFPA 80 and controlled in accordance with NFPA 72.

717.5.2 Fire barriers. Ducts and air transfer openings of fire barriers shall be protected with listed fire dampers installed in accordance with their listing. Ducts and air transfer openings shall not penetrate enclosures for interior exit stairways and ramps and exit passageways, except as permitted by Sections 1023.5 and 1024.6, respectively.

Exceptions: Fire dampers are not required at penetrations of fire barriers where any of the following apply:

1. Penetrations are tested in accordance with ASTM E119 or UL 263 as part of the fire- resistance-rated assembly.
2. Ducts are used as part of an approved smoke control system in accordance with Section 909 and where the use of a fire damper would interfere with the operation of a smoke control system.
3. Such walls are penetrated by fully ducted HVAC systems, have a required

fire- resistance rating of 1 hour or less, are in areas of other than Group H, and are in buildings equipped throughout with an automatic sprinkler system in accordance with Section 903.3.1.1 or 903.3.1.2. For the purposes of this exception, a fully ducted HVAC system shall be a duct system for conveying supply, return, or exhaust air as part of the structure's HVAC system. Such a duct system shall be constructed of sheet steel not less than No. 26 gage thickness and shall be continuous from the air-handling appliance or equipment to the air outlet and inlet terminals. Nonmetal flexible air ducts shall be permitted in the following locations:

- 3.1 At the duct connection to the air handling unit or equipment located within the mechanical room in accordance with Section 603.9 of the *International Mechanical Code*.
- 3.2 From an overhead metal duct to a ceiling diffuser within the same room in accordance with Section 603.6.2 of the *International Mechanical Code*.

[FI 903.2.6 Group I. An automatic sprinkler system shall be provided throughout buildings with a Group I fire area.

Exceptions:

1. An automatic sprinkler system installed in accordance with Section 903.3.1.1 is required in Group I-1 Condition 1 or 2 facilities.
2. An automatic sprinkler system is not required where Group I-4 day care facilities are at the level of exit discharge and where every room where care is provided has not fewer than one exterior exit door.
3. In buildings where Group I-4 day care is provided on levels other than the level of exit discharge, an automatic sprinkler system in accordance with Section 903.3.1.1 shall be installed on the entire floor where care is provided, all floors between the level of care and the level of exit discharge, and all floors below the level of exit discharge other than areas classified as an open parking garage.

[FI 903.2.8 Group R. An automatic sprinkler system installed in accordance with Section 903.3 shall be provided throughout all buildings with Groups R-1 and R-4 fire areas and Group R-2 multifamily residences having six or more dwelling units.

[FI 903.2.10 Group S-2 parking garages. An *automatic sprinkler system* shall be provided throughout buildings classified as parking garages where any of the following conditions exist:

1. Where the fire area of the enclosed parking garage in accordance with Section 406.6 exceeds 12,000 square feet (1,115 m²).
2. Where the enclosed parking garage in accordance with Section 406.6 is located beneath other groups.

Exception: Enclosed parking garages located beneath Group R-3 occupancies.

[FI 903.3.1.1.1 Exempt locations. Automatic sprinklers shall not be required in the following rooms or areas where such rooms or areas are protected with an approved automatic fire detection system in accordance with Section 907.2 that will respond to visible or invisible particles of combustion. Sprinklers shall not be omitted from a room merely because it is damp, of fire-resistance-rated construction, or contains electrical equipment.

1. A room where the application of water, or flame and water, constitutes a serious life or fire hazard.
2. A room or space where sprinklers are considered undesirable because of the nature of the contents, where approved by the fire code official. Such rooms shall be separated from the remainder of the building by fire barrier walls and horizontal assemblies having a fire- resistance rating of not less than two hours.
3. Generator and transformer rooms separated from the remainder of the building by walls and floor/ceiling or roof/ceiling assemblies having a fire-resistance rating of not less than two hours.
4. Rooms or areas that are of noncombustible construction with wholly noncombustible contents.
5. Fire service access elevator machine rooms and machinery spaces.
6. Machine rooms, machinery spaces, control rooms, and control spaces associated with occupant evacuation elevators designed in accordance with Section 3008.

[F] 903.3.1.2 NFPA 13R sprinkler systems. Automatic sprinkler systems in Group R occupancies shall be permitted to be installed throughout in accordance with NFPA 13R where the Group R occupancy meets all of the following conditions:

1. Four stories or fewer above grade plane.
2. The floor level of the highest story is 60 feet (18,288 mm) or less above the lowest level of fire department vehicle access.
3. The floor level of the lowest story is 60 feet (18,288 mm) or less below the lowest level of fire department vehicle access.

The number of stories of Group R occupancies constructed in accordance with Sections 510.2 and 510.4 shall be measured from grade plane.

[F] 903.3.5 Water supplies. Water supplies for automatic sprinkler systems shall comply with this section and the standards referenced in Section 903.3.I. The potable water supply shall be protected against backflow in accordance with the requirements of this section and the Plumbing Code. For connections to public waterworks systems, the water supply test used for design of fire protection systems shall be adjusted to account for seasonal and daily pressure fluctuations based on information from the water supply authority and as approved by the fire code official.

[F] 904.13.2 System interconnection. The actuation of the fire suppression system shall automatically shut down the fuel and/or electrical power supply to the cooking equipment and all electrical receptacles located beneath the hood. The fuel and electrical supply reset shall be manual.

[F] 907.2.1.1 System initiation in Group A occupancies with an occupant load of 1,000 or more. Activation of the fire alarm in Group A occupancies with an occupant load of 1,000 or more shall initiate a signal using an emergency voice/alarm communications system in accordance with Section 907.5.2.2.

Exceptions:

1. Group A-3 occupancies used for religious worship.
2. Where approved, the prerecorded announcement is allowed to be manually deactivated for a period of time, not to exceed three minutes, for the sole purpose of allowing a live voice announcement from an approved, constantly attended location.

[F] 907.2.2 Group B. A manual fire alarm system, which activates the occupant notification system in accordance with Section 907.5, shall be installed in Group B occupancies where one of the following conditions exists:

1. The combined Group B occupant load of all floors is 500 or more.
2. The Group B occupant load is more than 100 persons above or below the lowest level of exit discharge.
3. The fire area contains an ambulatory care facility.
4. The Group B occupancy has more than two occupied levels.

Exception: Manual fire alarm boxes are not required where the building is equipped throughout with an automatic sprinkler system installed in accordance with Section 903.3.1.1 and the occupant notification appliances will activate throughout the

notification zones upon sprinkler water flow.

[F] 907.2.6.2 Group 1-2. An automatic smoke detection system shall be installed in corridors in Group I-2 Condition 1 facilities and spaces permitted to be open to the corridors by Section 407.2. The system shall be activated in accordance with Section 907.4. Group I-2 Condition 2 occupancies shall be equipped with an automatic smoke detection system as required in Section 407.

Exception: Corridor smoke detection is not required in smoke compartments that contain sleeping units where such units are provided with smoke detectors that comply with UL 268. Such detectors shall provide a visual display on the corridor side of each sleeping unit and shall provide an audible and visual alarm at the care providers' station attending each unit. Smoke detectors installed as part of an intelligent or addressable fire alarm system capable of annunciation of room origin at a constantly attended location shall be acceptable.

[F] 907.2.8.2 Automatic smoke detection system. An automatic smoke detection system that activates the occupant notification system in accordance with Section 907.5 shall be installed throughout all interior corridors serving sleeping units and at the top of each stairwell.

Exception: An automatic smoke detection system is not required in buildings that do not have interior corridors serving sleeping units and where each sleeping unit has a means of egress door opening directly to an exit or to an exterior exit access that leads directly to an exit.

[F] 907.2.9 Group R-2. Fire alarm systems and smoke alarms shall be installed in Group R-2 occupancies as required in Sections 907.2.9.1 through 907.2.9.4.

[F] 907.2.9.1 Manual fire alarm system. A manual fire alarm system that activates the occupant notification system in accordance with Section 907.5 shall be installed in Group R-2 occupancies where any of the following conditions apply:

1. Any dwelling unit or sleeping unit is located three or more stories above the lowest level of exit discharge.
2. Any dwelling unit or sleeping unit is located more than one story below the highest level of exit discharge of exits serving the dwelling unit or sleeping unit.
3. The building contains more than 16 dwelling units or sleeping units.
4. The building contains four or more dwelling units or sleeping units above the level of exit discharge.

Exceptions:

1. A fire alarm system is not required in buildings not more than two stories in height where all dwelling units or sleeping units and contiguous attic and crawl spaces are

separated from each other and public or common areas by not less than 1-hour fire partitions and each dwelling unit or sleeping unit has an exit directly to a public way, egress court, or yard.

2. Manual fire alarm boxes are not required where the building is equipped throughout with an automatic sprinkler system installed in accordance with Section 903.3.1.1 or 903.3.1.2 and the occupant notification appliances will automatically activate throughout the notification zones upon a sprinkler water flow.
3. A fire alarm system is not required in buildings that do not have interior corridors serving dwelling units and are protected by an approved automatic sprinkler system installed in accordance with Section 903.3.1.1 or 903.3.1.2, provided that dwelling units either have a means of egress door opening directly to an exterior exit access that leads directly to the exits or are served by open-ended corridors designed in accordance with Section 1027.6, Exception 3.

907.2.9.4 Smoke detectors. Automatic smoke detection shall be provided in each stairway and all exit corridors.

[FI 907.2.13.1.2 Duct smoke detection. Duct smoke detectors complying with Section 907.3.1 shall be located as follows:

1. In the main return air and exhaust air plenum of each air-conditioning system having a capacity greater than 2,000 cubic feet per minute (cfm) (0.94 m³/s). Such detectors shall be located in a serviceable area downstream of the last duct inlet.
2. At each connection to a vertical duct or riser serving two or more stories from a return air duct or plenum of an air-conditioning system. In Group R-1 and R-2 occupancies, a smoke detector is allowed to be used in each return air riser carrying not more than 5,000 cfm (2.4 m³/s) and serving not more than 10 air-inlet opening.
3. Duct smoke detectors installed more than 10 feet above a finished floor, above a ceiling, or on a rooftop shall be installed with remote test/indicators in an approved location below and in proximity to the unit served.

[F] 907.5 Occupant Notification. Occupant notification by fire alarms shall be in accordance with Sections 907.5.1 through 907.5.2.3.3. Occupant notification by smoke alarms in Group R-1 occupancies shall comply with Section 907.5.2.1.3.2.

[F] 907.5.2.1.3 Audible signal frequency in Group R-1 sleeping rooms. Audible signal frequency in Group R-1 occupancies shall be in accordance with Sections 907.5.2.1.3.1 and 907.5.2.1.3.2.

[F] 907.5.2.1.3.1 Fire alarm system signal. In sleeping rooms of Group R-1 occupancies, the audible alarm activated by a fire alarm system shall be a 520-Hz low-frequency signal complying with NFPA 72.

[F] 907.5.2.1.3.2 Smoke alarm signal in sleeping rooms. In sleeping rooms of Group R-1 occupancies that are required by Section 907.2.8 or 907.2.9 to have a fire alarm system, the audible alarm signal activated by single- or multiple-station smoke alarms in the dwelling unit or sleeping unit shall be a 520-Hz signal complying with NFPA 72. Where a sleeping room smoke alarm is unable to produce a 520-Hz signal, the 520-Hz alarm signal shall be provided by a listed notification appliance or a smoke detector with an integral 520-Hz sounder.

[F] 912.2.1 Visible location. Fire department connections shall be located on the street side of buildings or facing approved fire apparatus access roads, fully visible and recognizable from the street, fire apparatus access road or nearest point of fire department vehicle access, or as otherwise approved by the fire code official. A weather-rated horn/strobe connected to the fire detection or sprinkler system shall be located not lower than 8 feet above the fire department connection and within 10 feet horizontally of the connection. The weather-rated horn/strobe must be visible from the fire lane or street.

Table 1004.5 Maximum Floor Area Allowances Per Occupant

Function of Space	Occupant Load Factor
Accessory storage areas, mechanical equipment room	300 gross
Agricultural building	300 gross
Aircraft hangars	500 gross
Airport terminal	
Baggage claim	20 gross

Baggage handling	300 gross
Waiting areas	15 gross
Assembly	
Gaming floors (keno, slots, etc.)	11 gross
Exhibit gallery and museum	30 net
Assembly with fixed seats	See Section I004.6
Assembly without fixed seats	
Concentrated (chairs only-not fixed)	7 net
Standing space	5 net
Unconcentrated (tables and chairs)	15 net
Bowling centers, allow 5 persons for each lane including 15 feet of runway, and for additional areas	7 net

Business areas	150 gross
Concentrated business use areas	See Section 1004.8
Courtrooms-other than fixed seating areas	40 net
Daycare	35 net
Dormitories	50 gross
Educational	
Classroom area	25 net
Shops and other vocational room areas	50 net
Exercise rooms	50 gross
Group H-5 fabrication and manufacturing areas	200 gross
Industrial areas	100 gross
Institutional areas	
Inpatient treatment areas	240 gross
Outpatient areas	100 gross
Sleeping areas	120 gross
Kitchens, commercial	200 gross
Library	
Reading rooms	50 net
Stack area	100 gross
Locker rooms	50 gross
Mall buildings--covered and open	See Section 402.8.2
Mercantile	60 gross
Storage, stock, shipping areas	300 gross
Parking garages	200 gross
Residential	200 gross
Skating rinks, swimming pools	
Rink and pool	50 gross

Decks	15 gross
Stages and platforms	15 net
Warehouses	500 gross

For SI: 1 foot=304.8 mm, 1 square foot=0.0929 m²

a. Floor area in square feet per occupant

1010.1.6 Thresholds. Thresholds at doorways shall not exceed 3/4 inch (19.1 mm) in height above the finished floor or landing for sliding doors serving dwelling units or 1/2 inch (12.7 mm) above the finished floor or landing for other doors. Raised thresholds and floor level changes greater than 1/4 inch (6.4 mm) at doorways shall be beveled with a slope not greater than one unit vertical in two units horizontal (50 percent slope).

Exceptions:

1. In occupancy Group R-2 or R-3, threshold heights for sliding and side hinged exterior doors shall be permitted to be up to 8 inches (203 mm) in height if all of the following apply:
 - 1.1. The door is not part of the required means of egress.
 - 1.2. The door is not part of an accessible route as required by Chapter 11.
 - 1.3. The door is not part of an accessible unit, Type A unit or Type B unit.
2. In Type B units, where Exception 5 to Section 1010.1.5 permits a 4-inch (102 mm) elevation change at the door, the threshold height on the exterior side of the door shall not exceed 4 3/4 inches (120 mm) in height above the exterior deck, patio, or balcony for sliding doors or 4 1/2 inches (114 mm) above the exterior deck, patio, or balcony for other doors.

1011.5.2 Riser height and tread depth. Stair riser heights shall be 7 inches (178 mm) maximum and 4 inches (102 mm) minimum. The riser height shall be measured vertically between the nosing's of adjacent treads or between the stairway landing and the adjacent tread. Rectangular tread depths shall be 11 inches (279 mm) minimum measured horizontally between the vertical planes of the foremost projection of adjacent treads and at a right angle to the tread's nosing.

Winder treads shall have a minimum tread depth of 11 inches (279 mm) between the vertical planes of the foremost projection of adjacent treads at the intersections with the walk line and a minimum tread depth of 10 inches (254 mm) within the clear width of the stair.

Exceptions:

1. Spiral stairways in accordance with Section 1011.10.
2. Stairways connecting stepped aisles to cross aisles or concourses shall be

permitted to use the riser/tread dimension in Section 1029.14.2.

3. In Group R-3 occupancies, within dwelling units in Group R-2 occupancies, and in Group U occupancies that are accessory to a Group R-3 occupancy or accessory to individual dwelling units in Group R-2 occupancies, the maximum riser height shall be 8 inches (203 mm), the minimum tread depth shall be 10 inches (254 mm), the minimum winder tread depth at the walk line shall be 10 inches (254 mm), and the minimum winder tread depth shall be 6 inches (152 mm). A nosing projection not less than 3/4 inch (19.1 mm) but not more than 1 1/4 inches (32 mm) shall be provided on stairways with solid risers where the tread depth is less than 11 inches (279 mm).
4. See Section 503.1 of the *International Existing Building Code* for the replacement of existing stairways.
5. In Group I-3 facilities, stairways providing access to guard towers, observation stations, and control rooms, not more than 250 square feet (23 m²) in area, shall be permitted to have a maximum riser height of 8 inches (203 mm) and a minimum tread depth of 9 inches (229 mm).

1015.4 Opening limitations. Required guards shall not have openings that allow passage of a sphere 5 inches (127 mm) in diameter from the walking surface to the required guard height.

Exceptions:

1. The triangular openings at the open sides of a stair, formed by the riser, tread, and bottom rail shall not allow passage of a sphere 6 inches (152 mm) in diameter.
2. At elevated walking surfaces for access to and use of electrical, mechanical, or plumbing systems or equipment, guards shall not have openings that allow passage of a sphere 21 inches (533 mm) in diameter.
3. In areas that are not open to the public within occupancies in Group B, I-3, F, H, M, or S, and for alternating tread devices and ships ladders, guards shall not have openings that allow passage of a sphere 21 inches (533 mm) in diameter.
4. In assembly seating areas, guards required at the end of aisles in accordance with Section 1029.17.4 shall not have openings that allow passage of a sphere 5 inches (127 mm) in diameter up to a height of 26 inches (660 mm). From a height of 26 inches (660 mm) to 42 inches (1,067 mm) above the adjacent walking surfaces, guards shall not have openings that allow passage of a sphere 8 inches (203 mm) in diameter.

5. Within individual dwelling units and sleeping units in Group R-2 and R-3 occupancies, guards on the open sides of stairs shall not have openings that allow passage of a sphere 5 inches (127 mm) in diameter.

1020.5 Dead ends. Where more than one exit or exit access doorway is required, the exit access shall be arranged such that dead-end corridors do not exceed 20 feet (6,096 mm) in length.

Exceptions:

1. In Group I-3, Condition 2, 3 or 4, occupancies, the dead end in a *corridor* shall not exceed 50 feet (15,240 mm).
2. In occupancies in Groups B, E, F, M, R-1, R-2, and U, where the building is equipped throughout with an *automatic sprinkler system* in accordance with Section 903.3.1.1, the length of the dead-end *corridors* shall not exceed 50 feet (15,240 mm).
3. In occupancies in Group I-1 where the building is equipped throughout with an automatic sprinkler system in accordance with Section 903.3.1.1, the length of the dead-end corridors shall not exceed 30 feet (9,144 mm).
4. A dead-end *corridor* shall not be limited in length where the length of the dead-end *corridor* is less than 2.5 times the least width of the dead-end *corridor*.
5. In Group I-2, Condition 2 occupancies, the length of dead-end *corridors* that do not serve patient rooms or patient treatment spaces shall not exceed 30 feet (9,144 mm).

1023.8 Barrier at level of exit discharge. An interior exit stairway and ramp shall not continue below its level of exit discharge unless an approved barrier or a directional exit sign is provided at the level of exit discharge to prevent persons from unintentionally continuing into levels below. Directional exit signs shall be provided as specified in Section 1013.

1031.3.1 Minimum size. Emergency escape and rescue openings shall have a minimum net clear opening of 5.0 square feet (0.46 m²).

1030.3 Maximum height from floor. Emergency escape and rescue openings shall have the bottom of the clear opening not greater than 48 inches (1,219 mm) measured from the floor.

1031.5.2 Ladders or steps. Area wells with a vertical depth of more than 48 inches (1,219 mm) shall be equipped with an approved permanently affixed ladder or steps. The ladder or steps shall not be obstructed by the emergency escape and rescue opening when the window or door is in the open position. Ladders or steps required by this section shall not be required

to comply with Section 1011.

1104.4 Multistory buildings and facilities. At least one accessible route shall connect each accessible story, mezzanine, and occupied roofs in multilevel buildings and facilities.

Exceptions:

1. An accessible route from an accessible level is not required in facilities that are less than three stories in height or have less than 3,000 square feet (279 m²) per story. This exception shall not apply to:
 - 1.1. Multiple tenant facilities of Group M occupancies containing five or more tenant spaces used for the sales or rental of goods and where at least one such tenant space is located on a floor level above or below the accessible levels;
 - 1.2. Stories or mezzanines containing offices of health care providers (Group B or I);
 - 1.3. Passenger transportation facilities and airports (Group A-3 or B);
 - 1.4. Government buildings, or
 - 1.5. Structures with four or more dwelling units.
2. Stories, mezzanines, or occupied roofs that do not contain accessible elements or other spaces as determined by Section 1107 or 1108 are not required to be served by an accessible route from an accessible level.
3. In air traffic control towers, an accessible route is not required to serve the cab and the floor immediately below the cab.
4. Where a two-story building or facility has one story or mezzanine with an occupant load of five or fewer persons that does not contain public use space, that story or mezzanine shall not be required to be connected by an accessible route to the story above or below.

1106.10 Signage. Accessible parking spaces and access aisles are required to be identified by signs. Signs shall be located at the head of accessible parking stalls and access aisles. The bottom of the lowest signs shall be located at least 60 inches above the pavement.

As referenced below, standard and van accessible parking space signs shall state, "RESERVED PARKING" and include the International Symbol of Accessibility; supplemental signage must additionally state, "STATE PERMIT OR LICENSE REQUIRED. \$100 MINIMUM FINE AND CLASS 2 MISDEMEANOR FOR VIOLATORS." A van accessible parking space must have additional signage stating, "VAN ACCESSIBLE." A van

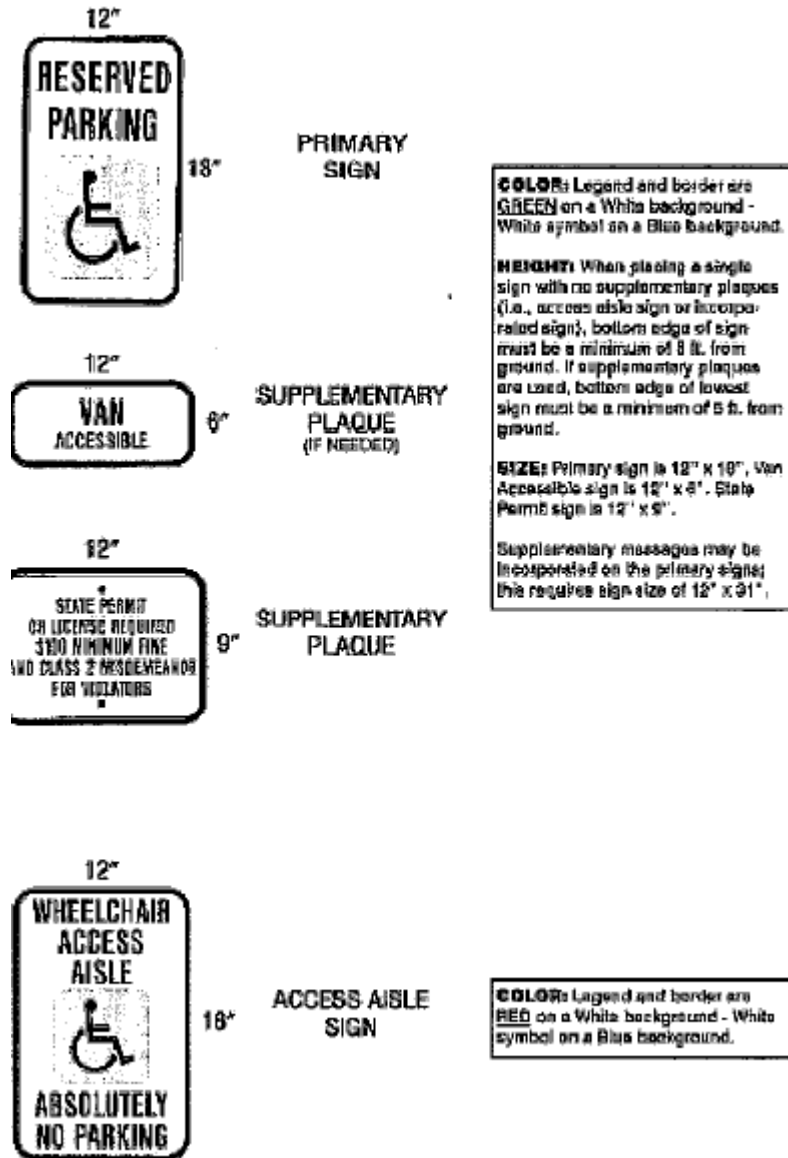
accessible access aisle must be provided with signage including the International Symbol of Accessibility which states, "WHEELCHAIR ACCESS AISLE.ABSOLUTELY NO PARK.ING."

1106.11 Access aisles and markings. Each access that is part of an accessible route shall extend the full length of the parking space it serves. The aisle must have diagonally striped markings spaced every 4 feet (1,219 mm). Boundaries of the access aisle must be marked. The end may be a squared or curved shape. Two parking spaces may share an access aisle.

Access aisles shall be placed on a level surface with a slope not to exceed 1:48.

Where an access aisle is located immediately adjacent to a sidewalk that provides the closest accessible route, the sidewalk must be provided with a curb ramp access to serve the access aisle.

Numbers shall not be spelled out. Each character shall be a minimum of 4 inches (102 mm) high with a minimum stroke width of 1/2 inch (12.7 mm). Where required by the fire code official, address identification shall be provided in additional approved locations to facilitate emergency response. Multi-building campus/complex developments addressed on private or public streets shall be provided with signage at the entrance to the campus/complex indicative of the address ranges within. Where access is by means of a private road and the building address cannot be viewed from the public way, a monument, pole, or other approved sign or means shall be used to identify the structure. Address identification shall be maintained.



1108.6.2.2.1 Type A units. In Group R-2 occupancies containing more than 20 dwelling units or sleeping units, at least 2 percent but not less than one of the units shall be a Type A unit. All Group R-2 units on a site shall be considered to determine the total number of units and the required number of Type A units. Type A units shall be dispersed among the various classes of units.

Exceptions:

1. The number of Type A units is permitted to be reduced in accordance with Section 1108.7.
2. Existing structures on a site shall not contribute to the total number of units on a site.

3. The following provisions of the 2017 ICC/ANSI A17.1-2017 referenced in Section 1103 Type A Dwelling are applicable.
 - 3.1 A work surface in the kitchen referenced in Section 1103.12.3 Clear Floor Space of ICC/ANSI A17.1-2017 is not required.
 - 3.2 .12.4.2 ICC/ANSI A17.1-2017 is not required.
 - 3.3 Appliances referenced in Section 1103.12.5 Appliances ICC/ANSI A17.1-2017 and Laundry Equipment requires only the clear floor space referenced in Section 305 Clear Floor Space The reduced work height of the kitchen sink at 34 inches referenced in Section 1103 of ICC/ANSI A17.1-2017.

1205.3.3 Court drainage. The bottom of every court shall be properly graded and drained to a public sewer or other approved disposal system complying with the plumbing code.

[E] 1301.1.1 Criteria. Buildings shall be designed and constructed in accordance with the 2009 *International Energy Conservation Code*.

[P] 1502.1 General. Design and installation of roof drainage systems shall comply with this section, Section 1611 of this code, and shall be sized and discharge in accordance with the Plumbing Code. Unless roofs are sloped to drain over roof edges, roof drains or scuppers shall be installed at each low point of the roof.

Roofs shall be sloped a minimum of 1 unit vertical in 48 units horizontal (2 percent slope) for drainage unless designed for water accumulation in accordance with Section 1611.2 Ponding instability.

Roof drainage water from a building shall not be allowed to flow over public property.

[P] 1502.2 Secondary (emergency overflow) drains or scuppers. Where roof drains are required, secondary (emergency overflow) roof drains or scuppers shall be provided where the roof perimeter construction extends above the roof in such a manner that water will be entrapped if the primary drains allow buildup for any reason. The installation and sizing of secondary emergency overflow drains, leaders, and conductors shall comply with Section 1611 of this code and the *Plumbing Code*.

1601.1 Scope. The provisions of this chapter shall govern the structural design of buildings, structures, and portions thereof regulated by this code.

It shall not be the responsibility of the building official to determine engineering requirements of this code. Exclusive of conventional light-frame wood construction provisions referenced in Section 2308, the method to resist loads as referenced in this chapter is the responsibility of a structural engineer or other qualified design professional.

1612.3 Establishment of flood hazard areas. Not adopted by City.

1703.1 Approved agency. An approved agency or the design professional of record shall provide all information as necessary for the building official to determine that the agency meets the applicable requirements specified in Sections 1703.1.1 through 1703.1.3.

1704.2 Special inspections and tests. Where application is made to the building official for construction as specified in Section 105, the owner or the owner's authorized agent, other than the contractor, shall employ one or more approved agencies to provide special inspections and tests during construction on the types of work specified in Section 1705 and identify the approved agencies to the building official. These special inspections and tests are in addition to the inspections by the building official that are identified in Section 110.

Exceptions:

1. Special inspections and tests are not required for construction of a minor nature or as warranted by conditions in the jurisdiction as approved by the building official.
2. Unless otherwise required by the building official, special inspections and tests are not required for Group U occupancies that are accessory to a residential occupancy including, but not limited to, those listed in Section 312.1.
3. Special inspections and tests are not required for portions of structures designed and constructed in accordance with the cold-formed steel light-frame construction provisions of Section 2211.1.2 or the conventional light-frame construction provisions of Section 2308.
4. The contractor is permitted to employ the approved agencies where the contractor is also the owner.
5. The frequency and amount of special inspections shall be as determined by the design professional of record. The continuous and periodic inspections referenced in Tables 1705.2.3, 1705.3, 1705.5.3, 1705.6, 1705.7, and 1705.8 are considered as guidelines.

1705.3 Concrete construction. Special inspections and tests of concrete construction shall be performed in accordance with this section and Table 1705.3.

Exception: Special inspections and tests shall not be required for:

1. Isolated spread concrete footings of buildings three stories or less above grade plane that are fully supported on earth or rock.

2. Continuous concrete footings supporting walls of buildings three stories or less above grade plane that are fully supported on earth or rock where:
 - 2.1. The footings and foundation walls support walls of light-frame construction.
 - 2.2. The footings are designed in accordance with Table 1809.7.
 - 2.3. The structural design of the footing is based on a specified compressive strength, f_c , not more than 3,000 pounds per square inch (psi) (20.6 MPa), regardless of the compressive strength specified in the approved construction documents or used in the footing construction.
3. Nonstructural concrete slabs supported directly on the ground, including prestressed slabs on grade, where the effective prestress in the concrete is less than 150 psi (1.0MPa).
4. Concrete foundation walls constructed in accordance with Table 1807.1.6.2.
5. Concrete patios, driveways, and sidewalks on grade.

[BF] 1705.18 Fire-resistant penetrations and joints. In high-rise buildings or in buildings assigned to Risk Category III or IV, special inspections for through-penetrations, membrane penetration fire-stops, fire-resistant joint systems, and perimeter fire containment systems that are tested and listed in accordance with Sections 714.4.1.2, 714.5.1.2, 715.3.1, and 715.4 shall be in accordance with Section 1705.18.1 or 1705.18.2.

1804.8 Grading permits required. No person shall excavate or grade without first obtaining a permit from the city engineer. If a building permit is not obtained, a separate grading permit must be obtained from the city engineer for each site and may cover both excavations and fills.

Exceptions:

1. A separate grading permit is not required from the city engineer where a site plan for a new building, structure, or addition is submitted for plan review where an excavation below finished grade for basements, footings, and foundations of a building, retaining wall, or other structure is authorized by a valid building permit.
2. A fill of less than 1 foot in depth and placed on natural terrain with a slope flatter than one unit vertical to five units horizontal (20 percent slope), or less than 3 feet (914 mm) in depth not intended to support structures, which does not exceed 300 cubic yards (229 m³) on any one lot and does not obstruct a drainage course.

3. Excavation, removal, or stockpiling of rock, sand, dirt, clay, or other like material as may be required by the state, county, or city authorities in connection with the construction or maintenance of roads and highways. This shall not exempt work for street construction when such work is performed by private developers. When the private developer has obtained a permit to perform site grading, a second permit will not be required for street grading.
4. When approved by the city engineer, grading in an isolated, self-contained area if there is no danger to public or private property.
5. Cemetery graves.
6. Refuse disposal sites controlled by other regulations.
7. Excavations for wells, tunnels, or utilities.
8. Mining, quarrying, excavating, processing, or stockpiling of rock, sand, gravel, aggregate, or clay where established and provided for by law, provided such operations do not affect the lateral support or increase the stresses in or pressure upon any adjacent or contiguous property.
9. Exploratory excavations under the direction of soils engineers or engineering geologists.
10. An excavation that (1) is less than 2 feet (610 mm) in depth; or (2) does not create a cut slope of less than 5 feet (1,524 mm) in height and steeper than 1 unit vertical in 1 1/2 units horizontal (66.7 percent slope).

Exemptions from the permit requirements of this chapter shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of this chapter or any other laws or ordinances of this jurisdiction.

1804.8.1 Grading permit requirements. Grading shall be performed in accordance with a grading plan approved by the city engineer. Submitted plans shall indicate existing elevations, proposed elevations, method of erosion control, and shall include the legal description.

1806.2 Presumptive load-bearing values. The load-bearing values used in design for supporting soils near the surface shall not exceed the values specified in Table 1806.2 unless data to substantiate the use of higher values are submitted and approved. Where the building official has reason to doubt the classification, strength, or compressibility of the soil, the requirements of Section 1803.5.2 shall be satisfied.

Presumptive load-bearing values shall apply to materials with similar physical characteristics and dispositions. Where a presumed soil-bearing capacity is in excess of 3,000 psf (471

kPa/m), data to substantiate the use of the presumed higher value must be submitted from a soils engineer for approval from the building official. Mud, organic silt, organic clays, peat, or unprepared fill shall not be assumed to have a presumptive load-bearing capacity unless data to substantiate the use of such a value are submitted.

Exception: A presumptive load-bearing capacity shall be permitted to be used where the building official deems the load-bearing capacity of mud, organic silt, or unprepared fill is adequate for the support of lightweight or temporary structures.

1809.5 Frost protection. Except where otherwise protected from frost, foundations and other permanent supports of buildings and structures shall be protected from frost by one or more of the following methods:

1. Extending below the frost line of the locality.
2. Constructing in accordance with ASCE 32.
3. Erecting on solid rock.

Exception: Free-standing buildings meeting all of the following conditions shall not be required to be protected:

1. Assigned to Risk Category I.
2. Area of 1,500 square feet (139 m²) or less for light frame construction or 400 square feet (37 m²) or less for other than light-frame construction.
3. Eave height of 10 feet (3,048 mm) or less.

Shallow foundations shall not bear on frozen soil unless such frozen condition is of a permanent character.

[P] 2901.1 Scope. The provisions of this chapter and the *Plumbing Code* shall govern the design, construction, erection, and installation of plumbing components, appliances, equipment, and systems used in buildings and structures covered by this code. Toilet and bathing rooms shall be constructed in accordance with Section 1209. Private sewage disposal systems shall conform to the *Plumbing Code*. The *International Fire Code*, the *International Property Maintenance Code* and the *Plumbing Code* shall govern the use and maintenance of plumbing components, appliances, equipment, and systems. The *International Existing Building Code* and the *Plumbing Code* shall govern the alteration, repair, relocation, replacement, and addition of plumbing components, appliances, equipment, and systems.

[P] Table 2902.1
Minimum Number of Required Plumbing Fixtures ^a
(See Sections 2902.1.1 and 2902.2)

No.	CLASSIFICATION	DESCRIPTION	WATER CLOSETS (URINALS SEE SECTION 2902.1.4)		LAVATORIES		BATHTUBS/SHOWERS	DRINKING FOUNTAINS (SEE SECTION 2902.1.5)	OTHER
			Male	Female	Male	Female			
1	Assembly	Theaters and other buildings for the performing arts and motion pictures	1 per 125	1 per 85	1 per 200		—	1 per 500	1 service sink
		Nightclubs, bars, taverns, dance halls and buildings for similar purposes	1 per 40	1 per 40	1 per 75		—	1 per 500	1 service sink
		Restaurants, banquet halls and food courts	1 per 75	1 per 75	1 per 200		—	1 per 500	1 service sink
		Casino gaming areas	1 per 100 for the first 400 and 1 per 250 for the remainder exceeding 400	1 per 50 for the first 400 and 1 per 150 for the remainder exceeding 400	1 per 250 for the first 750 and 1 per 500 for the remainder exceeding 750		—	1 per 1,000	1 service sink
		Auditoriums without permanent seating, art galleries, exhibition halls, museums, lecture halls, libraries, arcades and gymnasiums	1 per 125	1 per 85	1 per 200		—	1 per 500	1 service sink
		Passenger terminals and transportation facilities	$\frac{1}{2}$ per 500	1 per 500	1 per 750		—	1 per 1,000	1 service sink
		Places of worship and other religious services	1 per 150	1 per 75	1 per 200		—	1 per 1,000	1 service sink
		Coliseums, arenas, skating rinks, pools and tennis courts for indoor sporting events and activities	1 per 120	1 per 80	1 per 200	1 per 150	—	1 per 1,000	1 service sink
		Stadiums, amusement parks, bleachers and grandstands for outdoor sporting events and activities ¹	1 per 120	1 per 80	1 per 200	1 per 150	—	1 per 1,000	1 service sink
2	Business	Buildings for the transaction of business, professional services, other services involving merchandise, office buildings, banks, light industries, ambulatory care and similar uses	1 per 25 for the first 50 and 1 per 50 for the remainder exceeding 50		1 per 40 for the first 80 and 1 per 80 for the remainder exceeding 80		—	1 per 100	1 service sink
3	Educational	Educational facilities	1 per 50		1 per 50		—	1 per 100	1 service sink
4	Factory and Industrial	Structures in which occupants are engaged in work fabricating, assembly or processing of products or materials	1 per 100		1 per 100		—	1 per 400	1 service sink
5	Institutional	Quarantine care facilities	1 per 10		1 per 10		1 per 8	1 per 100	1 service sink
		Medical care recipients in hospitals and nursing homes ²	1 per room ²		1 per room ²		1 per 15	1 per 100	1 service sink
		Employees in hospitals and nursing homes ²	1 per 25		1 per 35		—	1 per 100	—
		Visitors in hospitals and nursing homes	1 per 75		1 per 100		—	1 per 500	—
		Prisons ²	1 per cell		1 per cell		1 per 15	1 per 100	1 service sink
		Reformatories, detention centers and correctional centers ²	1 per 15		1 per 15		1 per 15	1 per 100	1 service sink
		Employees in reformatories, detention centers and correctional centers ²	1 per 25		1 per 35		—	1 per 100	—
Adult day care and child day care	1 per 15		1 per 15		1	1 per 100	1 service sink		
6	Mercantile	Retail stores, service stations, shops, salarooms, markets and shopping centers	1 per 500		1 per 750		—	1 per 1,000	1 service sink ³
7	Residential	Hotels, motels, boarding houses (transient)	1 per sleeping unit		1 per sleeping unit		1 per sleeping unit	—	1 service sink
		Dormitories, fraternality, sorority and boarding houses (not transient)	1 per 10		1 per 10		1 per 8	1 per 100	1 service sink
		Apartment house	1 per dwelling unit		1 per dwelling unit		1 per dwelling unit	—	1 kitchen sink per dwelling unit; 1 automatic clothes washer connection per 20 dwelling units
		One- and two-family dwellings and lodging houses with five or fewer guestrooms	1 per dwelling unit		1 per 10		1 per dwelling unit	—	1 kitchen sink per dwelling unit; 1 automatic clothes washer connection per dwelling unit
		Congregate living facilities with 16 or fewer persons	1 per 10		1 per 10		1 per 8	1 per 100	1 service sink
8	Storage	Structures for the storage of goods, warehouses, storehouses and freight depots, low and moderate hazard	1 per 100		1 per 100		—	1 per 1,000	1 service sink

- a. The fixtures shown are based on one fixture being the minimum required for the number of persons indicated or any fraction of the number of persons indicated. The number of occupants shall be determined by this code.

- b. Toilet facilities for employees shall be separate from facilities for inmates or care recipients.
- c. A single-occupant toilet room with one water closet and one lavatory serving not more than two adjacent patient sleeping units shall be permitted, provided that each patient sleeping unit has direct access to the toilet room and provisions for privacy for the toilet room user are provided.
- d. The occupant load for seasonal outdoor seating and entertainment areas shall be included when determining the minimum number of facilities required.
- e. For business and mercantile classifications with an occupant load of 15 or fewer, a service sink shall not be required.
- f. The required number and type of plumbing fixtures for outdoor swimming pools shall be in accordance with Section 609 of the *International Swimming Pool and Spa Code*.

2902.1.4 Substitution for water closets. In a toilet room or bathroom, urinals shall not be substituted for more than 67 percent of the required water closets.

2902.1.5 Drinking fountains. Where water is served in restaurants or where bottled water is served in other occupancies, drinking fountains shall not be required. Drinking fountains shall not be installed in public restrooms.

[P] 2902.2 Separate facilities. Where plumbing fixtures are required, separate facilities shall be provided for each sex.

Exceptions:

- 1. Separate facilities shall not be required for *dwelling units* and *sleeping units*.
- 2. Separate facilities shall not be required in structures or tenant spaces with a total *occupant load*, including both employees and customers, of 15 or fewer.
- 3. Separate facilities shall not be required in mercantile occupancies in which the maximum *occupant load* is 100 or fewer.
- 4. Separate facilities shall not be required in business occupancies in which the maximum *occupant load* is 25 or fewer.
- 5. Separate facilities shall not be required to be designated by sex where single-user toilets rooms are provided in accordance with Section 2902.1.2.
- 6. Separate facilities shall not be required where rooms having both water closets and lavatory fixtures are designed for use by both sexes and privacy for water closets are installed in accordance with Section 2902.2.2. Urinals shall be located in an area visually separated from the remainder of the

facility or each urinal that is provided shall be located in a stall.

[P] 2902.6 Small occupancies. Drinking fountains and service sinks shall not be required for an occupant load of 15 or fewer.

3111.2 Solar thermal systems. Solar thermal systems shall be designed and installed in accordance with this section, the *International Mechanical Code*, and the *International Fire Code*. Where light-transmitting plastic covers are used, solar thermal collectors shall be designed in accordance with Section 2606.12.

Section 3114 Public use restroom buildings in flood hazard areas. Not adopted by the city.

Section 3116 Prefabricated construction.

3116.1 General.

3116.1.1 Purpose. The purpose of this section is to regulate materials and establish methods of safe construction where any structure or portion thereof is wholly or partially prefabricated.

3116.1.2 Scope. Unless otherwise specifically stated in this section, all prefabricated construction and materials used therein shall conform to all the requirements of this code.

3116.1.3 Definitions.

Prefabricated assembly is a structural unit, the integral parts of which have been built or assembled prior to incorporation in the building.

Prefabricated structures are structures, the parts of which are fabricated and assembled in a central assembly point, where on-site building, electrical, plumbing, and mechanical rough-in inspections occur at the assembly location.

3116.2 Tests of materials. Every approval of a material not specifically mentioned in this code shall incorporate as a proviso the kind and number of nationally recognized tests to be made.

3116.3 Tests of assemblies. The building official may require special tests to be made on assemblies to determine their durability and weather resistance.

3116.4 Connections. Every device used to connect prefabricated assemblies shall be designed as required by this code and shall be capable of developing the strength of the members connected, except in the case of members forming part of a structural frame as specified in Chapter 16. Connections shall be capable of withstanding uplift forces as specified in this code and in Chapter 16.

3116.5 Pipes and conduits. In structural design, due allowance shall be made for any material to be removed for the installation of pipes, conduit, and other equipment.

3116.6 Permits, materials, plans, fees, certificate, and inspections.

3116.6.1 Materials. Materials and the assembly thereof shall be inspected to determine compliance with this code. Every material shall be graded, marked, or labeled as required elsewhere in this code.

3116.6.2 Plans. One complete set of plans and specifications shall be submitted to the building inspection division of planning and development services for approval prior to issuing a building permit for a prefabricated structure. Plans shall be of sufficient detail and clarity to indicate compliance with all applicable codes (electrical, plumbing, building, mechanical, and zoning).

3116.6.3 Permits and fees. Permit fees shall be as follows:

1. The fee for a building permit shall conform to Tables 1-A and 1-B, and the plan review fee, if applicable, shall be in accordance with Table 1-C.
2. Electrical, plumbing, and mechanical permits and fees shall conform to the respective permit requirements and fee schedules.

3116.6.4 Certificate. A certificate of approval shall be furnished with every prefabricated assembly and prefabricated structure, except where the assembly is readily accessible to inspection at the site. The certificate of approval shall certify that the assembly in question has been inspected and meets all the requirements of this code. When mechanical equipment is installed so that it cannot be inspected at the site, the certificate of approval shall certify that such equipment complies with the laws applying thereto.

3116.6.5 Certifying agency. To be acceptable under this code, every certificate of approval shall be made by the approved agency.

3116.6.6 Field erection. The building official shall inspect placement of prefabricated assemblies at the building site to determine compliance with this code. Installation and finishing work at the building site must be performed by locally licensed contractors where required. Final inspections are to be made after the installation and finishing work has been completed and the building is ready for occupancy.

3116.6.7 Continuous inspection. If continuous inspection is required for certain materials where construction takes place on the site, it shall also be required where the same materials are used in prefabricated construction.

Exception: Continuous inspection will not be required during prefabrication if the approved agency certifies to the construction and furnishes evidence of compliance.

3116.6.8 Moving permits. A moving permit shall be obtained for each prefabricated structure being moved within the city in accordance with Section 3404 Moved Buildings. No person except a building mover licensed pursuant to subsection 3404.2 of Section

150.017 of the Code of Ordinances of Sioux Falls shall move a prefabricated structure or part thereof across, along, or over public property.

3303.1 Construction documents. No person shall demolish or wreck a building or structure without first obtaining a razing permit. Permit fees shall be paid in accordance with Item 5 of Table 1-C. Construction documents and a schedule for demolition shall be submitted where required by the building official. Where such information is required, work shall not be done until such construction documents or schedule, or both, are approved. The applicant shall secure insurance covering any possible liability that could incur during demolition.

3303.6 Utility connections. Service utility connections shall be discontinued and capped in accordance with the approved rules and the requirements of the applicable governing authority.

Before a razing permit can be issued, the applicant must furnish approval from the city engineering division that applicable permits have been secured to ensure that all utilities will be properly disconnected and inspected as per city engineer's specifications. The applicant shall be responsible for notifying other utilities of such anticipated demolition.

11.0402 International Property Maintenance Code.

- A. The *International Property Maintenance Code, 2021 Edition*, including Appendix A, Appendix B, as published by the International Code Council Inc. as amended, is hereby adopted as the property maintenance code by the City for the provisions of this code shall apply to all existing residential and nonresidential structures and all existing premises. And constitute the minimum requirements and standards for premises, structures, equipment, and facilities for lighting, ventilation, space, heating, sanitation, protection from elements, a reasonable level of safety from fire and other hazards, and for reasonable level of sanitary maintenance; the responsibility of owners, an owner's authorized agent, operators, and occupants; the occupancy of existing structures and premises, and for administration, enforcement, and penalties.
- B. The minimum building standards in the 2021 edition of the *International Property Maintenance Code* and amendments thereto shall be applied to any building permit issued after June 30, 2022.
- C. The following sections and subsections of the 2021 *International Property Maintenance Code* adopted in this subchapter shall be amended, added, or not adopted by the city as follows. All other sections or subsections of the 2021 *International Property Maintenance Code* as published remain the same.

101.3 Purpose. The purpose of this code is to establish minimum requirements to provide a reasonable level of health, safety, property protection and general welfare insofar as they are affected by the continued *occupancy* and maintenance of structures and *premises*. Existing structures and *premises* that do not comply with these provisions shall be altered or repaired to provide a reasonable minimum level of health, safety and general welfare as required herein.

103.2 Appointment. By the City of Crooks.

302.1 Weeds. *Premises* and *exteriors property* shall be maintained free from weeds or plant growth more than 8 **inches**. Noxious weeds shall be prohibited. Weeds shall be defined as all grasses, annual plants, and vegetation, other than trees or shrubs provided; however, this term shall not include cultivated flowers and gardens.

Upon failure of the *owner* or agent having charge of a property to cut and destroy weeds after service of a notice of violation, they shall be subject to prosecution in accordance with Section 108.3 and as prescribed by the authority having jurisdiction. Upon failure to comply with the notice of violation, any duly authorized employee of the jurisdiction or contractor hired by the jurisdiction shall be authorized to enter upon the property in violation and cut and destroy the weeds growing thereon, and the costs of such removal shall be paid by the *owner* or agent responsible for the property

304.14 Insect screens. During the period from **May 1st** to **October 1st**, every door, window and other outside opening required for *ventilation* of habitable rooms, food preparation areas, food service areas or any areas where products to be included or utilized in food for human consumption are processed, manufactured, packaged or stored shall be supplied with *approved* tightly fitting screens of minimum 16 mesh per inch (16 mesh per 25 mm), and every screen door used for insect control shall have a self-closing device in good working condition.

Exception: Screens shall not be required where other *approved* means, such as air curtains or insect repellent fans, are employed.

11.0403 International Existing Building Code.

- A. The *International Existing Building Code*, 2021 edition, including Resource A, Guidelines on Fire Ratings of Archaic Materials and Assemblies, as published by the International Code Council Inc., and amendments and additions thereto as provided in this article, are hereby adopted as the existing building code by the city for regulating and governing the repair, alteration, change of occupancy, addition, and relocation of existing buildings, including historic buildings, as herein provided and provides for the issuance of permits and the collection of fees therefor.

- B. The minimum building standards in the 2021 edition of the *International Existing Building Code* and amendments thereto shall be applied to any building permit issued after June 30, 2022.

- C. The following sections and subsections of the existing building code adopted in this subchapter shall be amended, added, or deleted as follows. All other sections or subsections of the 2021 *International Existing Building Code* shall remain the same.

[A] 101.1 Title. These regulations shall be known as the existing building code of the city of CROOKS, hereinafter referred to as "this code."

[A] 103.1 Enforcement agency. Building services is hereby created, and the official in charge thereof shall be known as the code official. The function of the agency shall be the implementation, administration, and enforcement of the provisions of this code.

[A] 103.2 Appointment. By the City of Crooks.

[A] 104.8 Liability. The code official, member of the board of appeals, or employee charged with the enforcement of this code, while acting for the jurisdiction in good faith and without malice in the discharge of the duties required by this code or other pertinent law or ordinance, shall not thereby be rendered civilly or criminally liable personally and is hereby relieved from personal liability for any damage accruing to persons or property as a result of any act or by reason of an act or omission in the discharge of official duties.

This code shall not be construed to relieve from or lessen the responsibility of any person owning, operating, or controlling any building or structure for any damages to persons or property caused by defects, nor shall the code enforcement agency or the city be held as assuming any such liability by reason of the inspection authorized by this code or any permits or certificates issued under this code.

[A] 104.8.1 Legal defense. Any suit or criminal complaint instituted against an officer or employee because of an act performed by that officer or employee in the lawful discharge of duties and under the provisions of this code shall be afforded all the protection provided by the city's insurance pool and immunities and defenses provided by other applicable state and federal laws and shall be defended by legal representatives of the jurisdiction until the final termination of the proceedings. The code official or any subordinate shall not be liable for cost in any action, suit, or proceeding that is instituted in pursuance of the provisions of this code.

[A] 104.11 Alternative materials, design and methods of construction, and equipment. The provisions of this code are not intended to prevent the installation of any material or to prohibit any design or method of construction not specifically prescribed by this code, provided that any such alternative has been approved. An alternative material, design, or method of construction shall be approved where the code official finds that the proposed design is satisfactory and complies with the intent

of the provisions of this code, and that the material, method, or work offered is, for the purpose intended, not less than the equivalent of that prescribed in this code in quality, strength, effectiveness, fire resistance, durability, and safety.

[A] 105.1 Required. Any owner or owner's authorized agent who intends to repair, add to, alter, relocate, demolish, or change the occupancy of a building or to repair, install, add, alter, remove, convert, or replace any electrical, gas, mechanical, or plumbing system, the installation of which is regulated by this code, or to cause any such work to be performed, shall first make application to the code official and obtain the required permit. The code official may exempt permits for minor work.

[A] 105.1.1 Annual permit. Not adopted by the city.

[A] 105.1.2 Annual permit records. Not adopted by the city.

108.7 Delinquent accounts. The city may refuse to issue permits or conduct inspections for any person or business whose account is delinquent.

[A]109.3.1 Footing or foundation inspection. Footing and foundation inspections shall be made after excavations for footings are complete and any required reinforcing steel is in place. If an inspection is required for concrete foundations, any required forms shall be in place prior to inspection. Materials for the foundation shall be on the job, except where concrete is ready mixed in accordance with ASTM C 94, the concrete need not be on the job.

[A] 110.2 Certificate issued. After the code official inspects the structure and does not find violations of the provisions of this code or other laws that are enforced by the department, the code official shall issue a certificate of occupancy that shall contain the following:

1. The permit numbers.
2. The address of the structure.
3. A statement that the described portion of the structure has been inspected for compliance with the requirements of this code for the occupancy and division of occupancy and the use for which the proposed occupancy is classified.
4. The name of the code official.
5. The edition of the code under which the permit was issued.
6. The use and occupancy in accordance with the provisions of the *International Building Code*.

7. The type of construction as defined in the *International Building Code*.
8. The design occupant load in assembly occupancies only.
9. Where an automatic sprinkler system is provided, and whether an automatic sprinkler system is required.
10. Any special stipulations and conditions of the building permit.

[A] 112.1 General. In order to hear and decide appeals of orders, decisions, or determinations made by the building and fire code officials relative to the application and interpretation of this code and the fire code, to review all prospective changes to the respective codes and to submit recommendations to the responsible official and the city council, to approve permits for house moves, and to examine applicants for licensing and to investigate matters brought to the board, there shall be and is hereby created a board of appeals. Members shall be appointed by the mayor with the advice and consent of the city council and shall hold office at its pleasure. The board shall adopt rules of procedure for conducting its business and shall render all decisions and findings in writing to the appellant with a duplicate copy to the code official.

[A] 113.3 Prosecution of violation. If the notice of violation is not complied with promptly, the code official is authorized to request the legal counsel of the jurisdiction to deem the violation as a strict liability offense and institute the appropriate proceeding at law or in equity to restrain, correct, or abate such violation or to require the removal or termination of the unlawful occupancy of the building or structure in violation of the provisions of this code or of the order or direction made pursuant thereto.

Section 202-General Definitions. Add the following definition:

STRICT LIABILITY OFFENSE. An offense, in which the prosecution in a legal proceeding, is not required to prove criminal intent as a part of its case. It is enough to prove that the defendant either did an act which was prohibited or failed to do an act which the defendant was legally required to do.

3022 Additional codes. Alterations, repairs, additions and changes of occupancy to, or relocation of, existing buildings and structures shall comply with the provisions for alterations, repairs, additions and changes of occupancy, or relocation, respectively, in this code and the *International Energy Conservation Code*, *International Fire Code*, *International Fuel Gas Code*, *International Mechanical Code*, *Uniform Plumbing Code*, *International Property Maintenance Code*, *International Residential Code*, and NFPA 70. Where provisions of the other codes conflict with provisions of this code, the provisions of this code shall take precedence.

Section 303 Storm Shelters. Not adopted by the city.

406.1 Material. Existing electrical wiring and equipment undergoing repair shall be allowed to be repaired or replaced with like material. Minor additions, alterations, and repairs to existing electrical systems or equipment may be installed in accordance with the law in effect at the time the original installation was made, when approved by the electrical inspector.

406.1.4 Health care facilities. Portions of electrical systems being repaired in Group I-2, ambulatory care facilities and outpatient clinics, shall comply with NFPA 99 requirements for repairs and Article 517 of NFPA 70.

406.1.6 New electrical service entrances in existing single-family and multiple-family dwellings. When adding a new service entrance with increased amperage, the existing electrical system shall, at a minimum, comply with the following:

- (1) *Kitchens.* Each kitchen shall have a minimum of one 20-ampere circuit serving a countertop receptacle and a grounded receptacle serving a refrigerator.
- (2) *Overcurrent device location.* Each occupant shall have access to his branch circuit overcurrent devices without going outdoors or through another occupancy.
- (3) *Habitable areas.* All habitable areas, other than closets, kitchens, basements, garages, hallways, laundry areas, utility areas, storage areas, and bathrooms, shall have a minimum of two duplex receptacle outlets, or one duplex receptacle outlet and one ceiling or wall- type lighting outlet.
- (4) *Minimum lighting outlets.* At least one lighting fixture shall be provided in every habitable room, bathroom, hallway, stairway, attached garage, and detached garage with electrical power, in utility rooms and basements where such spaces are used for storage or contain equipment requiring service, and to illuminate outdoor entrances and exits. A switched receptacle is allowed in lieu of a lighting fixture in habitable rooms only.
- (5) *Ground fault circuit interrupters.* Ground fault circuit interrupter protection shall be provided for all receptacles in bathrooms, above kitchen counters, attached and detached garages provided with power, at readily accessible receptacles within 6 feet of sinks, basements, and at outdoor locations. The exceptions of the *National Electrical Code* 210.8(A) 3 and 5 shall apply.
- (6) *Laundries.* Each laundry shall be provided with at least one separate 20-ampere circuit.
- (7) *Heat sources.* The primary heat source shall be provided with a separate circuit.

- (8) *Exposed wiring methods.* All exposed wiring methods shall be installed in accordance with the applicable *National Electrical Code* article.
- (9) *Bathrooms.* Each bathroom shall have one receptacle outlet located within 3 feet of the basin. Any bathroom receptacle outlet shall have ground fault circuit interrupter protection.
- (10) *Emergency disconnect.* An emergency disconnect shall be provided as required in Section 230.85 of the *National Electric Code* for one- and two-family dwelling units and townhomes.

408.1 Materials. Plumbing materials and supplies shall not be used for repairs that are prohibited in the *Uniform Plumbing Code*.

702.7 Materials and methods. New work shall comply with the materials and methods requirements in the *International Building Code*, *International Residential Code*, *International Energy Conservation Code*, *International Mechanical Code*, *International Fuel Gas Code*, *NFPA 70*, and the *Uniform Plumbing Code*, as applicable, that specify material standards, detail of installation and connection, joints, penetrations, and continuity of any element, component, or system in the building.

[M] 702.7.2 International Mechanical Code. The following sections of the *International Mechanical Code* shall constitute the mechanical materials and methods requirements for Level I alterations:

1. All of Chapter 3, entitled "General Regulations," except Sections 303.7 and 306.
2. All of Chapter 8, entitled "Chimneys and Vents."
3. All of Chapter 9, entitled "Specific Appliances."

[R] 702.6.3 International Residential Code. The following sections of Part V-Mechanical of the *International Residential Code* shall constitute the residential mechanical and fuel gas materials and methods requirements for Level 1 alterations:

1. All of Chapter 13, entitled "General Mechanical System Requirements," except Section M1305.
2. All of Chapter 18, entitled "Chimneys and Vents."
3. All of Section 02412 entitled "General" and 02413 entitled "Pipe Sizing" except Sections 2412.8 and 02413.3.

- 3.1. Sections 02412 and 02413 shall apply where the work being performed increases the load on the system such that the existing pipe does not meet the size required by code. Existing systems that are modified shall not require resizing as long as the load on the system is not increased and the system length is not increased even if the altered system does not meet code minimums.
4. All of Sections 02431 through 02453 governing the appliances and equipment specifically identified therein.

804.4.1.2.1 Fire escape access and details. Fire escapes shall comply with all of the following requirements:

1. Occupants shall have unobstructed access to the fire escape without having to pass through a room subject to locking.
2. Access to a new fire escape shall be through a door, except that window shall be permitted to provide access from single dwelling units or sleeping units in Group R-1, R-2, and I-1 occupancies or to provide access from spaces having a maximum occupant load of 10 in other occupancy classifications.
 - 2.1. The window shall have a minimum net clear opening of 5 square feet (0.46 m²).
 - 2.2. The minimum net clear opening height shall be 24 inches (610 mm) and net clear opening width shall be 20 inches (508 mm).
 - 2.3. The bottom of the clear opening shall not be greater than 48 inches (1,219 mm) above the floor.
 - 2.4. The operation of the window shall comply with the operational constraints of the *International Building Code*.
3. Newly constructed fire escapes shall be permitted only where exterior stairways cannot be utilized because of lot lines limiting the stairway size or because of the sidewalks, alleys, or roads at grade level.
4. Openings within 10 feet (3,048 mm) of fire escape stairways shall be protected by fire assemblies having minimum 3/4-hour fire resistance ratings.

Exception: Opening protection shall not be required in buildings equipped throughout with an approved automatic sprinkler system.

5. In all buildings of Group E occupancy, up to and including the 12th grade, buildings of Group I occupancy, rooming houses and childcare centers, ladders of any type are prohibited on fire escapes used as a required means of egress.

1009.1 Increased demand. Where the occupancy of an existing building or part of an existing building is changed such that the new occupancy is subject to increased or different plumbing fixture requirements or to increased water supply requirements in accordance with the *Uniform Plumbing Code*, the new occupancy shall comply with the intent of the respective *Uniform Plumbing Code* provisions.

Exception: Only where the occupant load of the story is increased by more than 20 percent, plumbing fixtures for, the story shall be provided in quantities specified in the *International Building Code* based on the increased occupant load.

1009.2 Food-handling occupancies. If the new occupancy is a food-handling establishment, all existing sanitary waste lines above the food or drink preparation or storage areas shall be panned or otherwise protected to prevent leaking pipes or condensation on pipes from contaminating food or drink. New drainage lines shall not be installed above such areas and shall be protected in accordance with the *Uniform Plumbing Code*.

1009.3 Interceptor required. If the new occupancy will produce grease or oil-laden wastes, interceptors shall be provided as required in the *Uniform Plumbing Code*.

1009.5 Group 1-2. If the occupancy group is changed to Group I-2, the plumbing system shall comply with the applicable requirements of the *Uniform Plumbing Code*.

Table 1011.5

Means of Egress Hazard Categories

Relative Hazard	Occupancy Classifications
I (Highest Hazard)	H; I-2; I-3; I-4
2	I-1; R-1; R-2; R-4, Condition 2
3	A; E; M; R-4, Condition 1
4	B; F-1; S-1; R-3
5 (Lowest Hazard)	F-2; S-2; U

1011.5.6 Existing emergency escape and rescue openings. Where a change of occupancy would require an *emergency escape and rescue opening* in accordance with Section 1031 of the *International Building Code*, operable windows serving as the *emergency escape and rescue opening* shall comply with the following:

1. An existing operable window shall provide a minimum net clear opening of 4 square feet (0.38 m²) with a minimum net clear opening height of 22 inches

(559 mm) and a minimum net clear opening width of 20 inches (508 mm), provided the operable window has a sill height of not more than 48 inches (1,219 mm) above the floor.

2. A replacement window where such window complies with both of the following:
 - 2.1. The replacement window meets the size requirements in Item 1.
 - 2.2. The replacement window is the manufacturer's largest standard size window that will fit within the existing frame or existing rough opening. The replacement window shall be permitted to be of the same operating style as the existing window or a style that provides for an equal or greater window opening area than the existing window.

Table 1011.6

Heights and Areas Hazard Categories

Relative Hazard	Occupancy Classifications
1 (Highest Hazard)	H; 1-2; 1-3; I-4
2	A-1; A-2; A-3; A-4; I-1; R-1; R-2; R-4, Condition 2
3	E; F-1; S-1; M
4 (Lowest Hazard)	B; F-2; S-2; A-5; R-3; R-4, Condition 1; U

1011.6.2 Exterior wall rating for change of occupancy classification to an equal or lesser hazard category. When a change of occupancy classification is made to an equal or lesser hazard category as shown in Table 1011.6, existing exterior walls, including openings, shall be accepted.

Exception. Where a property line is platted creating a Group R-3, multifamily dwelling (town house), the walls separating the dwelling units shall be constructed to provide a continuous fire separation using construction materials consistent with the existing wall or complying with the requirements for a new structure. The fire-resistive elements are not required to be continuous between concealed floor spaces, although there shall be provided a draft-stop, located above and in line with the dwelling unit separation walls.

1301.2.6 Plumbing fixtures. Plumbing fixtures shall be provided in accordance with Section 1009 for a change of occupancy and Section 808 for *alterations*. Plumbing fixtures for *additions* shall be in accordance with the *International Building Code*.

1401.2 Conformance. The building shall be safe for human occupancy as determined by the *International Fire Code* and the *International Property Maintenance Code*. Any repair, alteration, or change of occupancy undertaken within the moved structure shall comply with the requirements of this code applicable to the work being performed. Any field-fabricated elements shall comply with the requirements of the *International Building Code* or the *International Residential Code* as applicable.

Exceptions:

1. Manufactured homes used as a dwelling and located in a licensed manufactured home park.
2. Structures used as a temporary office or shelter on a construction or development site when approved by the building official.
3. Structures used as a temporary business office for a period as specified in Section [A] 108.1 of the *International Building Code* when approved by the building official and provided it meets the applicable accessibility requirements of this code.
4. Manufactured homes used as a sales office at a location where such homes are offered for sale, provided it meets the applicable accessibility requirements of this code.

1401.3 Definitions. For the purpose of this section, the following words and phrases mean:

1. *Building mover.* Any person, firm, partnership, corporation, or association who engages in the business or work of moving a building across public property within the city.
2. *Building moving.* The moving of any house, building, structure, or any part or parts thereof, except structures or parts of structures less than 12 feet wide and 13.5 feet high when loaded, from one location to another when moving requires traveling upon, across, along, or over any street, avenue, highway, thoroughfare, alley, sidewalk, or other public ground in the city. This term does not apply to manufactured or modular structures or assemblies that do not exceed 15 feet in height and 16.6 feet in width including all nonstructural appendages, or a length of 80.6 feet including all nonstructural appendages.
3. *Agency.* The planning and building services department, police department,

city forester, city light and power, and city engineering department.

1401.4 License required. No person except a building mover licensed by the city shall move any building, house, or structure, or part thereof, across, along, or over any public property.

1401.5 License application. Any person desiring to engage in the business of building moving must file an application for the building mover's license in the city engineering department.

1401.6 Bonding. The applicant for a building mover's license shall file with the application a bond running to the city in the penal sum of \$10,000.00 with sufficient sureties and conditioned that the license will comply with all city requirements to the satisfaction of the city engineering department and shall encompass repairs due to any damage to any sidewalk, crosswalk, hydrant, street, alley, or other property done or caused by himself, his servants, or employees in connection with moving any building.

The bond will guarantee payment for damages to property and payment to the city for services provided by the city. The license will indemnify and save harmless the city against any and all liability for damages, costs, or expenses arising out of any negligence on his part or on the part of his servants or employees in connection with the moving of any building or the use of any public street or ground for that purpose.

1401.7 Revocation. A building mover's license may be revoked at any time if the mover violates the provisions of this chapter or rules established by the agency or conducts his business in a careless or reckless manner or refuses to make prompt payment of any sums due the city from him under any of the provisions of this chapter, or whose bond or insurance as required herein has been canceled or otherwise terminated.

1401.8 Transferability. No license or permit issued pursuant to this chapter shall be transferable.

1401.9 Permits required. No person shall engage in building moving unless and until he has obtained a building moving permit, which will not be issued to anyone except a person licensed as the building mover. Such permit shall be obtained not less than seven days prior to the move.

1401.10 Prerequisites to a permit. No permit to move a building shall be issued as hereunder provided until the following conditions have been satisfied:

1. A permit for capping the sanitary sewer service and/or water service shall be obtained pursuant to Section 50.020: Permit To Raze or Remove Building Required and Section 50.021: Disconnection, of the Code of Ordinances of

CROOKS, SD.

2. A building permit is required to place a one- or two-family dwelling in a residential zoning district on the property described on the application if located in the city. Before a city building permit can be issued for a one- or two-family dwelling to be moved in a residential zoning district, the applicant shall post the property. A hearing before the building board of appeals will be required prior to the issuance of the building permit upon request from the public. A hearing will be initiated and scheduled at the request of the public within the time period of posting the signs per Item 1 below. The request shall be in writing on forms provided by building services.

Before any action can be taken by the board, the applicant shall:

1. Post the property where the dwelling is to be moved for a continuous period of not less than five working days with signs furnished by the building official. At least two signs shall be posted. The applicant shall submit a written oath that the signs were properly posted.
2. Submit one certified copy of the restrictions and covenants of the property where the dwelling is proposed to be moved. Those portions applicable to the dwelling shall be highlighted. If the property contains no restrictions or covenants, a statement to that fact shall be submitted.
3. Submit a proposed site plan containing the legal description where the dwelling is proposed to be moved.
4. Submit the inspection report from the building inspector.
5. Submit original clear photographs of the front, rear, and side elevations of the dwelling to be moved.
6. Any person filing an application for a moving permit shall file with the city engineer a liability insurance policy issued by the insurance company authorized to do business in this state and approved as to form by the city attorney in the following amounts: \$250,000.00 per person, \$500,000.00 per accident, \$500,000.00 property damage.
7. When required by the building official, satisfactory evidence from a licensed pest control company that all nuisance pests have been exterminated from the structure.
8. Approval of the route and time of move by the sheriff office, city light and power companies, and the city street department.

9. Approval from planning and building services concerning the moving of any building or structure in the historic district.

1401.11 Permit application. The application shall contain the date or dates of the moving of the building, house, or structure; a detailed statement setting forth the proposed route to be followed; the name of the person in charge of the move; the location of the premises to which the structure or building is to be moved; and an agreement that the applicant will immediately report any damage done by the moving operation to any public property and will indemnify and hold the city harmless from any claims or damages for injuries to persons or property resulting from the moving of the building or structure.

1401.12 Fees. Set by resolution.

1401.13 Denial. If the applicant fails to agree or comply with the conditions as set forth herein or if in the judgment of the building official the building or structure is in such a state of disrepair that it would not be safe to move the building, or if in the judgment of the traffic engineer or the city forester the proposed move would result in an undue hazard to public traffic or undue damage to streets, sidewalks, trees, or other public property, the permit will be denied and reasons therefor endorsed upon the application.

1401.14 Restrictions on moving through streets. All moving of the building once started shall continue until completed, and no building shall be parked along the route unless deemed an emergency and approved by the traffic engineer. The traffic engineer may require sheriff escorts, temporary removal of traffic devices, or may restrict or specify the day and hours during which the moving operation must be accomplished.

1401.15 Posting. Two moving placards must be posted on a visible location on opposite ends of the building being moved during the entire move, and the person moving the building must carry a signed duplicate of the permit.

1401.16 Escorts. Movers shall provide a front and rear escort for all movements.

1401.17 Flags. Red and orange flags, 12 inches by 12 inches, must be fastened to the rear corners of the moving structure.

1401.18 Notice to public service companies, cable TV operations, and the city of CROOKS. Before moving any building, the building mover shall notify Metro Communications (911) immediately prior to entering public property. The mover shall make arrangements with the police department and traffic engineers seven days

prior to the move if a police escort is required. The mover shall also give seven days' notice to all city departments, public service operations, and cable TV operators whose wires, traffic control devices, or other appliances which affect the moving of such building of the time when the move is to take place and request and arrange for the passage of such building. Such building mover shall pay to the city and said corporation and operators the reasonable cost and expense of the work required to be done.

1401.19 Tampering with private property. The mover during all moves shall obey all laws pertaining to tampering with private property and vehicles on the street. Tampering with any wires or facilities belonging to private or public service companies is prohibited.

1401.20 Reporting damage. The building mover shall immediately report any damage done by the moving operation to any street, sidewalk, curb, utility equipment, tree sign, or other public or private property to the city engineer.

Legislative History

Ordinance #3, Adopted 12/7/1978

Ordinance #87, Adopted 4/6/1998

Ordinance #88, Adopted 4/6/1998 (Amended 12/11/2006)

Ordinance #183, Adopted 9/10/2012

Ordinance #193, Adopted 12/9/2013

Ordinance #212, Adopted 2/13/2017

Ordinance #298, Adopted 5/31/2022

Ordinance #299, Adopted 5/31/2022

Ordinance #300, Adopted 5/31/2022

Chapter 11.06 – Design Standards for Public Improvements.

~~A copy of the City's Design Standards for Public Improvements can be obtained from the Finance Officer or found online on the City's official website. The City Council, by resolution, shall approve engineering design standards for the construction of public improvements in the city. A copy of the engineering design standards shall be available in the office of the Finance Officer.~~

Legislative History

Ordinance #146, Adopted 7/10/2006

Ordinance #312, Adopted 12/12/2022

[Ordinance #343, Adopted 06/10/2024](#)

Chapter 11.07 – Building Permit Fees.

Building permits fees shall be established via Resolution of the City Council.

APPENDIX A – FRANCHISE AGREEMENTS

Ord. No.	Adoption Date	Description
32345	8/30/1982 <u>6/18/2024</u>	<u>An ordinance authorizing the grant of a cable communication franchise in the City of Crooks to Alliance Communications and setting forth conditions accompanying the Grant of the Franchise. Community Antenna Television System Franchise granted to Yager Satellite Television Services, Inc., for a term of fifteen (15) years beginning on September 28, 1982.</u>
<u>346</u>	<u>6/18/2024</u>	<u>An ordinance authorizing the grant of a cable communication franchise in the City of Crooks to Midcontinent Communications; setting forth conditions accompanying the Grant of the Franchise(s).</u>
80	11/4/1996	Community Antenna Television System Franchise granted to Satellite Cable Services, Inc. for a term of fifteen (15) years beginning on the date of the expiration of Ordinance No. 45.

A copy of all franchise agreements can be obtained from the Finance Officer.

APPENDIX B – WARD MAP