

TITLE 9 – STREETS, SIDEWALKS, AND PUBLIC PLACES

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CHAPTER 9-1 NAMES, NUMBERING CURB LINES AND GRADES

9-1-1 Names of Streets and Avenues

Names of the streets and avenues in the City of Mobridge shall be known and designated by those names shown upon the several plats and divisions and subdivisions of the City of Mobridge within its corporate limits and as may have been changed by Ordinance of the City of Mobridge and as now are shown upon the map and plat now on file in the office of the City Finance Officer of the City of Mobridge which said plat is hereby by reference adopted and the names of the streets and avenues as shown there on are hereby adopted and designed as the names of the said streets and avenues. All streets and avenues need to correspond with 911 system.

That the present City Plat is hereby amended to change the names of the avenues and streets on the official plat adopted in the original Ordinance of the City of Mobridge so as to change the designation of Vermont Avenue to Twelfth Avenue East; Kansas Avenue to Thirteenth Avenue East; Arizona Avenue to Fourteenth Avenue East; Nevada Avenue to Fifteenth Avenue East; Colorado Avenue to Sixteenth Avenue East and the avenue one block east of Sixteenth Avenue East to be named Seventeenth Avenue East; the road running from Revheim Road along the southern edge of the City of Mobridge to the drive-inn theater be named Twentieth Street East; that road from Ninth Avenue East to U.S. Highway 12 on the east boundary of Mobridge be named Airport Road and the road on Tenth Avenue West north of Twentieth Street West of the City Water Plant be named Water Plant Road.

9-1-2 Buildings Numbered

All houses or buildings fronting on any public street or avenue within the City, shall be numbered in conformity with the provisions of this Ordinance.

Buildings on the east side of Main Street or of any Avenue shall receive even numbers and buildings on the west side thereof shall have odd numbers; buildings on

the north side of any street shall receive even numbers and buildings on the south side shall receive odd numbers.

9-1-3 Numbering- Where to Commence

The numbering on all houses and buildings on Main Street and on all avenues shall commence to number from Railway Street and shall number north and south from said Railway Street as the case may be, as far as said streets and avenues may extend or may hereafter extend, commencing with the number one at Railway Street; at the number one hundred one block north or south of Railway Street, and so on, increasing the numbers one hundred for each block.

9-1-4 Numbering for Streets

That Main Street as laid and platted is hereby designated as the place from which to begin numbering all houses and building on streets both East and West thereof; the first number in the first block on each street to be number "one" and the first number in the second block being "one hundred one", and so on increasing one hundred for each bock east and west of Main Street.

9-1-5 Numbering of Avenues

All avenues shall be numbered in the same manner as they would be if full blocks existed as they do exist on Main Street in said City; that is all avenues commencing north and south of the intersection of Main Street and Railway Street shall take as the starting number of said avenue the corresponding number as provided for Main Street.

9-1-6 Vacant Property

Vacant lots fronting on said streets and avenues shall be entitled to their proper numbers, allowing each twenty-five foot space fronting on said streets and avenues to receive a separate number as closely as said distance can be adhered to.

9-1-7 Posting Numbers

All owners of buildings, business houses and dwelling places be and they are hereby required to publicly post upon some conspicuous portion of such building, business house or dwelling place, its proper number under this Ordinance.

9-1-8 Curb Lines

The curb lines in the City heretofore established by ordinances of the City and as shown and set forth on plat marked "Map A - Curb Lines" on file in the office of the City Finance Officer, as of the date of the adoption of this ordinance, are hereby established and adopted as the official curb lines in the City and Map A curb lines are hereby incorporated herein by reference with the same full force and effect as though set forth at length herein.

9-1-9 Grades

The grade of the following described streets at the curb line 10 ½ feet from the property line on Main Street, First Street East, Second Street East, Second Street West, Third Street East, Third Street West, Fourth Street East, and Fourth Street West, and on First Avenue East from First Street East to Third Street East, and at the curb line 13 feet from the property line on First Avenue East from Third Street East to Grand Crossing Avenue, and on First Avenue West from Second Street West to Grand Crossing Avenue, shall be and is hereby fixed and established and kept on file at City Hall.

The datum used is measured up from a point or elevation located 100 feet below the top of the present sidewalk at the northeast corner of Lot, Block 11, Original Town Plat of Mobridge. (See description)

CHAPTER 9-2 SNOW REMOVAL ON SIDEWALKS

9-2-1 Duty of Owner or Occupant

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

9-2-2 City Shall Remove

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

9-2-3 Cost Assessed

The officer in charge of streets shall cause an account to be kept against each lot for the removal of snow from the sidewalks each year and some shall be certified to the City Finance Officer on or before the 15th of May each year.

The City Finance Officer shall prepare an estimate of the assessment against each lot for the removal of snow for the proceeding winter and fall and submit the same to the Council for its approval on or before the 1st day on June of each year, and shall publish in the official newspaper a notice to property owners of the time and place when and where the Council will meet for the purpose of approving such estimate. Such notice shall be published at least one week prior to the date set for said hearing.

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

9-2-4 Recovery by City

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

9-2-5 Penalty

Any person whose duty it shall be to remove snow as set forth in Section 9-2-1, and who fails to remove such snow within the time therein set forth, shall be guilty of a misdemeanor; and upon conviction thereof shall be fined an amount set by resolution in addition to the other penalties prescribed in this chapter; and in addition thereof, shall be liable to the municipality for any damage caused by the neglect to keep such sidewalk clear and free of snow and ice as provided in this chapter.

CHAPTER 9-3 USE OF STREETS

9-3-1 Obstruction on Streets/Parking on Streets

It shall be unlawful for any person to park any vehicle, boat, trailer, camper, etc., on Main Street continuously for a period of time longer than 24 hours or on any other street continuously for a period of longer than seven days.

It shall be unlawful for any person to park any vehicle on any street continuously for a period of time longer than 24 hours after a snow fall and the City has plowed the streets.

Any vehicle parked in violation of this ordinance may be removed by the Police Department or the Street Department and the owner thereof in addition to the other penalties prescribed for the violation of a city ordinance, shall be required to pay the cost of the towing and removing of said vehicles.

9-3-2 Materials in Streets, Permits

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

9-3-3 Permits

Such permits shall not be issued for a longer period than thirty days, but may in case of necessity, be renewed for a like period, and shall be issued only when the applicant therefore has filed with the City Finance Officer a written agreement executed by him or her and approved by the City Attorney to hold the City harmless from any and all damages for which the City may be or become liable because of such occupation of the street to pay any and all cost of repairing and damage to the City because of such

occupation or to reimburse the City for removal of said obstruction, should the applicant unlawfully occupy said street. Such permits shall, during the time the work is in progress, be kept on the ground and shall be exhibited upon the demand of any officer or authorized employee of the City, and any officer or employee shall take up and return to the Mayor, any expired permit, or any permit which does not cover the work being done.

9-3-4 Cleaning Streets of Rubbish

Every person to whom permission shall be granted as herein provided, to place and keep building material in street, highway, avenue or alley, shall cause all such material and rubbish resulting therefrom to be removed from such street, highway, avenue or alley at the expiration of the time limited in the permit, unless the time, for good cause, shall be extended by the office herein designated. And any person depositing and keeping any building material in any street, highway, avenue or alley under a permit from the Mayor or City Finance Officer as here in before provided shall during every night while the same shall there remain keep one or more lighted lanterns so placed that such material or obstruction may be easily seen by persons passing along said street, highway, avenue or alley.

9-3-5 Excavation Near Street

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

9-3-6 Building in Street

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

9-3-7 Eave Pipes

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

9-3-8 Garbage in Streets

It shall be unlawful for any person, firm or corporation to throw, or deposit any ashes, offal, dirt, garbage, decaying vegetables, fish, meat, manure, filthy water, slops or any other offensive or putrid matter or thing into or upon any street, venue, lane, alley or

public ground within the corporate limits of the City or into any stream of water within the limits of the said City or forming the boundaries thereof.

9-3-9 Continuing Nuisance

The occupation of any street, highway, avenue or alley contrary to the provisions of this Chapter, shall be deemed a continuing nuisance and the same shall be abated by the police officers of the City and the cost of said abatement shall be assessed to the abutting lot, piece or parcel of land.

9-3-10 Hedges and Other Obstructions

No person shall plant, grow, maintain or permit any hedge, shrub, tree, fence or other object creating an obstruction to view from the public street, upon the part of the street or alley between the curb and sidewalk location, commonly known as the boulevard, or if there be no sidewalk within the sidewalk area adjoining his or her property. Any object located in violation of this Ordinance shall be a nuisance and shall be abated as provided by Section 9-3-9.

9-3-11 Coasters, Roller Skates, etc., Generally:

It shall be unlawful for any person to utilize or use roller skates or coasters, roller blades, toy vehicles, skateboards or any nonmotorized wheeled conveyances upon the sidewalks, streets or parking lots in the downtown core area, which shall include an area whose boundaries would be Main St. from Railroad St. north to 6th St and one half (½) block east and west off of Main Street. This ordinance does not apply to those used by the handicapped and bicycles are only prohibited from the sidewalks. (2006ORD___)

CHAPTER 9-4 MOVING BUILDINGS ON STREETS

9-4-1 Permission to Move

It shall be unlawful for anyone to move any building, into, along or across any public street, alley or highway within the City without first having obtained permission to do so in compliance with the provisions of this Chapter. This chapter does not apply to any structures or parts of structures less than nine (9) feet wide and thirteen (13) feet high when loaded. (2006ORD846)

9-4-2 Application

Anyone desiring to move any building into, along or across any public street, alley or highway within the City shall first apply with the City Council, in writing for permission to do so on a form approved by the City Council and upon submitting a \$50.00 non-refundable application fee. In addition, the application shall be accompanied with the sum set by resolution to be deposited with the City Finance Officer as pledge or guarantee funds to protect the City against loss or damage to crossings, sidewalks or other public or private property, or expense for protecting such property against the injuries that may be caused by the removal of such building; said deposit or the balance thereof, after deducting the amount of damages or expenses, if any, caused by such removal, to be returned upon an official report to the City Council by the Chief of Police. (2006ORD846)

9-4-3 Guarantee Fund

Whenever the City Council shall decide from an examination of the application and from such other information as may be obtained, that the sum set by resolution is not sufficient as a guarantee fund for ample protection of the City against the probable damages and expenses that may be caused by the removal of such building, the City Council is hereby authorized to require the deposit of a sum more than that set by resolution, not less than five hundred dollars or more than five thousand dollars. (2006ORD846)

9-4-4 Permit

Upon the receipt of the application, fee, and the guarantee fund as hereinbefore provided, the City Council may personally or through the Chief of Police, investigate the representations of the applicant and if such investigations are satisfactory to the City Council, applicant shall deposit said guarantee funds with the City Finance Officer to be held subject to the order of the City Council, who shall thereupon issue to the said applicant a permit in writing for the removal of such building along or across the streets, highways or alleys, to be designated by the City Council, said removal to be finished prior to the time by him or her stated in such application. (2006ORD846)

9-4-5 Refunds

Before refunding said guarantee funds or any part thereof, it shall be the duty of the City Council to examine the report of the Chief of Police and pay out of said funds or set aside for such purposes the amount claimed or ascertained as damages to the public or private property, including the expenses for protection to electric, telegraph, cable television and telephone wires as aforesaid caused or occasioned by the removal of such building. (2006ORD846)

9-4-6 Applicant Must Serve Notice

If the permit includes streets, alleys or highways on which are located, or across or along which are strung electric light, telegraph, telephone wires or cable television wires, it shall be the duty of such applicant to notify in writing the resident manager or managing agent or officer of such public service corporation or owner of said lines or wires at least 48 hours before the commencement of such work of his or her intent to so move such building under or across such line or wires and of the approximate time for such crossing of line or wires by such building. In addition, all home owners whose trees may have to be trimmed must be notified at least 48 hours in advance of moving the building. (2006ORD846)

9-4-7 Damage to Property

Nothing shall be construed as authorizing the applicant to break, injure or move any telegraph, telephone, electric motors or lines, wires or poles, or in any way injure any trees or other property without the permission of the owner(s) thereof. The building mover shall immediately report any damage done by the moving operation to any street, sidewalk, curb, utility, equipment, sign, tree or other public or private property to Chief of Police. (2006ORD846)

9-4-8 Permit Contents

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

9-4-9 Refunds

Before refunding said guarantee fund or any part thereof, it shall be the duty of the City Council to examine the report of the Chief of Police and pay out said fund or set aside for such purposes the amount claimed or ascertained as damages to the public or private property, including the expenses for protection to electric, telegraph, cable television and telephone wires as aforesaid caused or occasioned by the removal of such building as aforesaid.

9-4-10 Applicant Must Serve Notice

If the permit includes streets, alleys or highways on which are located, or across or along which are strung electric light, telegraph, telephone wires or cable television wires, it shall be the duty of such applicant to notify in writing the resident manager or managing agent or officer of such public service corporation or owner of said lines or wires at least 48 hours before the commencement of such work of his or her intent to so move such building under or across such line or wires and of the approximate time for such crossing of line or wires by such building.

CHAPTER 9-5 EXCAVATIONS IN PUBLIC PLACES

9-5-1 Permit Requires

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

9-5-2 Excavator's License and Responsibility

Any person, firm, or corporation performing the work of excavation of water, sewer, electrical or gas lines within the City of Mobridge on any street, boulevard, or private land shall first obtain a license from the finance office for the City of Mobridge. An annual fee of \$50 shall be collected and a copy of liability insurance as required by the city council shall be on file prior to issuance.

Licensed excavators shall be held responsible for the acts of their agents or employees, done under and by virtue of his or her license. By issuance of this license, said excavator agrees to maintain any state or national license requirements. Any defective work must be changed to conform to code, and any expenses incurred shall be reimbursed by the licensed party.

9-5-3 Fees and Applicant Responsibility

The homeowner shall make application to the water superintendent for a permit to do any excavation within the City of Mobridge for the purpose of water or sewer line installation, either new or for repair. If installation extends to the boulevard, alley, or street, the approval of the street superintendent is also required. An excavation permit fee of \$10.00 shall be paid. If applicable, a water and/or sewer tapping fee shall also be collected per Section 11-3. It shall be the responsibility of the applicant to ensure that all utility companies are notified of the exact place or excavation, prior to excavation.

If excavation extends to the alley or street, the applicant shall make deposit with the finance officer of \$500 for a paved street or alley, or \$300 for a gravel-based street or alley, and will be held until said repairs are complete. An actual bill will be prepared and due in 30 days.

9-5-4 Supervision of Excavations

The street and/or water department shall have opportunity to supervise all excavation done in or on city streets, alleys, or boulevards or public grounds. All excavations will be back filled as written in Section 9-5-6. The contractor is required to use, or have the city workers use, a street saw to cut pavement to help with the aesthetics of repair work.

9-5-5 Guarding Excavations

Any person receiving a permit to make excavations in or upon any street, alley, sidewalk or public ground shall, during the progress and continuance of the work, erect and maintain around the same both day and night suitable guards, fenced, flares, and signals so as to prevent injury to persons, animals, or vehicles on account of such excavations. Excavation without proper barricades will be subject to a \$100 fine.

9-5-6 Refilling Excavations

Any person making such excavation shall, when the same shall be completed, promptly and without delay, refill the same as herein provided.

In refilling any excavation the earth shall be thoroughly settled as the refilling progresses by using water to compact earth; the earth shall be thoroughly tamped in successive layers of approximately six inches, in such a manner that all the earth shall be replaced in the excavation leaving the surface in its original condition.

In making connection to fire hydrants for flushing excavations, all rules and regulations of the Water Department relating thereto shall be observed.

In all cases where excavations are made in the paved district, the earth shall be replaced in the manner above specified, and the pavement shall be replaced by the Street Department.

CHAPTER 9-6 SIDEWALKS AND CURBS

9-6-1 Sidewalks Required

Sidewalks, curbing with gutter and ramps are to be constructed on all lots within the City whenever a dwelling or building is constructed or placed upon a lot which fronts a Street or Avenue and shall be in accordance with the Americans Disabilities Act, City Ordinances, and Federal regulations. Such construction shall take place within 6 months of completion of such dwelling or building. Failure to place sidewalk and/or curbing will constitute a violation of the building permit and said permit will be in violation and shall be subject to the City's general penalty clause. (2005ORD829)(2005 ORD 813)

9-6-2 Width and Design. REPEALED. Replaced by 9-6-2(1). (2005ORD829) (2005 ORD 813)

9-6-2(1) Specifications.

The construction of all sidewalks and curb and gutter, whether to be done by direct contract with the City of Mobridge or by contract with the abutting property owners, shall be done strictly in accordance with the specifications for sidewalks and curb and gutter adopted by the city council and on file in the office of the finance officer. Where curb and gutter has been constructed in any one block, any additional curb and gutter constructed in that block shall be constructed to be of the specifications adopted by the city council and on file in the office of the finance officer.

The city council may condemn work and material not in accordance with the requirements of said specifications. (2005ORD829)

9-6-3 Repairs. Repealed. Replaced by 9-6-3(1). (2005ORD829)

9-6-3 (1)Property Owner Responsible for Sidewalk Construction and Repair.

It shall be the duty of the person in possession of any lot, parcel, or plot of ground fronting or abutting upon any sidewalk, to keep such sidewalk in repair as provided by SDCL 9-46-2. When the city council deems it necessary to construct, rebuild or repair any sidewalk in the city, it shall notify the owners of lots adjoining the sidewalks to construct, build or repair the sidewalk at their own expense with a designated time. The written notice shall be served personally or by certified mail, return receipt, or by publication, once in each week for two consecutive weeks. If the sidewalk is not constructed, reconstructed or repaired in a manner or within the time prescribed in the notice, the city council may cause the work to be done by the hour or by the job and assess the cost of the work against the lots fronting or abutting upon the sidewalk as provided by SDCL 9-46-4 through 9-46-9. (2005ORD829)

9-6-4 Permit Required

Before any sidewalk or curbing is constructed within the limits of the streets and alleys in the City by any contractor or person, for the owner or owners of abutting

property, said contractor or person must first secure a permit therefore from the Zoning Officer. The construction of all sidewalks and curbing shall be in accordance with lines and grades furnished by the Zoning Officer and constructed of concrete in accordance with specifications now on file in the office of the City Finance Officer.

No charge shall be made for providing stakes for line and grade for sidewalk or curb and gutter construction. In the event grade stakes for sidewalk or curb and gutter previously staked are required to be reset, a new permit shall be secured from the Zoning Officer for which a fee set by resolution shall be paid to the City Finance Officer and receipt thereof presented to the Zoning Officer prior to issuance of said permit.

9-6-5 Supervision of Sidewalk and Curbing Construction

The building and construction of all sidewalks, curb and gutter, and ramps within the limits of the streets and alleys of the City of Mobridge shall be done under the direct supervision of the Zoning Officer and all such sidewalks and curbs shall be constructed on the grades as determined by said city, provided however, that the City Council, by resolution, may waive the sidewalk and/or curb requirement when requested by the owner of the property. (2005ORD829)

CHAPTER 9-7 PUBLIC LIBRARY

9-7-1 Trustees, Appointment of

The Board of Trustees, with the approval of the Mayor and City Council, shall appoint, as vacancies occur, trustees for the City Public Library; such Board of Trustees shall consist of five competent citizens, two of whom must be women, one additional member may be a member of the governing body with full voting rights. Such trustees shall be appointed for terms as provided in SDCL 14-2-35.

9-7-2 Organization of Board

In July, each year, said library trustees shall organize by electing from among their members, a president, a vice president, a secretary and a treasurer on each of whom shall devolve the duties usually pertaining to such office.

9-7-3 Trustees Duties

It shall be the duty of such public library trustees to provide suitable accommodations of the public in using the same. Such trustees shall oversee the selection of books, papers and periodicals for such library and may exclude therefrom any reading matter they deem harmful. They may accept gifts of books, money or property for the use and benefit of such library. They shall appoint the librarian and other necessary employees, and fix their compensation, and shall make all necessary rules and regulations pertaining to use of such library facilities. Such trustees may also place certain books upon a pay shelf, and make a reasonable charge for use thereof.

9-7-4 Duty of Finance Officer of Municipality

It shall be the duty of the Finance Officer of the City to keep all funds derived from the levy authorized by SDCL 14-2 in a separate fund and to pay the same upon warrants duly drawn by such trustees.

9-7-5 Library Board Meetings

The library trustees shall organize as a Board at their July meeting and shall hold monthly meetings for the consideration of matters relating to the City Public Library and they shall furnish to the City Council, once each year, a copy of the report provided by law, to be made to the State Library Commission. The library trustees shall, on or before August 1, in each year, make an estimate of the necessary expenses or budget for the maintenance of the public library for the ensuing year and shall verify the same expense in the regular tax levy of the City for the ensuing year. The said trustees and City Council shall have such further duties as are prescribed by SDCL 14-2 and acts amendable thereto.

CHAPTER 9-8 PARK AND RECREATION

9-8-1 Supervision is hereby repealed. (2001ORD779, 9-8-1)

9-8-1.1 Park and Recreation board

The City of Mobridge shall have a City Park and Recreation Board for the City and for the land within three miles of its corporate limits and not located within any other municipality. (2001 ORD 779)

9-8-2 Definition

Wherever in this chapter the term "Board" is used, it shall be deemed to mean the Park and Recreation Board as established by ordinance. (2001 ORD 779)

9-8-3 Creation

There is hereby created in and for the City of Mobridge a Park And Recreation Board as authorized by SDCL 9-38-80 et seq. (2001 ORD 779)

9-8-4 Members of Park and Recreation Board

The City Park and Recreation Board shall consist of seven members, citizens and residents of this city, appointed by the Mayor subject to the approval of the City Council. One member shall be from the City Council, one member from the Planning Commission, and one member from the City Tree Board. Members of the Board shall serve without compensation for service on the Board. (2001 ORD 779)

9-8-5 Terms of Members

The terms of each member of the Park and Recreation Board shall be for 3 years, except that when such Park and Recreation Board is first appointed, Two members shall be appointed to serve a one year term, two members shall be appointed to serve a two year term and three members shall be appointed for a three year term.

Thereafter, appointments of each member shall be for three years so that there will be an overlapping of tenures. (2001 ORD 779)

9-8-6 Vacancies

Any vacancy in a membership on the Board shall be filled for the unexpired term in the same manner as for appointment. (2001 ORD 779)

9-8-7 Organization

Upon appointment the Board shall be called together by the Mayor and shall organize by electing a Chairperson, Vice-chairperson, and a Secretary from among its members for a term of one year with eligibility for re-election, and may fill such other of its offices as it may create in a manner prescribed by the rules of such Board. The Vice-Chairperson shall act in the absence or disability of the President. In case of death or retirement of an officer, a successor shall be elected immediately. The Board shall hold regular meetings at least once each month and as many special meetings as it deems proper. Four members of the Board shall constitute a quorum for the transaction of business. (2001 ORD 779)

9-8-8 Duties

The Board shall have the following duties:

- (1) To initiate, review, and make recommendations for ordinances, policies, and rules governing the use of the city's public parks, swimming pools, and other facilities in connection therewith.
- (2) To provide the city council with a comprehensive parks and recreation system plan.
- (3) To develop plans based upon projected growth and expansion of the city for future park needs, locations and necessary facilities.
- (4) To initiate and review parks and recreation programs, and to make recommendations to the mayor and city council for their adoption.
- (5) To review and make recommendations to the mayor and city council on any matters affecting the establishment, improvement, maintenance, and regulation of the parks, including any Proposed revisions to this Chapter. Such issues shall be submitted to the Board for recommendation prior to official action.
- (6) Advise and assist the parks and recreation director relative to parks and recreation.
(2001 ORD 779)

9-8-9 Powers

The Board shall have the following powers, in addition to those specifically set out in other sections of this code:

- (1) to establish, improve, care for, regulate and manage a system of public parks, parkways and boulevards and, with the approval of the Council, to acquire land therefor;
- (2) to regulate the planting and trimming of trees and shrubbery in parking and park places upon any public street or boulevard;
- (3) to establish the channel of any stream or watercourse forming a part of the park system and improve the banks thereof;

(4) to establish, maintain and conduct with or without charge or to grant concessions for places of public amusement, recreation, or refreshment within or in connection with such parks provided no lease or grant shall be made for longer than three (3) years and no professional shows or exhibitions for which an admission price is charged unless approved by the Board;

(5) to park and boulevard the streets, and to maintain the same and regulate the care thereof.

(2001 ORD 779)

9-8-10 Cemeteries

The Board shall have the supervision and control of the city cemeteries.(2001 ORD 779)

9-8-11 Vegetation

The Board shall have the control and management over the planting, maintaining, trimming and removal of trees, shrubs and plants in any and all public grounds or as may be provided by other ordinances of the city. (2001 ORD 779)

9-8-12 Statutory Powers and Duties

The Board shall have all powers and duties provided forth in SDCL 9-38, et seq. (2001 ORD 779)

9-8-13 Reports and Funding

The Board shall make written quarterly progress reports to the City Council and file them for public review with the City Finance Officer and shall on or before the fifteenth day of August of each year make an estimate of the monies necessary for the operation of the public parks and also of the system of public recreation and playgrounds as authorized by law and such estimate shall be certified to the city finance officer on or before the first day of September of each year. All sums of money appropriated for park and for recreation purposes are to be maintained in one account. (2001ORD 779)

9-8-14 Interfering with Board

It shall be unlawful for any person to interfere with or molest the Board or any of its officers or employees in the performance or exercise of their duties as specified by statutes of the state or ordinances of the city. (2001 ORD 779)

9-8-15 Assistance

Subject to the approval of the City Council, the Board may employ such technical, electrical, clerical, maintenance, seasonal labor, part-time labor and other assistance as may be deemed essential to carry on the work of the Board. Persons employed shall not be under the Civil Service except as otherwise determined by the City Council. In case of employment of a full time Parks, Recreation and Forestry Director by the city, his or her work shall be performed under the direction and supervision of the Board. The compensation of all such employees shall be fixed by resolution of the Council. (2001 ORD 779)

9-8-16 Director

The Park, Recreation and Forestry Director shall be the executive officer of Board in the planning, supervision and director of all work relative to the operation and maintenance of the public park and of all work relative to the recreational program, the management of forestry services and operation and maintenance of the city cemetery and shall have supervision over all employees of said Board. (2001 ORD 779)

9-8-17 Contracts

All contracts and agreements relating to the work of the Board and for services or materials required by it shall be made by the City Council in its discretion. (2001 ORD 779)

9-8-18 Posting Bills, Signs, etc.

No person shall post, paste, paint or affix any placard, bill, notice or sign upon any structure or thing within any park and upon any of the fences or enclosures thereof, nor upon any part of any parkway. (2001 ORD 779; 9-8-2)

9-8-19 Setting Traps, Snares, etc.

No person shall at any time set, lay, prepare, or have in possession any trap, snare, artificial light, net, bird line, ferret, or any contrivance whatever for the purpose of catching, taking or killing any bird or animal in any park or parkway. (2001 ORD 779; 9-8-3)

9-8-20 Obstructions and Rubbish

No person shall place or suffer to remain in any park or parkway any goods, wares, merchandise or other articles, in the nature of an obstruction for the free use and enjoyment of said park or parkway; nor shall any person place any straw, dirt, chips, paper, shavings, ashes, swill or other rubbish, whether offensive to health or not, in or upon the same; nor shall any person throw, deposit or leave any paper, article or thing in the parks, parkways or waters therein; except in the receptacles provided for waste. (2001 ORD 779; 9-8-4)

9-8-21 Removing or Vandalizing of City Property

No person shall remove or vandalize City property in any park or parkway other than moving the picnic tables within the park. (2001 ORD 779; 9-8-5)

CHAPTER 9-9 CEMETERIES

9-9-1 Cemeteries

The word "cemetery" as used herein shall mean and include the Mobridge Municipal Cemetery. Section C thereof is located in the northwest corner of the NW 1/4 of the NE 1/4 of Section 29, Township 124 North of Range 79 west. Sections A, B and D thereof as hereinafter described, are located in the northeast corner of the NE 1/4 of

the NW 1/4 of Section 29, Township 124, Range 79 all in Walworth County, South Dakota, as shown by plats filed in the office of the Register of Deeds of Walworth County, South Dakota; and also the Greenwood Cemetery now owned by the City, located and described as Lot One in the SW 1/4 of Section 17, Township 124, Range 79, comprising ten acres, and also the First Addition to Greenwood Cemetery located in the SW 1/4 of Section 17, Township 124, Range 79, comprising ten acres, a total of twenty acres for the said Greenwood Cemetery, all in Walworth County, South Dakota, as shown by plats filed in the Office of the Register of Deeds of Walworth County, South Dakota.

9-9-2 Supervision

Mobridge Municipal Cemetery and Greenwood Cemetery shall be under the supervision and control of the Parks Department. A Cemetery Superintendent may be appointed by the City Council for coordinating the daily operations if needed. The City Finance Officer is hereby designated the Sexton. The City will provide for the basic care of leveling, seeding, and maintaining of lots and spaces. (2001 ORD 779) (2002 ORD 790)

9-9-3 Description

The Mobridge Municipal Cemetery as now established consists of Sections A, B, C and D. Section C includes lots numbered 1 to 234, both inclusive, which was established by the Mobridge Cemetery Association, and which lots are now owned by individuals or occupied by purchasers now deceased or their heirs. Unsold lots in Section C are governed by the provisions for Sections A, B, and D.

Section A consists of Lots numbered 4 to 56, both inclusive, of Addition A. Section B consists of lots numbered 1 to 56, both inclusive, of Addition A. Section D consists of all that portion of Block 5 of the C.A. Draeger Addition to the City of Mobridge not included in Sections A and B hereof, same to be hereafter platted for cemetery purposes, and such additional areas as may hereafter be acquired. Said cemetery lots in Section A, B and D shall be disposed of as hereinafter provided. Reference is made to the plat of said lots as recorded in the office of the Register of Deeds of Walworth County, South Dakota and filed therein and as filed in the office of the City Finance Officer of the City of Mobridge.

9-9-4 Description

The Greenwood Cemetery as now established consists of Lot One of the Southwest Quarter of Section 17, Township 124, Range 79, comprising ten acres, and also the First Addition to Greenwood Cemetery located in the Southwest Quarter of Section 17, Township 124, Range 79, comprising ten acres, a total of twenty acres for the said Greenwood Cemetery, all in Walworth County, South Dakota, as shown by plats filed in the office of the Register of Deeds of Walworth County, South Dakota.

9-9-5 Price of Lots

There shall be paid to the City of Mobridge for the purchase of burial lots, or parts of lots, at Greenwood Cemetery and at Mobridge Municipal Cemetery, including perpetual care, the sum of \$400.00, per grave site on the lot or part of lot purchased.

The City of Mobridge will open and close all graves at both Greenwood Cemetery and Mobridge Municipal Cemetery. There shall be paid to the City of Mobridge for the opening and closing of adult graves \$400.00. There shall be paid to the City of Mobridge for the burial of cremains at an agreed site the sum of \$50.00.

All transfers of any lot or parts of lots or of a single grave to another person by the owners thereof shall be in writing in the form of a Deed as prescribed by law. Such transfer shall not be complete or recognized by the City of Mobridge, or burial of a body be permitted therein by such purchaser until the instrument, or Deed, or the transfer thereof, shall have been filed with the Finance Officer of the City of Mobridge, South Dakota, for which recording the person recording same shall pay to the City of Mobridge a recording fee of \$10.00. (2002 ORD 789)

9-9-6 Certificate of Purchase

The Mayor and City Finance Officer of the City of Mobridge, upon receipt from the City Finance Officer showing the purchase thereof to be fully paid, shall, upon payment in full for the use of lots, portions of lots and grave spaces, deliver to the purchaser thereof a certified certificate of purchase executed by the Mayor and attested by the City Finance Officer under the seal of the City. No burial shall be permitted until the purchase price is fully paid. Blank forms for such certificates of purchase as prescribed herein shall be supplied to the City Finance Officer.

Lots are sold for no other purpose than for the burial of the human dead, and such incidental uses as are suitable and proper for a cemetery lot, but under restrictions as contained in this Ordinance.

All interments in lots shall be restricted to members of the immediate family, or relatives of the proprietor thereof unless permission to the contrary be obtained from the Cemetery Committee. Only one body will be allowed in one grave except in case of a mother and infant, in which case a special permission must be obtained from the Cemetery Committee.

No sale, assignment or transfer of a lot shall be valid without the consent of the City, first had and endorsed upon such transfer or assignment, and entered on record by the City.

9-9-7 Fiscal Management

There is hereby established in the City Finance Office a "cemetery fund". In the "cemetery fund", the City Finance Officer shall deposit all money received from:

1. The sale of lots
2. Payments received for the digging of graves
3. Receipts from all other sources.

The Finance Officer shall make available an annual itemized report to the City Council of all monies received during the year.

9-9-8 Burial at Expense of City

The Mayor, Finance Officer or a majority of the Cemetery Committee, may order the Sexton to dig a grave and bury any person at the expense of the City whenever the deceased leaves no estate or relative whose duty it is, and who is able to defray such expenses. The City shall, when legally possible, collect for cost such lot and digging of such grave, from the county legally liable thereof.

9-9-9 Public Burying Plots

The burial plots numbered 123, 124 and 125 in Section C and burial plots numbered 53, 54, 55 and in Sections A, B and D in the Municipal Cemetery are hereby set apart and indicated as the public burying ground and shall continue to be used for the burial of persons for whom no other place has been provided, and shall be and remain such public burying ground.

The burial spaces in said public lots shall be numbered by the Sexton in consecutive order, eight in each lot, beginning with lot 123 in the plot first above described. The Sexton shall erect and maintain at each of said graves a marker whereon shall be cut the number thereof, and the name of the person buried therein, and whenever any burial has been made on any lot in said public ground, no burial shall be made on any other lot thereof until such first lot is full.

9-9-10 Records

The Sexton shall keep a book to be furnished and owned by the City, in which he or she shall record the decedent's age and the date and cause of death, and the number of the lot and block of his or her burial; and he or she shall report quarterly to the City Council the names and other facts so required to be recorded by the Sexton, and the City Officer shall transcribe and owned by the City and kept in City Hall to be known as the Burial Record.

9-9-11 Depth of Graves

All graves in said cemetery, except for the burial of cremains, shall be dug not less than five nor more than seven feet deep. The grade established shall be on the level with the surrounding ground and compliance with the grade of all lots shall be determined by the Sexton. In order to maintain a high standard of care and to eliminate sunken graves it is required that burial be made in an outside container or vault of steel, cement or other construction material approved by the sexton. Casket vaults are required in all of the Mobridge cemeteries, except cremains may be buried in a standard cremation container.

9-9-12 Monuments

(a) REGULATIONS

All monuments hereafter erected in the cemeteries shall be set upon a concrete base not less than two inches thick, the said base to be constructed with a footing extending beyond the base stone of the monument at all points at least six inches. Such footing and all markers shall be level with the grade level of the lot or burial space so that a mowing machine may be run over it. Not more than one central monument shall be erected on any lot or on any lot or plot, and only one marker for each grave. The City shall be entitled to move any marker or monument, either temporarily or permanently, to facilitate maintenance of the cemetery.

(b) APPLICATIONS FOR PERMIT REQUIRED

Every person, before placing, constructing or installing a monument, marker or headstone anywhere in the Cemetery, shall make an application to the Sexton, stating the location, ownership of lot, dimensions of stone, kind of material of stone, and proposed method of placing, construction or installation.

(c) PERMIT

If satisfied that said stone and the proposed method of placing, installation or construction comply with all ordinances of this city relating thereto, the Sexton shall issue a permit for the placing, construction or installation of same, which permit shall contain all of the information required to be stated in the application, and shall be issued in duplicate, one copy of such permit to be delivered to the cemetery Superintendent before the work of placing, constructing or installing said stone is commenced. The fee for said permit shall be set by the City Council upon recommendation by the Park and Recreation Board.

(d) INSTALL ONLY IN COMPLIANCE WITH PERMIT

No person shall place, construct or install any monument, marker or headstone in the Cemetery without first complying with the provisions of this Chapter, or otherwise than in accordance with the permit. (2002)

9-9-13 Reserved

9-9-14 Reserved

9-9-15 Preservation of Roadways

To ensure that roadways remain in good repair throughout the cemeteries, the park superintendent may, at his discretion, close the public entranceways when weather conditions cause blockages or muddy conditions. He/she also has the discretion, with the concurrence of the funeral director to request a burial take place when road and/or weather conditions improve.

9-9-16 Vandalism

It shall be unlawful for any person to mar, mutilate, graffiti, destroy, or remove any tomb, monument, gravestone, landmark, or receptacle for flowers or shrubs lawfully placed within the cemeteries; or to willfully injure, destroy, or remove any type of vegetation placed within the cemetery; or to deface with paint, or put up signs on any fence within or around the cemeteries. It shall be unlawful to deposit, dump, or leave any waste material, rubbish, or trash within the cemetery grounds unless in designated waste receptacles.

CHAPTER 9-10 PUBLIC AIRPORT

9-10-1 Supervision

The Mobridge Municipal Airport shall be under the supervision of the City Council. Minor matters of supervision shall be under the supervision of the Airport Supervision Committee, composed of three members to be appointed by the Mayor, one from the City Council and two from the City at large, and the fourth member shall be the Airport Manager.

9-10-2 Airport Manager or Operator

The City Council shall have authority to employ an Airport Manager or Operator under contract for the general management of the Mobridge Municipal Airport facilities and activities.

9-10-3 Airport Facilities

The airport air strips, runways and aprons shall at all times be maintained for public use under rules and regulations as may be established by the City of Mobridge, the South Dakota Aeronautics Commission and or the Federal Aviation Administration.

The City Council may lease shop and administrative buildings or parts of buildings and hangars owned by the City, and may lease areas not used by the general public for Public Airport purposes and operations for construction of aircraft hangars and other uses, as may be approved by the City Council, the South Dakota Aeronautics Commission and the Federal Aviation Administration.

9-10-4 General Regulations

All ground rules and regulations for the Municipal Airport shall be kept and posted at the Airport and made readily available to the users of the facilities.

The City council shall have authority at any official regular or special meeting thereof to make additional regulations and ground rules or amend those herein specifically provided by resolution provided the same is not inconsistent with the Rules, Regulations and Requirements of the South Dakota Aeronautics Commission and Federal Aviation Administration. When adopted, such rule or regulation shall be filed in City Hall and shall become effective as any other resolution and by posting a certified copy thereof at the Municipal Airport at a place open to public inspection. The City reserves the right to revoke, cancel or change any or all said rules or parts thereof. In any contingencies not specifically covered by these rules, the City Council and Airport Manager shall be the arbitrators.

No building or other improvement shall be constructed, installed or placed upon said airport property, except upon written application to the City Council and approval thereof by a majority of the City Council; and the same must conform to the current master plan for the airport administration requirements and specifications.

9-10-5 Lessee To Obey Rules, Governmental Capacity

In submitting any application to use the facilities of the airport, each applicant shall state that the rules and regulations of the airport will be followed and obeyed and the privilege of using the airport and its facilities shall be conditioned on the assumption of full responsibility and risk by the user thereof and he or she shall release, hold harmless and indemnify the City, the City Council, their officers and employees from any liability or loss resulting from such use, as well as against claims of third persons who use the airport. The exercise of the privilege of use shall constitute an acknowledgement that the City and City Council maintain said airport in a governmental capacity.

9-10-6 Penalties

The Federal, State and local laws and ordinances pertaining to intoxicating liquors and narcotics, will be respected by all persons connected with the Municipal Airport, under penalty of arrest, revocation of license and withdrawal of privileges as herein stated in this Ordinance.

The Airport Manager or Operator and/or Police Officer of the City of Mobridge, and any and all other law enforcement officers, will have authority to enforce all rules and regulations contained herein. Any person violating these rules or refusing to comply therewith, will be subject to the penalties provided by law and this Ordinance and, the enforcement of this Ordinance shall be under the jurisdiction of the City of Mobridge, Police Officers, and other Courts of competent jurisdiction.

The violator shall be given written notice of any violation requiring the violator to comply with this Ordinance within twenty-four hours after personal service thereof, or, if the violator cannot be found said notice may be posted upon the object in violation for a period of twenty-four hours; and, if the owner shall not within said twenty-four hours be in compliance, the Airport Manager or Operator, Airport Committee or City Council may order the violation abated forthwith and the cost thereof charged to the person causing or responsible for such violation. The abatement of a violation shall not relieve the person, firm or corporation in violation from liability and penalty for such violation as herein provided, as being a misdemeanor.

CHAPTER 9-11 WIDTHS OF STREETS, AVENUES AND OTHER PUBLIC RIGHTS OF WAY

9-11-1 Width of Streets and Avenues and Other Rights of Ways

All plats, and re-plats of any area within the City limits of the City of Mobridge, any subdivision thereof or plat within the three mile limit providing for any public street, avenue, boulevard or other public right of way, except for public alleys, shall provide for such right of way to be not less than 66 feet in width, unless for good cause shown said public right of way may be of a lesser width. Public alleys at the rear of platted lots shall be not less than 20 feet of width.

CHAPTER 9-12 ABANDONED, WRECKED, DISMANTLED OR INOPERATIVE MOTOR VEHICLES

9-12-1 Definitions

For the purposes of this Ordinance, the following terms, phrases, words and their derivations shall have the meaning given herein:

- A. City is the City of Mobridge, South Dakota.
- B. Motor Vehicle is any vehicle which is self-propelled and designed to travel along the ground and shall include, but not to be limited to automobiles, busses, motorbikes, motorcycles, motor scooters, trucks, tractors, go-carts, campers and trailers.
- C. Junked Motor Vehicle is any motor vehicle as defined by subsection (b) of this Ordinance, which does not have lawfully affixed thereto, an unexpired license plate or plates of the condition of which is wrecked, dismantled, partially dismantled, inoperative or discarded.
- D. Person shall mean any person, firm, partnership, association, corporation, company or organization of any kind.
- E. Private Property shall mean any real property within the City which is privately owned and which is not public property as defined in this section.
- F. Public Property shall mean any street, alley or highway which shall include the entire width between the boundary lines of every way publicly maintained for the purpose of vehicular travel, and shall also mean any other property which is publicly owned by what is commonly defined a public corporation or public entity.
- G. Appropriate cover shall mean, a cover specifically adapted and made to cover car in a neat manner. Tarpaulins or tents are not acceptable.
- H. Antique shall mean a vehicle that is more than thirty years old and has historical plates. (2001ORD776)

9-12-2 Storing, Parking or Leaving Dismantled or Other Such Motor Vehicles Declared Nuisance; Exceptions

The Presence of an abandoned, wrecked dismantled, inoperative, junked or partially dismantled motor vehicle or parts of thereof, on private or public property is hereby declared a public nuisance which may be abated as such in accordance with the provisions of this Ordinance. The Ordinance shall not apply to any motor vehicle enclosed within a building on private property or to any motor vehicle held in connection with a business enterprise, lawfully operating within the City and properly operated in the appropriate business zone, pursuant to the zoning laws of the City or to any motor vehicle in operable condition specifically adopted or designed for operation on drag strips or raceways, or cars used for demolition derbies and covered with an appropriate cover to screen it from view that remains on private property, or any motor vehicle retained on private property by the owner for antique collection purposes and covered with an appropriate cover. (2001ORD776)

9-12-3 Storing, Parking, or Leaving Dismantled or Other Such Motor Vehicles on Public Property Prohibited

No person shall park, store, leave or permit the parking, storing or leaving of any abandoned, wrecked, dismantled, inoperative, junked or partially dismantled motor vehicle of any kind, whether attended or not, upon any public property within the City.

9-12-4 Removal

Whether any police officer finds an abandoned motor vehicle or an unattended motor vehicle which is in a wrecked, dismantled, inoperative, junked or partially dismantled condition on public property within the City, the officer is hereby authorized to provide for the removal of such motor vehicle to a garage or place of safety. A motor vehicle that causes an obstruction and hazard to traffic may be removed at any time under the directions of the Police Department.

9-12-5 Notice to Owner

It shall be the duty of the Police Department to notify, by certified mail, the registered owner, if known, and if encumbered, the lienholder, of the removal and storage of any motor vehicle under the provisions of this Ordinance and where such motor vehicle has been stored. If the Owner is unknown, a notice of removal and storage shall be given by one (1) publication in a newspaper of general circulation in the County.

9-12-6 Sale of Unclaimed Motor Vehicle

If after three (3) months from the date of mailing or publishing the notice of removal and storage provided by this Ordinance, the motor vehicle shall remain unclaimed, such motor vehicle may be sold by the Police Department at a public auction upon notice to be published in a newspaper of general circulation in the County not less than once a week for two (2) consecutive weeks.

9-12-7 Notice of Sale

The notice of sale provided by this Ordinance shall contain a description of the removed and stored motor vehicle, including the year, make, model, serial, no., color, license number, if any, a statement that the motor vehicle was found abandoned, the date thereof, and the place, date and time at which such motor vehicle shall be sold, which date shall not be sooner than one (1) week following the date of the last publication of the notice.

9-12-8 Lien for Costs

The Police Department shall have a possessor lien upon any motor vehicle removed under the provisions of this Ordinance for the costs in taking custody of and storing such motor vehicle.

9-12-9 Title May Vest in City-When

If, after three (3) months from the date of mailing or publishing the notice of removal and storage provided by this Ordinance, the motor vehicle shall remain

unclaimed, the title to such motor vehicle shall be vested in the City and such motor vehicle may be disposed of in any manner as may be provided by the City Council. The proceeds of such disposal shall first be applied to the costs incurred in the enforcement of this Ordinance with the balance to be deposited to the general fund of the city.

9-12-10 Duty of Private Property Owners

No person owning, in charge of or in control of any real property within the City, whether as owner, tenant, occupant, lessee or otherwise, shall allow any abandoned, wrecked, dismantled, inoperative, junked or partially dismantled motor vehicle of any kind, to remain on such property longer than fourteen (14) days.

9-12-11 Notice to Remove

Whenever it comes to the attention of the Police Department that any person has an abandoned, wrecked, dismantled, inoperative, junked or partially dismantled motor vehicle on his or her property, a notice in writing shall be served upon such person requesting the removal of such motor vehicle in the time specified in this Ordinance, and this person shall be responsible for its removal.

9-12-12 Notice Procedure

The Police Department shall give notice of removal to the owner or occupant of the private property where it is located. It shall constitute sufficient notice, when a copy of the same is sent by registered mail to the owner or occupant of the private property at his or her last known address. The notice shall contain the request for removal within fourteen (14) days after the mailing of such notice, shall advise that failure to comply with the notice to remove shall be a violation of this Ordinance.

9-12-13 Racing or Antique Vehicles

No owner or occupant of private property shall have a motor vehicle which is not covered with an appropriate cover which is in operable condition specifically adopted or designed for operation on drag strips or raceways or cars used for demolition derbies or an uncovered motor vehicle retained on private property for antique collection purposes, all as defined by Section 1 hereof. For notice of violation of 9-12-13, the police department will either send a notice by certified mail, or may personally deliver a Summons, to appear in Court for the violation by the owner, tenant or lessee giving the time and date of both the violation and the date of court appearance. (2001ORD776)

9-12-14 Penalty

Any person violating any of the provisions of this Ordinance shall be guilty of a misdemeanor, and upon conviction shall be subject to a fine of \$200.00, or imprisonment. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such.

CHAPTER 9-13 – TREES

9-13-1 Purpose

It is the purpose of this ordinance to promote and protect the public health, safety, and general welfare by providing for the regulation of the planting, maintenance, and removal of trees, shrubs, and other plants within the city of Mobridge.

9-13-2 Authority and Power

There is hereby created and established a City Tree Board for the City of Mobridge, which shall consist of five members, citizens and residents of this city, who shall be appointed by the mayor with the approval of the city council. Members of the board shall serve without compensation. The City Tree Board shall cooperate with and be under the supervision of the Park and Recreation Board. One member of the City Tree Board shall be appointed to the Park and Recreation Board in accordance to provisions and conditions of Section 9-8-4. (2001ORD779)

9-13-3 Term of Office

The term of the five persons to be appointed by the mayor shall be three years, except that the term of two of the members appointed to the first board shall be for only one year and the term of two members of the first board shall be for two years. In the event that a vacancy shall occur during the term of any members, his or her successor shall be appointed for the unexpired portion of the term.

9-13-4 Applicability

This ordinance provides full power and authority over all trees, plants, and shrubs located within street rights-of-way (boulevards), parks and public places of the city, and to trees, plants and shrubs located on private property that constitute a hazard or threat as described herein. (2006 ORD 830)

9-13-5 Definitions:

Contractor: Person or persons, acting singly or as a company whose business it is to engage in the planting, relocation, pruning or demolition of trees, shrubs or other vegetation.

Park Trees: Trees and all other wood vegetation in public parks, playgrounds, cemeteries, or other areas of the city owned by the city, and are freely accessed by the citizens of Mobridge. This shall include boulevard trees and those on traffic islands created on Main Street.

Private Trees: Trees and all wood vegetation that are upon land owned by private citizens or business within the city limits of Mobridge.

Boulevard Trees: Trees and all other wood vegetation on land laying between the right-of-way lines, streets, avenues, alleys or other public rights-of-way within the City. (2006 ORD 830)

9-13-6 Licensing

It shall be unlawful for any person to engage in the business of planting, cutting, trimming, pruning, removing, spraying, or otherwise treating trees, shrubs or vines within the city without first obtaining a license to do so, if they are compensated or receive barter in exchange for the work. (1998ORD750)

9-13-7 License Fee and Insurance

Tree contractors shall pay an annual fee to the city of Mobridge the sum of \$365.00 on or before January 1 of each year. With this fee shall come the right to use the city rubble site for the purpose of depositing tree debris at any time throughout the year.

Compensated (cash or barter) contractors who do not wish to have free use of the city rubble site shall pay an annual fee of \$50.00 to the City of Mobridge.

Furthermore, before a license shall be issued, each applicant shall file evidence of possession of liability insurance in the minimum amounts of a combined single limit of \$500,000. (1998ORD750)

9-13-8 Regulations to be Obeyed

In spraying trees for the control or elimination of the infection commonly known as Dutch Elm Disease, the following regulations shall be complied with:

- A. All applicable state and federal laws and regulations shall be followed.
- B. Spray shall not be applied when wind velocities are greater than five miles per hour or when temperatures are below freezing, or when rain or snow is falling.
- C. Feeding stations, waters places and other objects which attract birds must be protected from spray drifts.

9-13-9 Revocation of License/Penalty

Any license issued under the provisions of this Ordinance may be revoked for repeated violations of this Ordinance or any provision hereof, or of any other Ordinance relating to the work done.

Any person firm or corporation violating any of the provisions of this ordinance shall be fined up to \$500.00 for each offense, and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

9-13-10 Landscaping

In new subdivisions or when the development of commercial property occurs, the Park and Recreation Board, state forester, or his or her official designee will review landscaping plans and may require boulevard trees to be planted in any of the rights-of-way, parking lots parks and other public places abutting lands henceforth developed and/or subdivided. (2006 ORD 830)

9-13-11 Tree planting, Maintenance, and Removal

TREE SPECIES: The Park and Recreation Board will develop and maintain a list at City Hall of desirable boulevard trees for planting along streets. The board shall review this list every five years.

SPACING: The spacing of boulevard trees approved by the board and planted in boulevards, will be no closer together than a minimum of 13 feet, except in special plantings designated or approved by a landscape architect.

UTILITIES: No street trees other than those species approved as small trees may be planted under or within 10 lateral feet of any overhead utility wire, or over or within 5 lateral feet of any underground water line, sewer line, transmission line or other utility.

DISTANCE FROM CURB, SIDEWALK, and CORNER: The distance trees may be planted from curbs or curb lines, sidewalks will be 3 1/2 feet from the curb and 16 feet in from the furthest curb line of the corner of an intersection.

TOPPING: It shall be unlawful as a normal practice for any person, firm, or city department to top any street tree, park tree, or other tree on public property. Topping is defined as the severe cutting back of limbs to stubs with the tree's crown such a degree so as to remove the normal canopy and disfigure the tree. Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions where other pruning practices are impractical may be exempted from this ordinance at the determination of the Park and Recreation Board. (2006 ORD 830)

9-13-11.1 Removal of Stumps

All stumps of trees in the boulevards and alley right of ways, and those that are a nuisance shall be removed below the surface of the ground with the root stump grubbed out, or ground out to a depth of at least nine (8) inches below grade so that the top of the stump shall not project above the surface of the ground. All wood and debris must be removed from the street prior to the end of the each working day and all holes shall be filled to normal grade level with topsoil as soon as practical. (2006ORD834)

9-13-12 Landmark Trees

The state forester, or his/her official designee shall have as one of his/her duties the location, selection and identification of any trees which qualify as "Landmark Trees". A tree may qualify as a landmark tree if it meets one or more of the following criteria: Species rarity, old age, association with a historical event or person, abnormality or scenic enhancement. (2006 ORD 830)

9-13-13 Tree Protection

Upon the discovery of any destructive or communicable disease or other pestilence which endangers the growth or health of trees, or threatens to spread disease or insect infestations, the city shall at once cause written notice to be served upon the owner of the property upon which such diseased or infested tree is situated, and the notice shall require such property owner to eradicate, remove or otherwise control such

condition within 15 days from the receipt of notice. No wood, bark or any part of such tree shall remain within the city limits of Mobridge.

9-13-14 Nuisance Trees / Right to Inspect

The state forester or his/her official designee has the authority to enter onto private property whereon there is located a tree, shrub, plant or plant part that is suspected to be a public nuisance. A public nuisance shall be any tree with an infectious disease or insect problem; dead or dying trees; trees or shrubs whose limbs obstruct street lights, traffic signs, the free passage of pedestrians or vehicles or a tree that poses a safety hazard. The minimum clearance of any overhanging portion thereof over a sidewalk shall be eight (8) feet whenever practicable, and shall be fourteen (14) feet over all streets except truck thoroughfares when the clearance shall be sixteen (16) feet, unless otherwise designated by the City Council. (2006 ORD 830)

9-13-15 Nuisances, How Abated

Any hazard as described in section 9-13-14 shall be declared a nuisance, The owner of said tree(s), shrubs, etc. shall receive from the Finance Officer or city attorney a notice stating the violation. The owner of such property wherein the nuisance is shall remove said nuisance within 15 days upon receipt of notice. Failure to comply with the written notice shall make said owner subject to the penalties listed in section 9-13-18.

9-13-16 Tree Damage or Impediment of Growth

Unless otherwise specifically authorized by the City Council or the Park and Recreation Board, no person shall intentionally damage, cut or carve any tree, attach any rope, wire, nails, advertising posters or other contrivances to any tree, allow any gaseous liquid or solid substance which is harmful to such trees to come in contact with them; or to set fire or permit any fire to burn when such fires or the heat therefrom will injure any portion of any tree.

Furthermore, no person shall deposit, place, store or maintain upon any public place of the Municipality any stone, brick, sand, concrete or other materials which may impede the free passage of water, air, and fertilizer to the roots of any tree growing therein, except by written permit of the City Council or the Park and Recreation Board. (2006 ORD 830)

9-13-17 Enforcement

The state forester, or his/her official designee, and/or the Mobridge Code Enforcement Officer, shall have the power to promulgate and enforce rules, regulations and specifications concerning all aspects of tree care upon the right-of-way of any street, alley, sidewalk, or other public place in the city. (2006 ORD 830)

9-13-18 Penalties, Claims and Appeals

PENALTY: Any person who violates any provision of this ordinance or who fails to comply with any written notice issued pursuant to provisions of the ordinance, upon being found guilty of the violation, shall be subject to a fine not to exceed \$200.00 for each separate offense. Each day during which any violation of the provisions of this

ordinance shall occur or continue shall be a separate offense. If, as the result of the violation of any provision of this ordinance, the injury mutilation or death of a tree, shrub, or other plant located on city-owned property is caused, the cost of repair or replacement of such tree, shrub, or other plant shall be borne by the party in violation. The replacement value of trees and shrubs shall be determined in accordance with the latest revision of "A Guide to the Professional Evaluation of Landscape Trees, Specimen Shrubs, and Evergreens" as published by the International Society of Arboriculture.

ASSESSMENT OF CLAIM: In the event that a nuisance is not abated by the date specified in the notice, the Code Enforcement Officer, or his/her official designee, is authorized to cause the abatement of said nuisance. The reasonable cost of such abatement shall be filed as a lien against the property on which the nuisance was located. In addition, the owner of the property upon which the nuisance was located shall be subject to prosecution. (2006 ORD 830)

APPEALS: Appeals shall be made in the same manner as other ordinance appeal procedures.