



# MELLETTE MUNICIPAL CODE

City of Mellette

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ORDINANCE NO. 4.0104

AN ORDINANCE TO AMEND TITLE 4 OF THE ORDINANCES OF THE CITY OF MELLETTE, BUILDING CODES, RELATING TO MOBILE HOME DWELLINGS.

BE IT ORDAINED BY THE CITY OF MELLETTE, SOUTH DAKOTA, AS FOLLOWS:

**Definitions**

**C. Mobile Home Dwelling**

“Mobile home dwelling” means a detached residential dwelling unit designed for transportation after fabrication upon streets or highways on its own wheels or flatbed or other trailers and arriving at the site where it is to be occupied as a dwelling complete and ready for occupancy except for minor and incidental assembly operations. All manufactured or modular homes shall be considered a mobile home for the purpose of this chapter.

**Minimum Age**

No mobile home older than one year from the date of manufacturer shall be allowed in city limits.

**Minimum Width**

All mobile homes shall be at least twenty feet in width.

**Removal of Hitch and Wheels**

The hitch and wheels shall be removed from the mobile home within ten days of placement on any real estate within city limits.

**Skirting**

All mobile homes shall be skirted with a material that has the appearance of a permanent foundation around the perimeter of the structure.

**Permanent Foundation**

All mobile homes shall be placed on a permanent foundation. The following shall be considered a permanent foundation:

A. A basement shall be considered a foundation.

B. A foundation that extends below the normal frostline, but not less than four feet deep, and is placed around the perimeter of the structure. Concrete pilings or pads shall be considered as a foundation for the purposes of this chapter.

CITY OF MELLETTE

BY: \_\_\_\_\_

Brian Bauer, Its Mayor

ATTEST:

\_\_\_\_\_  
Jill Knight, Finance Officer

First Reading: 7/18/2024

Second Reading: 8/12/2024

Approved: 8/12/2024

Published: 8/21/2024

Effective: 9/8/2024

**Ordinance 3.0201A**  
**Ward**

The wards within the corporate limits of the City are hereby consolidated into one ward.

First reading: April 1, 2013  
Second reading: May 6, 2013  
Published: May 15, 2013  
Effective: May 15, 2013

/s/ Brian L. Bauer  
Mayor Bauer  
/s/ Christi M. Weideman  
Finance Officer

(seal)

**Ordinance No. 4.04-2024**  
**AN ORDINANCE AMENDING THE MELLETTE CITY CODE**  
**REGARDING CHANGES TO**

**TITLE 4 BUILDING CODE**

**4.0102 Definitions.** For the purpose of this Title, certain terms or words used herein shall be interpreted as follows:

C. **Outbuildings:** Whenever the term “outbuilding” is used in the Building Code, it shall refer to buildings not used for human dwelling or occupancy. It may include buildings used for animal occupancy.

**Ordinance 4.0104 Construction of dwellings:**

Dwelling houses hereafter constructed within the municipality shall be such style, construction and placement upon the lot so as to be in accord and harmony with the other homes in the same neighborhood and so as to tend to maintain home standards and values in the neighborhood. Any structural alterations made on dwellings now in such municipality shall be in harmony with the structure and its plan. Any structure moved to within the municipality for dwelling purposes shall be of such type, construction, materials and value as to be in harmony with, and so as not to depreciate from, the dwellings in the municipality.

**Ordinance 4.0105 Construction of outbuildings.**

Outbuildings hereafter constructed within the municipality shall be of similar construction, appearance, and in harmony with other structures in the same neighborhood so as to maintain standards and values thereof. Any outbuilding moved within the municipality shall be of such type, construction, materials and value as to be in harmony with other structures in the same neighborhood and not depreciate from the neighborhood.

Outbuildings not allowed in the municipality but not limited to are (HOOP BUILDINGS, STORAGE CONTAINER CARS)

First reading: February 5, 2024  
Second reading: March 4, 2024  
Effective: April 2, 2024  
Published: March, 13 2024

/s/ Brian L. Bauer  
Mayor Bauer

/s/ Jill P. Knight  
Finance Officer

(seal)

**Ordinance No. 7.26**  
**AN ORDINANCE AMENDING THE MELLETTE CITY CODE**  
**REGARDING CHANGES TO**  
**TITLE 7 – ANIMAL CONTROL**

**WHEREAS**, the City Council of the City of Mellette is charged with protecting the safety and property of its citizens; and

**WHEREAS**, THE City Council has determined that the following animal control ordinance revisions will protect the safety and property of its citizens.

**BE IT ORDAINED BY THE CITY OF MELLETTE THAT THE FOLLOWING CHANGES AND ADDITIONS SHALL BE MADE TO THE MELLETTE MUNICIPAL CODE:**

**Chapter 7.26 – Fowl Generally.**

**7.2601** No person shall keep any ducks, geese, turkeys, pheasants, quail, partridges, guineas, or other like domestic fowl within city limits, except for chickens kept within the provisions of this article.

**7.2602** Definitions regarding chickens:

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

Brooding means the period of chicken growth when supplemental heat must be provided due to the bird's inability to generate enough body heat.

Chick means a baby chicken not more than six (6) weeks old.

Chicken means a domesticated bird of the order of Galliformes in the genus of Gallus (chickens) that serves as a source of eggs or meat.

Cockerel means a young male chicken.

Coop means the structure for the keeping or housing of chickens permitted by the ordinance.

Exercise yard means the structure for the keeping or housing of chickens permitted by the ordinance.

Hen means a female chick.

Officer means any person designated by the city manager as an enforcement officer.

Rooster means a male chicken.

Run means a fully enclosed and covered area attached to a coop where the chickens can roam unsupervised.

**7.2603** Revocable Permit.

It is the purpose and intent of this ordinance to permit the keeping and maintenance of brooding chicks and hens for egg and meat sources in a clean and sanitary manner that is not a nuisance to or detrimental to the public health, safety, and welfare of the community. The keeping and maintenance of brooding chicks and hens is permitted to all residents who comply with all requirements, limitations, or prohibitions of this article. Such permit may be revoked in the person holding the permit refuses or fails to comply with this chapter or with any state or local law governing cruelty to animals or the keeping of animals. Any revocation shall be effective after ten (10) days following written notice thereof to the person or persons keeping or maintaining such chickens. Any

person whose permit is revoked within then (10) days thereafter shall humanely dispose of all chickens being owned, kept, or harbored by such person.

**7.2604 Investigation and Enforcement.**

Officers designated by the city manager shall have authority in the investigation and enforcement of this article, and no person shall interfere with, hinder, or molest any such officer in the exercise of such powers. The animal control officer shall make investigations as is necessary.

**7.2605 Limitations on the number and keeping of chickens.**

A. Chickens may only be kept within areas of the city zoned to permit single family dwellings as outlined below.

B. No more than eight (8) hens shall be housed or kept on any one (1) residential lot. Residents may possess a like number of brooding chicks intended for the cyclical replacement of hens, but not for the purpose of sale or resale.

C. Roosters and chicken breeding are prohibited. Cockerels must be culled from broods when identified.

D. A separate coop is required to house the chickens together with a reasonably satisfactory exercise yard, run, or yard fencing so as to keep chickens confined at all times. Chicken facilities must be constructed and maintained to meet the following minimum standards:

1. Located in the rear or side yard.
2. Setback as required by the zoning district for structures on the real property. Such structures will still require a zoning permit as specified by code.
3. Coop construction and materials must be adequate to prevent access by rodents.
4. Coops must be maintained in good repair.
5. Coops or cages housing chickens shall be kept at least twenty (20) feet from the door or window of any dwelling of an occupied structure other than the owner's dwelling.
6. Coops and manure storage shall be kept twenty (20) feet from streams, tributaries, ditches, storm water management facilities, drop inlets, or other storm drainage areas that would allow fecal matter to enter any city storm drainage system or stream. Dumping chicken manure into the city's storm drainage system is prohibited.

E. Chickens must not be housed in a residential house or an attached or detached garage, except for brooding purposes only.

F. All premises on which chickens are kept or maintained shall be kept clean from filth, garbage, and any substances which attract rodents. 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 an 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 solid waste bags and kept in a solid waste container.

G. Chickens shall not be kept in such manner as constitute a nuisance to the occupants of the adjacent property.

H. Except for chickens properly slaughtered for consumption, dead chickens must be disposed of within forty-eight (48) hours after death. Legal forms of chicken carcass disposal include burial and off-site incineration or rendering. All slaughtering of chickens shall be conducted so as not to be visible to the public or adjacent property owners and occupants.

I. All grain and food stored for the use of the chickens shall be kept in the rodent proof container.

J. Chickens shall be kept so that visibility is substantially obstructed at a height of five (5) feet above ground level to the traveling public or surrounding property owners.

**7.2606** Violations.

A. Any person violating this article shall be deemed guilty of a misdemeanor and, upon conviction, shall be punished in accordance with Chapter 1.02.

B. Any person violating this article shall reimburse the city for all costs borne by the city to enforce the conditions of this article including but not limited to the collection and humane disposal of chickens.

C. All chickens of any person violating this article may be forfeited to the city and may be removed and euthanized and properly buried or otherwise disposed of in a sanitary manner.

---

BRIAN BAUER, Mayor  
ATTEST:

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CHRISTI WEIDEMAN, Finance Officer

**Ordinance No. 7.02-02-2022**  
**AN ORDINANCE AMENDING THE MELLETTE CITY CODE**  
**REGARDING CHANGES TO**  
**TITLE 7 – ANIMAL CONTROL**

An amendment to Chapter 7 and sub chapters for Definitions. Be it ordained by the City of Mellette the substance of the ordinance follows.

**Chapter 7.02** **Definitions**

**Kennel.** Any person, group of persons, or corporation engaged in the commercial business of breeding, buying, selling or boarding dogs or cats on or in any lot, structure, or premises where five (5) or more dogs and/or ten (10) or more cats four (4) months of age are kept.

**Chapter 7.26** **Kennels**

**7.2601** All kennels shall be licensed with the City of Mellette and be subject to all provisions of Title 7 - Animal Control and Title 10 Licenses.

**7.2602** All kennels shall be maintained in a clean and sanitary basis with all animal waste removed on a regular basis and disposed of in a sanitary manner.

**7.2603** All kennels shall pay an annual fee of \$50.00 to the City of Mellette.

First reading: March 7, 2022

Second reading: April 4, 2022

Published: March 16, 2022

Effective: June 1, 2022

/s/ Brian L. Bauer  
Mayor Bauer  
/s/ Jill P. Knight  
Finance Officer

(seal)

**Ordinance 13.0112**  
**Sewer Fees**

**13.0112 Sewer Rates.** All residential sewer users shall pay a monthly fee, currently \$30.50, to be set annually by the City Council and on file at the office of the City Finance Officer. This shall be submitted with water payments to the City Finance Officer no later than the 15<sup>th</sup> day of each month.

All commercial sewer users shall pay a monthly fee, currently \$38.00, to be set annually by the City Council and on file in the office of the Finance Officer for the first 20,000 gallons of water use. Any commercial consumer using over 20,000 gallons shall pay an additional fee set by the City Council and on file at the office of the Finance Officer for each gallon over.

Further, the council reviewed Resolution 20-02 as required by the State, which reads as follows: In addition to the other sewer charges, the City hereby establishes a surcharge of \$10.50 per month payable by each customer of its system who receives or benefits from the services of the project financed by the loan with the borrower bond Series 2020. The collection of the surcharge shall start on July 1, 2020. 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 book keeping 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 110 percent debt coverage.

Resolution 20-02  
First Reading: June 1, 2020  
Published: June 10, 2020  
Effective: June 30, 2020

**ORDINANCE NO. 13.0229-2024**

AN ORDINANCE TO AMEND TITLE 13 OF THE ORDINANCES OF THE CITY OF MELLETTE, RELATING TO WATER RATES.

BE IT ORDAINED BY THE CITY OF MELLETTE, SOUTH DAKOTA, AS FOLLOWS:

Ordinance 13.0229. Water Rates

The monthly water rate shall be \$50.00 per month for the first 1,000 gallons and \$6.00 per each additional 1,000 gallons to take effect on May 1, 2024.

Any entity utilizing more than 30,000 gallons per month for 10 months per calendar year shall be considered a bulk water user. The monthly bulk user base rate for water shall be \$222.51.

All commercial and business property owners with a curb stop located on their property will pay a monthly rate of \$30.00 per month.

First reading: March 4, 2024  
Second reading: April 2, 2024  
Published: April 10, 2024  
Effective: April 30, 2024  
/s/ Brian L. Bauer  
Mayor Bauer  
/s/ Jill P. Knight  
Finance Officer

(seal)

**ORDINANCE No. 15.0240**

**MAXIMUM WEIGHT OF VEHICLE OR COMBINATION OF VEHICLES AND AXLES**

No vehicle or combination of vehicles operating on the streets, alleys, and highways of the city may weight in excess of 20,000 pounds on any one axle, except service trucks and delivery trucks, or by overweight permit issued by the city mayor.

**ORDINANCE No. 15.0241**

**REDUCED LOAD MAXIMUM FROM FEBRUARY THROUGH MAY –  
EXTENSION OF PERIOD – CHANGING RESTRICTIONS – VIOLATION AS MISDEMEANOR**

The maximum axle and axle group loadings as set forth in ordinance number 15.0240 shall be reduced for the streets, alleys, and highways during the period of each year from February 1 to May 31 inclusive to 6,000 pounds on any one axle. The city mayor may increase, lessen, or remove these restrictions if roadway conditions warrant. That authority may be exercised without formal resolution of the city council. If roadway and climate conditions warrant, the city mayor may extend the time period mentioned in this section. A violation of this section is Class II Misdemeanor.

**ORDINANCE NO. 15-0714A**

**Engine Brakes**

No person shall utilize a dynamic engine brake, otherwise known as a “jake” brake, within the city limits of Mellette, SD and the roads immediately bordering the City of Mellette, including, but not limited to, Highway 20 and Sunshine Avenue.

First reading: December 2, 2013

Second reading: January 6, 2014

Published: January 15, 2014

Effective: February 5, 2014

/s/ Brian L. Bauer

Mayor Bauer

/s/ Christi M. Weideman

Finance Officer

(seal)

**ORDINANCE NO. 127.1**  
**NORTHWESTERN ENERGY**

BE IT ORDAINED BY THE MAYOR AND THE CITY COUNCIL  
OF THE CITY OF MELLETTE, SOUTH DAKOTA

AN ORDINANCE GRANTING NORTHWESTERN CORPORATION, DOING BUSINESS AS NORTHWESTERN ENERGY, A DELAWARE CORPORATION, ITS SUCCESSORS AND ASSIGNS, A NON-EXCLUSIVE FRANCHISE, RIGHT AND PRIVILEGE FOR A PERIOD OF TWENTY (20) YEARS TO ERECT, MAINTAIN AND OPERATE A GAS DISTRIBUTION SYSTEM AND ANY AND ALL NECESSARY PIPES, MAINS, SERVICES AND ALL OTHER APPLIANCES THEREUNTO APPERTAINING IN, UPON, OVER, ACROSS AND ALONG THE STREETS, ALLEYS, BRIDGES AND PUBLIC PLACES OF THE CITY OF MELLETTE, SOUTH DAKOTA, AS THE SAME NOW ARE OR MAY HEREAFTER BE EXTENDED, FOR THE DISTRIBUTION AND SALE OF GAS, WHETHER ARTIFICIAL, NATURAL OR OTHERWISE, FOR COOKING, HEATING, INDUSTRIAL AND ALL OTHER USES AND PURPOSES IN THE CITY OF MELLETTE, SOUTH DAKOTA, AND PRESCRIBING THE TERMS AND CONDITIONS UNDER WHICH SAID FRANCISE IS TO OPERATE; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; AND PROVIDING FOR THE EFFECTIVE DATE OF THIS ORDINANCE, AND PUBLICATION THEREOF.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF MELLETTE, SOUTH DAKOTA:

**Section 1.01. Definitions.** As used in this Ordinance, the following words or phrases shall have the following meanings:

- A. Consumer shall mean any individual person, corporation, company, partnership, firm, unincorporated association, trust, municipality, public corporation and any other legal or non-legal entity served by the Franchisee.
- B. Distribution System shall mean a system of pipes, pipelines, apparatus, machinery, structures, appliances or fixtures, and appurtenances, which in any way relate to or are reasonably necessary for the distribution of natural gas by the Franchisee to Consumers.
- C. Franchise shall mean the rights and privileges granted by City to Franchisee under this Ordinance.
- D. Franchisee shall mean NorthWestern Corporation doing business as NorthWestern Energy, a Delaware corporation, its successors and assigns.
- E. City shall mean the City of Mellette, South Dakota, and includes the area within the city limits, as the same now exists or as may be extended from time to time.
- F. Install, operate and maintain shall mean to acquire, erect, construct, install, extend, repair, remove, relocate, replace, or otherwise operate and maintain.
- G. Public Ways shall mean any street, alley, avenue, boulevard, lane, park, parkway, sidewalk, driveway, utility easement, right of way, and any other public ways, places, areas, or grounds within the corporate limits of the City as now constituted or may be added hereafter.
- H. The terms "Franchise Agreement" and "Ordinance" as found herein shall be fully interchangeable in meaning.
- I. The terms "gas" and "natural gas" as found herein shall be fully interchangeable in meaning.
- J. The term "South Dakota Natural Gas Tariff" as found herein means Franchisee's South Dakota Gas Rate Schedule filed with the South Dakota Public Utilities Commission.

**Section 1.02. Franchise Granted.** Franchisee is hereby granted a non-exclusive franchise, right and privilege for a period of twenty (20) years to install, operate, and maintain a gas Distribution System, upon, over, across, and along the Public Ways, as the same now are or may hereafter be extended for the distribution and sale of gas, whether artificial, natural or otherwise, for cooking, heating, industrial, and all other uses and purposes.

**Section 1.03. Franchisee's Agreement to Serve.** Franchisee agrees, that for and during the term and period of this Franchise Agreement, it will maintain in the City an adequate, standard, and sufficient Distribution System and equipment and maintain and operate the same in a manner to meet the necessities and requirements of the City, its industries and inhabitants. Franchisee, on behalf of itself, its successors, and assigns, will be deemed to have accepted the terms and conditions of this franchise by supplying service to any customer within the City limits after the effective date of this ordinance. Notwithstanding the foregoing, Franchisee does not guarantee uninterrupted or undisturbed service of gas and is not liable for causes beyond its reasonable control.

**Section 1.04. Changes to Physical Plant. Extension of Service.** Franchisee shall and hereby agrees to make such reasonable extensions of the Distribution System as may be reasonably required to furnish service to parties making application therefor located within the corporate limits of the City.

Franchisee shall not be required to make any such extensions of the Distribution System nor install service lines for the purpose of serving any new customer or customers where the estimated revenue to be derived from such service is not sufficient to provide an adequate return upon the investment (after recognizing any customer contribution-in-aid of construction) required to serve such customer or customers. All extensions of the Distribution System shall be made in compliance with the South Dakota Natural Gas Tariff.

**Section 1.05. Non-Duplication of Distribution Facilities.** To minimize risk to the citizens of Mellette and to avoid unnecessary duplication of natural gas facilities within the City, Franchisee shall not construct distribution facilities to any customer already serviced with natural gas, or in, along, under or down any street wherein other gas line already exists, except where service requirement necessitate additional lines.

**Section 1.06. Relocation of Utility Facilities.** Franchisee shall relocate its facilities or equipment at its own expense whenever the City, in the proper exercise of its police power grades, regrade, changes the line, or otherwise improves any Public Way or construct or reconstruct any sewer or water system therein and shall, with due regard to seasonable working conditions, order the Franchisee to relocate permanently its facilities or equipment located in said Public Way. The City shall give Franchisee reasonable notice of plans requiring such relocation.

**Section 1.07. Relocation When Street Vacated.** City may not order Franchisee to relocate any of its facilities or equipment when a Public Way is vacated unless the reasonable cost of such relocation and the loss and expense resulting from such relocation are first paid to Franchisee. If the facilities are not relocated, the City shall grant the Franchisee a permanent easement prior to the vacation of said public use.

**Section 1.08. Restoration of Streets.** In doing any work in connection with exercising the privileges herein granted, the Franchisee shall avoid, so far as may be practicable, interfering with the use of any Public Way; where paving or surface of the street is disturbed, the Franchisee shall at its own expense and in a manner reasonably satisfactory to the City Engineer, and in compliance with the City specifications, replace such pavement or surface of the Public Way in as good condition as it was in before such work was commenced.

**Section 1.09. Installation of Equipment.** Franchisee shall install, maintain, and operate the Distribution System to not interfere with or obstruct the use of any water pipes, drains, sewers, or other structures already installed. Further, the Franchisee, agrees to install, operate, and maintain all underground piping according to current industry standards, and all applicable codes, rules, regulations, statutes, and orders of local, state and federal agencies having authority in such matters.

**Section 1.10. Installation and Ownership of Service Lines.** Franchisee shall, at its own expense, furnish and install service pipe of suitable capacity to the Consumer's point of delivery herein defined as the inlet side of the first connection with Consumer's premises, or the outlet side of the meter if located beside, within, or attached to, the premises. This delivery location shall be defined as "Consumer's Point of Delivery". Service lines or gas main extensions may be subject to a Contribution in Aid of Construction. Ownership of all service lines shall remain with Franchisee.

**Section 1.11. Allocation of Gas Supplies.** In the event of a shortage in the supply of natural gas for any reason beyond the control of Franchisee, it will allocate the available gas in a manner to conform to the general interest of the public, as required by applicable laws and regulations.

**Section 1.12. Insurance Requirements.** Franchisee shall be self-insured and/or maintain commercially reasonable insurance coverage of foreseen and unforeseen risks including, but not limited to, the following types: Workers' Compensation; Automotive Liability; Comprehensive General Liability including contractual liability, explosion, collapse and underground, personal injury, products and completed operations, owner, and contractors protective; and umbrella liability. Upon request, Franchisee shall deliver to City proof of insurance coverage.

**Section 1.13. Hold Harmless Clause.** Franchisee shall at all times protect, indemnify and save harmless the City from and against all claims and demands and from any and all loss, expense and liability arising out of the negligence or fault of Franchisee in the construction, installation, or maintenance of the Distribution System, except such as arises as a result of the intentional conduct or the negligence of the City, its officers, employees, or agent.

**Section 1.14. Municipal Authority.** Franchisee agrees that all authority and rights in this Ordinance contained, shall at all times be subject to all rights, power and authority now or hereafter possessed by said City, to regulate and control and direct or otherwise by ordinance or resolution legislate concerning the manner in which the Franchisee shall use the Public Way.

**Section 1.15. Interpretation of Law.** This Franchise Agreement shall be deemed to have made and shall be construed and interpreted in accordance with the laws of the State of South Dakota.

**Section 1.16. Captions.** Captions and other headings contained in this Franchise Agreement are for reference and identification purposes only and in no way alter, modify, amend, limit or restrict the contractual obligation of the parties hereto.

**Section 1.17. Compliance with Laws.** Franchisee agrees to conduct its business under the terms of this Ordinance in such a manner that it does not violate any federal state or local laws or regulations applicable to the conduct of its operations under the terms of this Franchise Agreement.

**Section 1.18. Validity of Franchise.** If any section, subsection, sentence, clause, phrase or portion of this Franchise Agreement shall for any reason be held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions hereof.

**Section 1.19 Acceptance.** Franchisee shall deliver its unconditional acceptance of this Franchise Agreement to the City within 45 days after receipt of the notice of publication.

All ordinance or parts of ordinances in conflict herewith are hereby repealed.

This ordinance shall be in full force and effect from and after its final passage, approval and publication in pamphlet form as provided by law.

First Reading: 3/4/2019  
Second Reading: 3/18/19

PASSED AND APPROVED THIS 18<sup>th</sup> day of March, 2019.

ATTEST:

\_\_\_\_\_/s/ Christi Weideman \_\_\_\_\_/s/ Brian Bauer \_\_\_\_\_  
City Finance Officer Mayor

**Resolution No. 2024-02  
NORTHWESTERN ENERGY**

Resolution acknowledging the assignment of Ordinance No. 127.1 from Northwestern Corporation to NorthWestern Energy Public Service Corporation

WHEREAS, the City of Mellette adopted Ordinance No. 127.1 dated 5/14/2019 (the “Franchise Ordinance”) authorizing Northwestern Corporation to operate a gas distribution system within the City of Mellette; and

WHEREAS, as of January 2, 2024, NorthWestern Corporation’s South Dakota and Nebraska assets and related contractual obligations transferred to a new entity named NorthWestern Energy Public Service Corporation d/b/a NorthWestern Energy consistent with a corporate reorganization authorized by the South Dakota Public Utilities Commission (Docket No. GE22-002) and the Nebraska Public Service Commission (Docket No. NG-114); and

WHEREAS, other than the above-referenced transfer there is no change to the terms or conditions of the Franchise Ordinance or performance thereto;

NOW, THEREFORE, BE IT RESOLVED that the City of Mellette herby acknowledges and accepts the assignment of Ordinance 127.1 from NorthWestern Corporation to NorthWestern Energy Public Service Corporation d/b/a NorthWestern Energy.

Passed and approved this 4th day of March, 2024.

City of Mellette  
/s/ Brian L. Bauer  
Mayor Bauer  
/s/ Jill P. Knight  
Finance Officer  
Published April 10, 2024  
Effective: April 30, 2024

ORDINANCE NO. 2.0201-02-2024

AN ORDINANCE TO AMEND TITLE II OF THE ORDINANCES OF THE CITY OF MELLETTE, ADMINISTRATIVE CODE RELATING TO MAYOR AND TOWN COUNCIL REGULAR MEETINGS.

BE IT ORDAINED BY THE CITY OF MELLETTE, SOUTH DAKOTA, AS FOLLOWS:

Chapter 2.02 – Mayor and Town Council

**2.0201Regular Meetings.** The regular monthly meetings of the City Council of the City of Mellette shall be held at the Mellette Fire Hall in said City on the second Monday of each month at 7:00 P.M., except when Monday is a legal holiday, or fails on the first day of the month and in that case the meeting shall be held at 7:00 P.M. on a specified date.

CITY OF MELLETTE

BY: \_\_\_\_\_

Brian Bauer, Its Mayor

ATTEST:

\_\_\_\_\_  
Jill Knight, Finance Officer

First Reading: 5/6/24

Second Reading: 6/10/24

Approved: 6/10/24

Published: 6/19/24

Effective: 7/8/24

## **FIRE HYDRANT SPECIFICATIONS**

### **Mellette South Dakota**

Fire hydrants shall meet or exceed ANSI/AWWA C502, latest revision. Rated working pressure shall be 250 psi, and hydrants shall include the following specific design criteria:

- The nozzle section, caps, upper/lower standpipes and hydrant base shall be ductile iron.
- Nozzles shall be mechanically attached by retaining collars. Pinned, threaded-in, screwed in or nozzles using set screws will not be allowed.
- Nozzles shall be two 2 ½ size and 4 ½ pumper
- Nozzle section will be designed for easy 360 degree rotation by the loosening of no more than four bolts.
- All external bolting must be Standard and a nut and bold design. Metric, allen bolts, or threaded castings in place of nuts will not be accepted.
- Hydrant shall measure 24" inches from ground line to center of nozzle. (16" upper barrel)
- External bolting below grade shall be stainless steel bolting that meets the requirements of ASTM F 593 Standard Specification for Stainless Steel Bolts, Type 304, Alloy Group 1, CW condition and ASTM F 594 Standard Specification for Stainless Steel Nuts, Type 304, Alloy Group 1, CW condition.
- Hydrant shall be open Left
- External surfaces above grade shall be coated with two-part epoxy primer and a two-part high-gloss urethane topcoat. Color RED
- Valve or hydrant shall be supplied with a label or tag from the manufacture exhibiting a barcode that when scanned by a Trimble mobile device or approved smartphone and necessary software application, the device associates high accuracy GPS coordinates, photos, product description and specifications with the valve or hydrant asset. The application shall provide interoperability with existing ESRI® ArcGIS, computerized maintenance management systems (CMMS), or enterprise resource planning databases.
- Hydrant must have an internal travel stop nut located in the top-housing. Hydrant must have a double oil reservoir so that operating threads are oil lubricated and will be O-ring sealed from water, moisture and foreign matter.
- Hydrant must have a traffic flange design allowing for quick and economical repair of damage resulting from a vehicle's impact. The rod coupling must be two half sleeves bolted on by two stainless steel studs and four brass lock nuts. Pins, standard nuts and bolts not allowed.
- The seat diameter shall be 5 1/4", opening against the pressure and closing with the pressure. Hydrant must be designed so that removal of all working parts can be accomplished without excavating. The lower valve washer must be fusion-bonded epoxy coated. The bronze seat must be threaded into mating threads of bronze for easy field repair.
- The draining system of the hydrant shall be bronze and be positively activated by the main operating rod. Hydrant to be furnished with a sliding bronze drain valve. Sliding drain valves made of *rubber, plastic or leather* will not be allowed.
- Connection shall be MJ or Restrained push-on joint that use water pressure to achieve restraint (AFC Alpha)
- Hydrant model must have at least 50 years of service history and maintained complete interchangeability of internal parts.

Coating System Performance Requirements for Exterior Surfaces above Grade

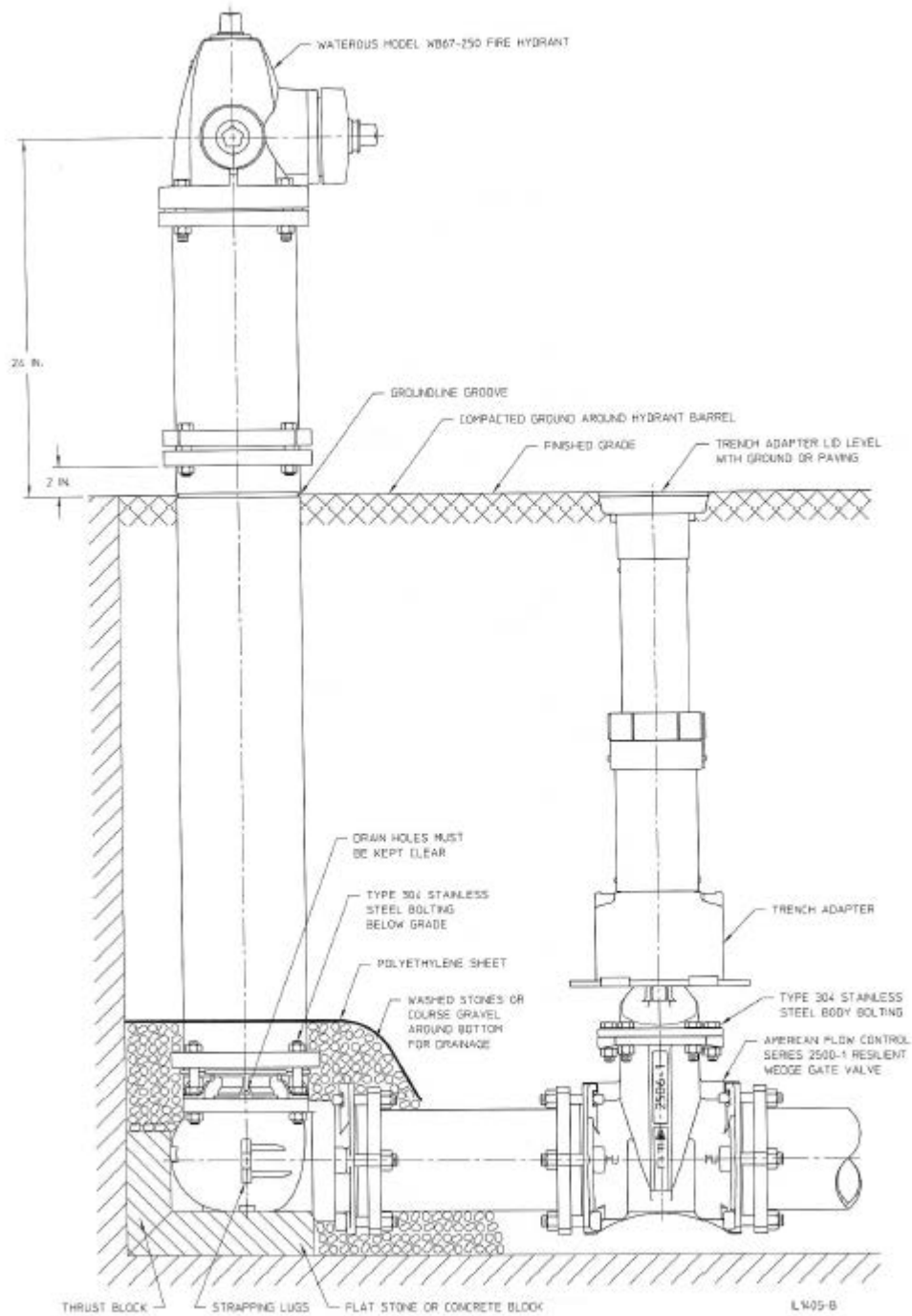
- Hydrants shall be coated to meet the minimum coating requirements of the latest edition of AWWA/ANSI C502.
- Primer: Primer shall be used on all surfaces and shall be cross-linked two-part liquid epoxy. Epoxy primer shall be applied using an electrostatic spray process.
- Topcoat: Surfaces shall be top coated with high-gloss two-part liquid urethane that uses an aliphatic isocyanate catalyst to produce a cross-linked cure. Topcoat shall be applied using an electrostatic spray process.
- The hydrant base shall be coated with fusion-bonded epoxy on interior and exterior surfaces using materials and coating application procedures that meet or exceed the requirements of the latest edition of ANSI/AWWA C550 *Standard for Protective Epoxy Interior Coatings for Valves and Hydrants*

## **Mellette South Dakota**

### **Resilient Wedge Gate Valve Specification**

- A. Valves 2"-66" shall be resilient wedge type rated for 250 psi cold water working pressure. All cast ferrous components shall be ductile iron. This includes but is not limited to Stuffing Box, Valve Body, Valve Bonnet and Wrench nut /Operating nut.
- B. Valves 3"-16" shall be in full compliance with AWWA C-515. The words "DI" or "Ductile Iron" shall be cast on the valve or stamped on a permanently attached corrosion resistant metal. All cast ferrous parts of the valve shall be made of ductile iron ASTM A536, minimum 65,000 psi tensile strength.
- C. Valves 3"-12" shall be furnished with a stem seal (Debris Seal) above the stuffing box O-rings. This seal shall also be capable of sealing against internal or external pressure equal to the valve's rated working pressure.
- D. Valves shall have a label or tag, exhibiting a barcode that when scanned by a Trimble mobile device or approved smartphone and necessary software application, the device associates high accuracy GPS coordinates, photos, product description and specifications with the valve or hydrant asset. The application shall provide interoperability with existing ESRI® ArcGIS, computerized maintenance management systems (CMMS), or enterprise resource planning databases
- E. MJ connecting pipe bolt holes must have anti-rotation lugs to aid in installation
- F. Valves stems shall be full diameter from thrust collar to wrench nut, without any reduced area that allows premature failure. Stems with fracture grooves will not be accepted.
- G. Wedge nut shall be held in place on three sides. Valves with wedge nuts held in place by less than three side will not be accepted.
- H. The wedge shall be symmetrical and seal equally well with the flow in both direction and have wedge covers on both wedge guides made of Delrin.
- I. Seal between bonnet and body shall be a flat gasket with integral O-ring, allowing bolting to pass through. Standard O-rings or standard flat gaskets without integral O-rings will not be accepted.
- J. Valves 2"-66" shall be NSF Standard 61 certified.
- K. Valve shall have factory installed 304 stainless steel exterior bolting. All bolting on valves 4" and larger must be at least 5/8" diameter. Metric bolts, Allen head, and socket head cap screws will not be accepted.
- L. Operating nuts on non-gear valves shall be made of ductile iron and shall have four flats at stem connection to assure even torque input to the stem.
- M. Stem shall have three pressure sealing O-rings.
- N. Valve shall have thrust washers located with one above and one below the thrust collar to assure trouble-free operation of the valve.
- O. All internal and external surfaces of the valve body and bonnet shall be epoxy coated, complying with ANSI/AWWA C550.
- P. 4"-12" Valve inlet shall be restrained for use with ductile iron, cast iron, HDPE and PVC materials. Inlet shall incorporate a stab-fit design using a single Type 304 stainless steel fastener and heat-treated ductile iron grippers. The joint shall work with pressure to achieve joint restraint. All valves inlets shall be the Romac ALPHA design, as furnished by AMERICAN Flow Control.
- Q. MJ shall be allowed as an alternative to be used at contractor's discretion.

## PACER - INSTALLATION



AMERICAN Flow Control

Waterous 5-1/4" Pacer Fire Hydrant



## TITLE 16 FENCES

An Ordinance Title 16 Fences and Enclosures. Be it ordained by the City of Mellette the substance of the ordinance follows.

### **Chapter 16.01 Height and Fencing Material Restrictions**

- (a) No person shall construct, erect or maintain or cause to be constructed, erected or maintained any perimeter fences that obstruct, hinder or impair visibility at intersections of public roadway in the City of Mellette.
- (b) No person may construct, erect or maintain any electric or electrified fences, nor any fence constructed of barbed wire or concertina wire, on any fence consisting solely of horizontal metal wires.

### **Chapter 16.02 Maintenance and Repair**

- (a) All fences shall be maintained, repaired and kept free of tall grass and weeds.

First reading: March 7, 2022

Second reading: April 4, 2022

Published: March 16, 2022

Effective: June 1, 2022

/s/ Brian L. Bauer  
Mayor Bauer

/s/ Jill P. Knight  
Finance Officer

(seal)

## TITLE 1 – GENERAL PROVISIONS

**Chapter 1.01 – Code Adoption**

**Chapter 1.02 – Penalties and Repealing Clause**

**Chapter 1.03 – Conduct of Hearings and Contested Cases**

**Chapter 1.04 – Employees Salary or Wage Rates**

### **Chapter 1.01 – Code Adoption**

**1.0101** Ordinances Repealed. All ordinances and parts of ordinances in conflict with the provisions of this Ordinance and not re-enacted as part of this Ordinance, are hereby repealed: and all other Ordinances not previously in this Ordinance restated, refined, or modified or similarly hereby repealed.

**1.0102** Unconstitutionality. Should any section, paragraph, sentence, clause, or phrase of this Ordinance be declared unconstitutional or invalid for any reason, the remainder of this ordinance shall not be affected thereby.

**1.0103 Title – Citation – Reference.** The code adopted by this chapter shall be known as the “Mellette Municipal Code” and it is sufficient to refer to the code as the “Mellette Municipal Code” and any prosecution for the violation of any provision thereof or in any proceeding at law or equity. It is sufficient to designate any ordinance adding to, amending, correcting, or repealing all or any portion, part thereof as an addition to, amendment to, correction or repeal of the “Mellette Municipal Code”. Further reference may be had to the titled, chapters, sections, and sub-sections of the “Mellette Municipal Code” and such references shall apply to that numbered title, chapter, section, or sub-section as it appears in the code.

**1.0104 Codification of Authority.** The code adopted by this chapter consists of all the regulatory and penal ordinances certain of the administrative ordinances of the city, codified pursuant to the provisions of the South Dakota Codified Laws.

**1.0105 Reference Applies to all Amendments.** Whenever a reference is made to the Code adopted by this chapter as a “Mellette Municipal Code” or to any portion thereof, or to any ordinance of the city, the references shall apply to all amendments, corrections and additions made before, as of or after the effective date of the ordinance codified in this chapter.

**1.0106 Effect of Code on Past Actions and Obligations.** Neither the adoption of the Code or the repeal or amendment by this chapter of any ordinance or part or portion of any ordinance of the city shall in any manner affect the prosecution for violation of ordinances, which violations were committed prior to the effective date of the ordinance codified in this chapter, nor be construed as a waiver of any license, fee, or penalty at the effective date due and unpaid under such ordinances, nor be construed as affecting any7 of the provisions of such ordinances relating to the collection of any such license, fee, or penalty, or to the penal provisions applicable to any violation thereof, nor to affect the validity of any bond or cash deposit in lieu thereof required to be posted, filed, or deposited pursuant to any ordinance, and all rights and obligations thereunder appertaining shall continue in full force and effect.

**1.0107 Effective Date.**The “Mellette Municipal Code” shall take effect on the effective date of the ordinance codified in this chapter as adopted by the Mellette City Council.

**1.0108 Filing.** Three (3) copies of the “Mellette Municipal Code” as printed under the authority of the municipality and adopted by this chapter have been and are now on file for public inspection in the office of the city Finance Officer and the Mellette Volunteer Fire Department building, Mellette, South Dakota.

## **Chapter 1.02 – Penalties**

**1.0201 Penalty in General.** Except in cases where different or additional penalty is imposed by this Ordinance, or by some existing provision of law, every violation of any of the provisions of the Ordinance shall be punishable by a fine not to exceed \$200.00 for each violation, or by imprisonment for a period not to exceed thirty (30) days for each violation, or by both the fine and imprisonment as authorized under South Dakota Codified Law.

## **Chapter 1.03 – Definitions**

**1.0301 Definitions.** The following words and phrases, whenever used in the ordinances of the City of Mellette, South Dakota, shall be construed as defined in this section unless from the context a different meaning is intended or unless a different meaning is specifically defined and more particularly directed to the use of such words or phrases:

A. “City” and “town” each mean the City of Mellette, South Dakota, or the area within the territorial limits of the city of Mellette, South Dakota, and such territory outside city of any constitutional or statutory provision.

B. "Council" means the common council of the City of Mellette. "All its members" or "all councilmen" means the total number of councilmen holding office.

C. "County" means the county of Spink.

D. "Law" denotes applicable federal law, the Constitution, and statutes of the state of South Dakota, the ordinances of the City of Mellette, and, when appropriate, any and all rules and regulations which may be promulgated thereunder.

E. "May is permissive.

F. "Month" means calendar month.

G. "Must" and "shall" are each mandatory.

H. "Oath" includes an affirmation or declaration in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the words "swear" and "sworn" shall be equivalent to the words "affirm" and "affirmed".

I. "Owner", applied to a building or land, includes any part owner, joint owner, tenant in common, joint tenant, tenant by the entirety, of the whole or a part of such building or land.

J. "Person" includes a natural person, joint venture, joint stock company, partnership, association, club, company, corporation, business, trust, organization, or the manager, lessee, agent, servant, officer, or employee of any of them.

K. "Personal property" includes money, goods, chattels, things in action and evidence of debt.

L. "Preceding" and "following" means next before and next after, respectively.

M. "Property" includes real and personal property.

N. "Real property" includes lands, tenements, and hereditaments.

O. "Sidewalk" means that portion of a street between the curb line and the adjacent property line intended for the use of pedestrians.

P. "State" means the state of South Dakota.

Q. "Street" includes all streets, highways, avenues, lanes, alleys, courts, places, squares, curbs, or other public ways in this city which have been or may hereafter be dedicated and open to public use, or such other public property so designated in any law of this state.

R. "Tenant" and "occupant", applied to a building or land, include any person who occupies the whole or a part of such building or land, whether alone or with others.

S. "Written" includes printed, typewritten, mimeographed, multi-graphed, or otherwise reproduced in permanent visible form.

T. "Year" means calendar year.

#### **Chapter 1.04 – Employee Salary or Wage Rates**

**1.0401 Salaries.** Salaries and wage rates may be annually or at such other times altered, modified, changed, or increased by the Mellette City Council, with said change spread in the official Minutes.

#### **Chapter 1.05 – Conduct of Hearings and Contested Cases**

**1.0501 Purpose.** Unless otherwise provided in these ordinances, the conduct of any contested hearing or appeal before any administrative body or board of City of Mellette or before the Mellette City Council shall be conducted in accordance with the procedures set forth in this ordinance.

**1.0502 Notice.** In any appeal, or hearing on a contested case, before any agency or board of the City of Mellette the notice of appeal, or the notice in a contested case shall include:

1. A statement of the time, place, and nature of the hearing;
2. A statement of the legal authority and jurisdiction under which the hearing is to be held;
3. A reference to the particular sections of the statutes, ordinances, and rules involved;
4. A short and plain statement of the matters asserted. If the agency or other party is unable to state the matters in detail at the time the notice is served, the initial notice may be limited to a statement of the issues involved. Thereafter, upon application, a more definite and detailed statement shall be furnished;
5. If the matter is an appeal to the Mellette City Council there shall be included copies of any findings, conclusions, or order of any agency from which the decision is being appealed together with a copy of any transcript of any record or minutes of any proceedings of such agency;
6. A statement of any action authorized by law, which may affect the parties, as a result of any decision made at the hearing whether it be the revocation of a license, the assessment of a fine, or other effect;
7. If the proceeding is an adversary hearing, a statement that the hearing is an adversary proceeding and that a party has the right at the hearing, to be present, to be represented by a lawyer, and that these and other due process rights will be forfeited if they are not exercised at the hearing;
8. A statement, if applicable, that the decision based on the hearing may be appealed to the circuit court and the State Supreme Court as provided by law.

**1.0503 Rights of Parties at Hearing on Contested Cases.** Opportunity shall be afforded all parties to respond and present evidence on issues of fact and argument on issues of law or policy. A party to a contested case proceeding may appear in person or by counsel, or both, may be present during the giving of all evidence, may have reasonable opportunity to inspect all documentary evidence, may examine and cross-examine witnesses, may present evidence in support of his interest, and may have subpoenas issued to compel attendance of witnesses and production of evidence in his behalf.

**1.0504 Rules of Evidence in Contested Cases.** In contested cases:

1. Irrelevant, incompetent, immaterial, or unduly repetitious evidence shall be excluded. The rules of evidence as applied under statutory provisions and in the trial of civil cases in the circuit courts of this state, or as may be provided in statutes relating to the specific agency, shall be followed. When necessary to ascertain facts not reasonably susceptible of proof under those rules, evidence not otherwise admissible thereunder may be admitted except where precluded by statute if it is a type commonly relied upon reasonable prudent persons in the conduct of their affairs. Agencies shall give affect to the rules of privilege recognized by law. Objections to evidentiary offers may be made and shall be noted in the record. Subject to these requirements, when a hearing will be expedited, and the interest of the parties will not be received in written form.
2. A party may conduct cross-examination required for a full and true discloser of the facts.
3. Notice may be taken of judicially cognizable facts. In addition, notice may be taken of generally recognized technical or scientific facts within the agency's specialized knowledge. Parties present at the hearing shall be informed of the matters to be noticed, and those matters shall be noted in the record, referred to therein, or appended thereto. Any such party shall be given a reasonable opportunity on request to refute the officially noticed matters by evidence or by written or oral presentation of authority, the manner of such refutation to be determined by the agency.

**1.0505 Transcript – Minutes in Lieu of Transcript.** Whenever a party requests in writing that oral proceedings be transcribed, a verbatim record of all proceedings and testimony shall be kept by the agency/board. Unless otherwise provided by law the agency/board shall not be required to transcribe the record unless the requesting party tenders and pays the reasonable cost thereof. If transcribing, a copy of the record shall be furnished to any other party to the hearing at the request and expense of such requesting party. If no verbatim record is transcribed, the agency or council shall prepare minutes of the hearing. The minutes shall consist of a written summary of the evidence and proceedings.

**1.0506 Expert Opinion Evidence.** In any contested case, it shall be the responsibility of the parties to supply expert opinion and/or testimony when necessary to meet the respective burdens of proof. Experts may be appointed by the agency/board with the costs being assessed against the parties.

**1.0507 Master/Hearing Examiner.** The agency or board involved, whichever the case may be, may appoint a hearing examiner which shall preside over the conduct of the hearing. The board or agency involved may also appoint an expert to act as a special master who shall make recommendations and findings to the agency/board for their consideration. Neither the agency nor the board is bound by any findings or recommendations made by the Master. The costs and expenses of either or both the hearing examiner and the master may be assessed against the litigants, appellants, or petitioners, whatever the particular designation may be.

**1.0508 Arbitration.** An appellant, petitioner, party, or litigant may, in lieu of appearing before any formal proceedings before the Mellette City Council or its subordinate agencies and boards, may submit to binding arbitration by unanimous consent of all interested parties.

**1.0509 Notice to Interested Parties.** Notice of any hearing shall be given to all interested parties by service upon them of a true and correct copy of the notice. Proof of service shall be evidenced by certificate or affidavit establishing that due and proper service was accomplished upon all interested parties. Service by first class mail shall be permitted.

## **TITLE 2 – ADMINISTRATIVE CODE**

### **Chapter 2.01 – Appointive Officers**

### **Chapter 2.02 – Mayor and Town Council**

### **Chapter 2.03 – Code of Conduct for Federal Grants**

### **Chapter 2.04 – Financial Regulations**

### **Chapter 2.05 – Law Enforcement**

### **Chapter 2.06 – Fire Department**

### **Chapter 2.01 – Appointive Officers**

**2.0101 Appointive Officer, Method of Appointment.** All appointive officers shall be appointed by the Mayor with the approval of the City Council at the first regular meeting in May, and shall hold office until their successor shall be appointed and qualified.

**2.0102 Appointive Officers, Salaries and Bonds.** The following offices or positions of the City, as heretofore created, are continued and the salaries of such designated officers or employees shall be paid, and the amounts of salaries and bonds to be furnished them shall be fixed by motion or resolution of the City Council and shall be adjusted as deemed necessary by motion or resolution of the City Council of the City of Mellette and said amounts shall be on file at the office of the Finance Officer. All salaries are to be published once a year in the local newspaper.

In addition to the officers provided above, there shall be appointed by the Mayor with the approval of the Town Council, all employees of the City, and such other personnel, professional and otherwise, required and necessary for municipal purposes.

All compensation for said personnel shall be prescribed by motion or resolution at any time prior to or after appointment.

**2.0103 Compensation, Employees Other Than Appointive.** The compensation of city employees not named above shall be fixed by motion or resolution at any time regardless of the time when any city employee may have been appointed.

**2.0104 Vacation.** Not Applicable.

## **Chapter 2.02 – Mayor and Town Council**

### **Chapter 2.02 – Mayor and Town Council**

**2.0201 Regular Meetings.** The regular monthly meetings of the City Council of the City of Mellette shall be held at the Mellette Fire Hall in said City on the second Monday of each month at 7:00 P.M., except when Monday is a legal holiday, or falls on the first day of the month and in that case the meeting shall be held at 7:00 P.M. on a specified date.

**2.0202 Special Meetings.** Special meetings of the City Council may be called at any time by the Mayor, or by the Finance Officer at a request made by the Mayor or any three Council Members.

**2.0203 Notice of Special Meetings.** The Mayor may call a special meeting by notifying the members of the City Council then in the City orally or by telephone at a reasonable time prior to such meeting, and may in his/her discretion authorize the Finance Officer to notify the members of the City Council of a special meeting in the same manner.

**2.0204 Adjournment of Meetings.** Any regular or special meeting may be adjourned to meet at a later date to be fixed at the time of adjournment.

**2.0205 Duties.** The Mayor and City Council shall have such authority and perform such duties as are prescribed by the Statutes of the State of South Dakota and City Ordinances of the City of Mellette.

**2.0206 Committees.** The Mayor may appoint such committees of the members of the City Council as he deems desirable to accomplish an efficient division of the work and duties to be performed by the City Council.

**2.0207 Salaries – Mayor and Council Members.** The salaries of the Mayor and City Council members shall be fixed by motion or resolution and said amounts shall be placed on file at the office of the City Finance Officer.

## **Chapter 2.03 – Code of Conduct for Federal Grants**

**2.0301 Purpose.** The purpose of this code is to ensure that efficient, fair, and professional administration of Federal grant funds in compliance with the Federal Office of Management and Budget (OMB) Circular A-102, Attachment 0, Paragraph 7, and other applicable Federal and State standards, regulations, and laws.

**2.0302 Application.** This Code of Conduct applies to all officers, employees, or agents of the City of Mellette engaged in the award or administration of contracts supported by Federal grant funds.

**2.0303 Requirements.**No officer, employee, or agent of the City of Mellette shall participate in the selection, award, or administration of a contract supported by federal grant funds if a conflict would arise when:

- A. The employees, officer, or agent;
- B. Any member of his/her immediate family;
- C. His/her partner; or
- D. An organization which employs or is about to employ any of the above has a financial or other interest in the firm selected for award.

**2.0304 Remedies.**To the extent permitted by Federal, State, or local laws or regulations, violation of these standards may cause penalties, sanctions, or other disciplinary actions to be taken against the City's officers, employees, or agents, or the contractors, potential contractors, subcontractors, or their agents.

#### **Chapter 2.04 – Financial Regulations**

**2.0401 Salaries.** The salaries of the various officers shall be paid from such funds as may be from the time to time designated by resolution of the Mellette City Council.

**2.0402 Waterworks Revenues.** All revenues of the City of Mellette received from the operation of the City Waterworks shall be paid to the Finance Officer and shall be credited to the Water Fund of said city.

**2.0403 Sewer Revenues.** All revenues of the City of Mellette received from the operation of the city sewer shall be paid into the Finance Officer and shall be credited to the Sewer Fund of said city.

**2.0404 Swimming Pools and Parks Revenue.** Not Applicable

**2.0405 Miscellaneous Revenues.** All revenues of the City of Mellette received from licenses, fines, interest, and other fees shall be paid into the Finance Officer and credited to the General Fund unless otherwise specifically provided by Ordinance.

#### **Chapter 2.05 – Law Enforcement**

**2.0501 Police Officers.** Police protection shall be provided by the Spink County Sheriff's Department.

#### **Chapter 2.06 – Fire Regulations**

**2.0601 Duties of the Chief.**The Chief of the Fire Department shall have direct supervision and control of all fire apparatus and equipment owned and maintained by the City of Mellette for fire extinguishment or prevention, or for the public safety' and he shall have sol and absolute control over all persons and property connected with said Fire Department.

**2.0602 Destroying Buildings in Case of Fire.**The Chief of the Fire Department may direct that any building or structure may be pulled or cut down or removed, or he may take such other steps as he may deem necessary to arrest the progress of any fire.

**2.0603 Resisting Officer at Fire.** It shall be unlawful for any person to hinder or resist any officer or member of the Fire Department or any police officer in the discharge of his/her duties at any fire, or to conduct himself in a disorderly or noisy manner at any fire, or without reasonable excuse to refuse to obey any lawful order of the Chief of the Fire Department in any manner relating to the extinguishment of any fire.

**2.0604 Taking Apparatus Without Leave.**No fire apparatus or equipment shall at any time upon any pretext be taken, used, or removed without permission of the Chief of the Fire Department.

**2.0605 Injury to Apparatus.** It shall be unlawful for any person without permission of the Chief of the Fire Department to drive any vehicle across any fire hose belonging to the City of Mellette, or to destroy or otherwise damage any fire apparatus or equipment.

**2.0606 Meddling with Hydrants.** It shall be unlawful for any person to meddle or interfere with any hydrant except by permission of the Chief of the Fire Department, or the Mellette City Council.

### **TITLE 3 – BOUNDARIES, WARDS, PRECINCTS, ANNEXATION**

**Chapter 3.01 – Boundaries**

**Chapter 3.02 – Wards**

**Chapter 3.03 – Precincts**

**Chapter 3.04 – Annexation**

#### **Chapter 3.01 – Boundaries**

**3.0101 Boundaries.** The corporate limits of the City shall be declared to be such as have been legally established and amended by law and ordinance of the City as shown on the official map on file in the Office of the Finance Officer. Such map shall be incorporated into this ordinance by reference and adopted as the official map showing the boundaries and limits of the City of Mellette.

### **Chapter 3.02 – Wards**

**3.0201 Wards.** The City of Mellette is divided into three (3) wards as follows:

**First Ward:** All that territory in the City of Mellette bounded on the North by Main Street and on the West by Second Avenue.

**Second Ward:** All that territory in the City of Mellette bounded on the South by Main Street and on the West by Second Avenue.

**Third Ward:** All that territory in the City of Mellette bounded on the East by Second Avenue.

### **Chapter 3.03 – Precincts**

**3.0301 Precincts.** Each of the three said wards shall constitute a separate voting precinct and comprise the three election precincts of the City of Mellette within said City now numbered first ward, second ward, and third ward; provided that the City Council may, for the purpose of any particular election, combine any two or more of such precincts according to law.

### **Chapter 3.04 – Annexation**

**3.0401 Annexation.** At the time of such annexation, the owners petitioning for such annexation shall file written undertaking signed by sureties satisfactory to the City Council in such penal sum as they may require, but in no case in excess of the estimated cost of all necessary storm sewers, sanitary sewers, curbs, gutters, sidewalks, and of dust-proofing, which undertaking shall provide that all of said improvements shall be made as ordered by the City Council, otherwise the penal sum mentioned in the bond shall be forfeited to the City, or in lieu of furnishing such bond the owners, prior to the annexation may install all of said improvements, and the petitioners for annexation shall show that such improvements have been previously installed by petitioning for such annexation.

All such sanitary sewers, storm sewers, curbs, gutters, and sidewalks shall be designed and constructed in accordance with the grades and specifications established by the City Engineer and approved by the Mayor and City Council. All engineering work necessary for the establishment of grade lines to comply with the grades and specifications of the City shall be done by the owner at the owner's expense but shall be, prior to any construction, approved by the City Engineer.

The City will install all water mains including pipe, labor, hydrants, and fittings, and the cost of any other services to the property line, which may be for any reason installed by the City.

## **TITLE 4 – BUILDING CODE**

### **Chapter 4.01 – Adoption of National Code**

### **Chapter 4.02 – Definitions**

### **Chapter 4.03 – Building Permits Required**

### **Chapter 4.04 – Mobile Home Dwellings**

### **Chapter 4.01 – Adoption of National Code**

**4.0101 Adoption of National Code.** There is hereby adopted by the City of Mellette, for the purpose of establishing rules and regulations for the construction, alteration, removal, demolition, equipment, use and occupancy, location and maintenance of building and structures, including permits and penalties, that certain building code known as the National Building Code, Abbreviated Addition, recommended by the National Board of

Fire Underwriters, being particularly the most current addition thereof and the whole thereof, save and except such portions as are hereinafter deleted, modified, or amended of which a copy is on file in the office of the City Finance Officer of the City of Mellette and the same are hereby adopted and incorporated as fully as if set out at length herein, and from the date on which this ordinance shall take effect, the provisions thereof shall be controlling in the construction of all buildings and other structures within the corporate limits of the City of Mellette.

**4.0102 Definitions.**

A. Whenever the word “municipality” is used in the building code, it shall be held to mean the City of Mellette.

B. Whenever the term “corporation counsel” is used in the building code, it shall be held to mean the City Attorney for the City of Mellette.

C. Whenever the term “outbuilding” is used in the Building Code, it shall refer to buildings not used for human dwelling or occupancy. It may include buildings used for animal occupancy.

D. “Mobile home dwelling” means a detached residential dwelling unit designed for transportation after fabrication upon streets or highways on its own wheels or flatbed or other trailers and arriving at the site where it is to be occupied as a dwelling complete and ready for occupancy except for minor and incidental assembly operations. All manufactured or modular homes shall be considered a mobile home for the purpose of this chapter.

**4.0103 Building Permits Required.** Building permits shall be acquired at the Spink County Assessor’s Office and shall meet the counties requirements.

No owner or contractor or builder shall attempt to proceed with any work or improvement of any kind for which a permit is herein required without first having obtained a permit, therefore.

**Ordinance 4.0104 Construction of dwellings:**

Dwelling houses hereafter constructed within the municipality shall be such style, construction and placement upon the lot so as to be in accord and harmony with the other homes in the same neighborhood and so as to tend to maintain home standards and values in the neighborhood. Any structural alterations made on dwellings now in such municipality shall be in harmony with the structure and its plan. Any structure moved to within the municipality for dwelling purposes shall be of such type, construction, materials and value as to be in harmony with, and so as not to depreciate from, the dwellings in the municipality.

**Ordinance 4.0105 Construction of outbuildings.**

Outbuildings hereafter constructed within the municipality shall be of similar construction, appearance, and in harmony with other structures in the same neighborhood so as to maintain standards and values thereof. Any outbuilding moved within the municipality shall be of such type, construction, materials and value as to be in harmony with other structures in the same neighborhood and not depreciate from the neighborhood.

Outbuildings not allowed in the municipality but not limited to are (HOOP BUILDINGS, STORAGE CONTAINER CARS)

**Ordinance 4.0106 Mobile Homes.**

**Minimum Age:** No mobile home older than one year from the date of manufacturer shall be allowed in city limits.

**Minimum Width:** All mobile homes shall be at least twenty feet in width.

**Removal of Hitch and Wheels:** The hitch and wheels shall be removed from the mobile home within ten days of placement on any real estate within city limits.

**Skirting:** All mobile homes shall be skirted with a material that has the appearance of a permanent foundation around the perimeter of the structure.

**Permanent Foundation:**

All mobile homes shall be placed on a permanent foundation. The following shall be considered a permanent foundation:

A. A basement shall be considered a foundation.

B. A foundation that extends below the normal frostline, but not less than four feet deep, and is placed around the perimeter of the structure. Concrete pilings or pads shall be considered as a foundation for the purposes of this chapter.

**TITLE 5 – ELECTRICAL CODE**

**Chapter 5.01 – Adoption of National Electrical Code**

**5.0101 Adoption of Electrical Code.** There is hereby adopted by the City of Mellette for the purpose of establishing rules and regulations to govern the use of electricity for light, heat, power, radio, and for other purposes that certain electrical code known as the National Electrical Code, recommended the National Board of Fire Underwriters, being particularly the most current edition thereof, save and except such portion as are hereafter deleted, modified, or amended of which a copy is on file in the office of the City Finance Officer of the City of Mellette and the same are hereby adopted and incorporated as fully as if set out at length herein, and from the date on which this ordinance shall take effect, the provisions thereof shall be controlling within the corporate limits of the City of Mellette.

## **TITLE 6 – FIRE CODE**

**Chapter 6.01 – Adoption of National Fire Code**

**Chapter 6.02 – Enforcement**

**Chapter 6.03 – Definition**

**Chapter 6.04 – Storage of Flammable Liquids Outside...Above Ground Tanks...Storage of Liquified Petroleum Gases**

**Chapter 6.05 – Modifications**

**Chapter 6.06 – Appeals**

### **Chapter 6.01 – Adoption of National Fire Code**

**6.0101** Adoption of Fire Prevention Code. There is hereby adopted by the City of Mellette for the purpose of prescribing regulations governing conditions hazardous to life and property from fire or explosion that certain code known as the Fire Prevention Code, Abbreviated Edition, recommended by the National Board of Fire Underwriters, being particularly the most current edition thereof and whole thereof save and except such portions as are in hereinafter deleted, modified, or amended, of which a copy of the code is on file in the office of the Finance Officer of the City of Mellette, and the same are hereby adopted and incorporated as fully as if set out at length herein, and from the date on which this ordinance shall take effect, the provisions thereof shall be controlling within the limits of the City of Mellette.

### **Chapter 6.02 – Enforcement**

**6.0201** Enforcement. The code hereby adopted shall be enforced by the Chief of the Fire Department.

### **Chapter 6.03 – Definition**

**6.0301** Definition. Wherever the word “municipality” is used in the code hereby adopted, it shall be held to mean the City of Mellette.

**Chapter 6.04 – Storage of Flammable Liquids Outside...Above Ground Tanks...Storage of Liquified Petroleum Gases**

**6.0401** Storage of Flammable Liquids in Outside, Above Ground Tanks and Bulk Storage of Liquified Petroleum Gases is to be Restricted.

The limits referred to in the code in which storage of flammable liquids in outside, above ground tanks is prohibited, and the limits referred to in the code in which bulk storage of liquefied petroleum gas is restricted.

**Chapter 6.05 – Modifications**

**6.0501** Modifications. The Chief of the Fire Department shall have power to modify any of the provisions of the code hereby adopted upon application in writing by the owner or lessee, or his/her duly authorized agent, when there are practical difficulties in the way of carrying out the strict letter of the code provided that the spirit of the code shall be observed, public safety secured, and substantial justice done. The particulars of such modification when granted or allowed and the decision of the Chief of the Fire Department thereon shall be entered upon the records of the department and a signed copy shall be furnished the applicant.

**Chapter 6.06 – Appeals**

**6.0601** Appeals. Whenever the Chief of the Fire Department shall disapprove an application or refuse to grant a license or permit applied for, or when it is claimed that the provisions of the code have been misconducted or wrongly interpreted, the applicant may appeal from the decision of the Chief of the Fire Department to the City Council within thirty (30) days from the date of the decision of the appeal.

## **TITLE 7 – ANIMAL CONTROL**

**Chapter 7.01 – Statement of Purpose**

**Chapter 7.02 – Definitions**

**Chapter 7.03 – Enforcement**

**Chapter 7.04 – Rabies Vaccination**

**Chapter 7.05 – Tag and Collar**

**Chapter 7.06 - Restraint**

**Chapter 7.07 – Animal Shelter**

**Chapter 7.08 – Impoundment and Disposition of Animals**

**Chapter 7.09 – Redemption and Destruction of Impounded Animals**

**Chapter 7.10 – Impoundment Fees**

**Chapter 7.11 – Rabies Control**

**Chapter 7.12 – Reports of Bite Cases**

**Chapter 7.13 – Responsibilities of Veterinarians**

**Chapter 7.14 - Exemptions**

**Chapter 7.15 - Investigations**

**Chapter 7.16 - Interference**

**Chapter 7.17 - Records**

**Chapter 7.18 –Teasing and Molesting**

**Chapter 7.19 - Tranquilizers**

**Chapter 7.20 – Abandonment of Animals and Allowing Animals to Roam Freely**

**Chapter 7.21 – Public Nuisance**

**Chapter 7.22 – Dogs in Parks**

**Chapter 7.23 –Vicious Animals**

**Chapter 7.24 – County Animal Control Officer**

**Chapter 7.25 – Geographic Jurisdiction**

## **Chapter 7.26 - Kennels**

### **Chapter 7.01 – Statement of Purpose**

**7.0101 State of Purpose.** For the purpose of controlling animals and protecting the public in those areas located within the City of Mellette, the following Animal Control Ordinance is hereby adopted.

### **Chapter 7.02 – Definitions**

**7.0201 Definitions.** For the purpose of this Title, certain terms or words used herein shall be interpreted as follows:

**Kennel.** Any person, group of persons, or corporation engaged in the commercial business of breeding, buying, selling or boarding dogs or cats on or in any lot, structure, or premises where five (5) or more dogs and/or ten (10) or more cats four (4) months of age are kept.

**Animal Control Officer.** The patrol officer, with police authority, whose duty is to apprehend animals throughout his jurisdiction within the City of Mellette whose owners are in violation of this ordinance. He/She responds to complaints about violations and delivers the animals to the Animal Shelter. The Spink County Sheriff shall act as Animal Control Officer jointly with the Control Officer of this ordinance.

**Animal Shelter.** Any premises designated by action of the City of Mellette for the purpose of impounding and caring for all animals found running at large in violation of this ordinance.

**At Large.** Any dog, or other domesticated animal shall be deemed to be at large when it is off the property of its owner and not under control of a competent person.

**Control Officer.** The owner and/or operator of the Animal Shelter as hereinafter provided, who is a contractor with the City of Mellette for sheltering and destroying animals. The Spink County Sheriff's Office is charged with the overall enforcement of this ordinance. The owner/operator shall follow this ordinance and any treatment or legal orders of the Sheriff or his Designee to provide destruction of the animals being handled. He exercises supervision and control over the animal delivered to the shelter by the Sheriff or Designee.

**Domesticated Animals.** Any animal shall be deemed domesticated when it is maintained/kept for purposes of pleasure or potential profit or if individual ownership is otherwise asserted.

**Exposed to Rabies.** A domesticated animal has been exposed to rabies within the meaning of this ordinance, if it has been bitten by or been exposed to any animal known to be or suspected of being infected with rabies.

**Kennel.** Any person, group of persons, or corporation engaged in the commercial business of breeding, buying, selling, or boarding dogs.

**Owner.** Any person, group of persons, or corporation owning, keeping, or harboring a domesticated animal.

**Restraint.** A domesticated animal is under restraint within the meaning of this ordinance if he is controlled by a leash, at "heel" beside a competent person and obedient to that person's commands, on or within a vehicle being driven or parked on the streets, or within the property limits of its owner or keeper.

**Spayed Female.** Any bitch which has undergone surgery to prevent conception, whose owner can provide suitable proof of such surgery.

### **Chapter 7.03 – Enforcement**

**7.0301 Enforcement.**The provision of this ordinance shall be enforced by the Mellette City Attorney, Spink County Sheriff's Office, the Spink County State's Attorney Office of the Animal Control Officer, who shall be supervised in the performance of their duties by the Spink County Sheriff.

No person shall hinder, delay, or obstruct any animal control officer, his/her assistant, or any law enforcement officer when such officer is engaged in performance of any official duty.

#### **Chapter 7.04 – Rabies Vaccination**

**7.0401 Proof of Age.**The owner of each dog shall have proof at age 6 months, that the dog has been vaccinated for rabies and shall have a tag attached to a suitable collar with the date/year that applies.

The owner will also provide proof that the rabies vaccinations are kept current within guidelines established by veterinarian.

If a dog is with the owner hunting or working farm animals, the collars may be removed. But, if asked by proper authorities, the owner shall show proof of rabies vaccination.

Failure to comply with the provisions of this section may result in charges being filed.

**7.0402 Lost Tag.**In the event that a rabies tag issued to a domesticated animal shall be lost, the owner shall obtain a duplicate tag.

**7.0403 No Substitutions.**No person shall use for any dog, a rabies tag or evidence of vaccination for rabies, issued for any other dog.

#### **Chapter 7.05 – Tag and Collar**

**7.0501 Tag Stamped.**The rabies tag shall be stamped with the number and the year for which issued. Every domesticated animal shall at all times wear choke chain, collar, or harness to which is attached its rabies tag unless actively engaged in hunting with its owner or is working farm animals.

**7.0502 Proof of License.** Each domesticated animal's owner shall have proof of a license for each animal issued by the City of Mellette in an amount to be set annually. Said licenses are to be purchased annually, or in the case of an acquisition of a new domesticated animal, not later than one (1) week after date of acquisition.

In all cases, non-spayed or non-neutered domesticated animals license shall be tow times (2x) the annual rate.

#### **Chapter 7.06 – Restraint**

**7.0601 Animals Restrained at all times.**The owner shall always keep his dog or other domesticated animals under restraint and shall not permit such dog or other domesticated animals to be at large off the premises or property of the owner unless under control of a competent person. It shall be unlawful for any dog owner to keep or have within city limits a dog that habitually or repeatedly chases, snaps at, or attacks at livestock, poultry, pedestrians, bicyclists, vehicles or turns over garbage containers or damages gardens, flowers, vegetables, or conducts itself to be a public nuisance (i.e. excessive barking).

#### **Chapter 7.07 – Animal Shelter**

**7.0701 Shelters.**The City shall provide for or maintain a suitable shelter for the impounding of dogs and other animals. Such shelter shall be so constructed that animal of different kinds and of different sizes and sexes be segregated and shall be maintained in a safe and sanitary condition. Such shelter shall either be constructed and operated by the city, or the city may enter a contract with a veterinarian or other suitable person or entity for

the supplying and operation of the same. All animals confined in such shelter shall be regularly fed and watered and treated in a humane manner.

#### **Chapter 7.08 – Impoundment and Disposition of Animals**

**7.0801 Impoundment and Disposition.** All dogs or other domesticated animals found running at large that constitute a public nuisance, shall be taken up to the Animal Control Officer, and impounded in the animal shelter or other suitable shelter, and there confined in a humane manner for a period of not less than three days. Animals impounded and not claimed by their owners at the expiration of three days may be disposed of in a humane manner by the shelter operator, except as hereinafter provided in the cases of certain animals. When dogs or other domesticated animals are found running at large, and their ownership is known to the Animal Control Officer or owner of shelter, such dogs or other domesticated animals need not be impounded, but the Animal Control Officer may at his discretion, cite the owners of such dogs or other domesticated animals to appear in court and answer charges of violations of this ordinance or the animals may be released with a warning for the first offense and the second offense shall be cited to court. Immediately upon impounding dogs or other domesticated animals, the Animal Control Officer shall make every reasonable effort to notify the owners of such dogs or other domesticated animals so they may regain possession of such animals. If a dog shall be wearing a rabies tag, the Animal Officer shall, immediately after impounding such a dog, and before destroying or disposing of it, ascertain the name of the owner from the records of the rabies tag and inform such owner of the conditions whereby he may regain possession of such dog, upon paying all costs of impoundment. If any owner has requested his dog or domesticated animal be destroyed, the same shall it be sold or given to any person or persons.

#### **Chapter 7.09 – Redemption and Destruction of Impounded Animals**

**7.0901 Redemption and Destruction.** The owners shall be entitled to regain possession of any impounded dogs or other domesticated animals, except hereinafter as provided in the case of certain dogs upon compliance with the provisions contained in this ordinance and the payment of the fees and charges provided for in this ordinance. Any animal impounded under the provisions of this ordinance and not reclaimed by its owner within three days may be humanely destroyed in a manner prescribed by the owner of the shelter or placed in the custody of some person deemed to be a responsible and suitable person to be the owner of such animal. After fees are obtained, the shelter may destroy any sick or injured animal which has been impounded without holding it for three days if its condition is such that makes its earlier destruction necessary or desirable. All animals destroyed shall be destroyed by a humane procedure but not by shooting.

#### **Chapter 7.10 – Impoundment Fees**

**7.1001 Reclaiming Fees.** Any dog or other domesticated animal impounded herein may be reclaimed as herein provided upon payment by the owner of the costs of impoundment fees to the shelter for each dog or other domesticated animal impounded plus any costs for veterinarian services rendered and cost of board.

**7.1002 Impoundment Fees.** Impoundment fees shall be kept by the shelter and no charge shall be made to the City. A record is to be kept of these fees and is to be furnished to the Spink County Sheriff's Office. No domesticated animal will be released unless it has a current rabies vaccine record.

**7.1003 No Avoiding Payment.** No person shall avoid payment of impoundment fees, veterinarian services, or rabies observation costs, by stopping payment on any check.

#### **Chapter 7.11 – Rabies Control**

**7.1101 Reporting Bites.** Every animal which bites a person shall be promptly reported to the Animal Control Officer and shall thereupon be securely quarantined at the direction of the Animal Control Officer for a period of not less than ten (10) days and shall not be released from such quarantine except by written permission

of the Animal Control Officer. Such quarantine may be at the shelter designated as the County Animal Shelter, or at the owner's option, in a veterinary hospital of his choice, located in Spink County or Brown County, either place at the expense of the owner. In the cases of stray animals, or in the case of animals whose ownership is not known, such quarantine shall be at the shelter designated as the County Animal Shelter.

**7.1102 Custody of Animal.**The owner upon demand made by the Animal Control Officer shall forthwith place in the custody of a licensed veterinarian any animal which has bitten a human, or which is suspected as having been exposed to rabies, for supervised quarantine which expense shall be borne by the owner and may be reclaimed by the owner if adjudged free of rabies and upon compliance of provisions set forth in the ordinance.

**7.1103 Diagnosis.**When an animal under quarantine has been diagnosed as being rabid, or suspected by a licensed veterinarian as being rabid, and dies while under such observations, the Animal Control Officer shall immediately send or cause to be sent the head of such animal to a competent laboratory for pathological examination and shall notify the proper public health officers of reports of human contacts and the diagnosis made of the suspected animal.

**7.1104 Positive Diagnosis.**When one or both reports give a positive diagnosis of rabies, the Animal Control Officer may recommend an area quarantine for a period of thirty (30) days, and upon the invocation of such quarantine no animal shall be taken into such area or permitted to be in that area, during such period of quarantine unless so advised by the State Health Department.

**7.1105 Unvaccinated Animal.**Every unvaccinated animal bitten by an animal showing positive symptoms of rabies shall be forthwith destroyed or shall, at the owner's option and expense, be held under not less than six (6) months.

**7.1106 Additional Positive Cases.** In the event there are additional positive cases of rabies occurring during the period of quarantine, such period of quarantine may be extended for an additional six (6) months.

**7.1107 No Person Shall Kill.**No person shall kill, or cause to be killed, any rabid animal, any animal suspected of having been exposed to rabies, or any animal biting a human, except as herein provided, nor remove same from the City Limits without written permission from the Animal Control Officer. The carcass of any dead animal exposed to rabies shall, upon demand, be surrendered to the Animal Control Officer. The Animal Control Officer shall direct the disposition of any animal found to be infected with rabies. No person shall fail or refuse to surrender any animal for quarantine or destruction as required herein when demand is made therefor by the Animal Control Officer.

**7.1108 Owner Knowledge.**Every owner having knowledge that his animal has bitten or is suspected of biting a human being, shall forthwith report the same to the Animal Control Officer for disposition of said animal, under the provisions of this ordinance.

## **Chapter 7.12 – Reports of Bite Cases**

**7.1201 Reporting Bites.** It shall be the duty of every physician or other practitioner, to report to the Animal Control Officer, the names and addresses of persons treated for bites inflicted by animals, together with such other information as will be helpful in rabies control.

## **Chapter 7.13 – Responsibilities of Veterinarians**

**7.1301 Reporting.**It shall be the duty of every licensed veterinarian to report to the Animal Control Officer his diagnosis of any animal observed by him as a rabies suspect. All quarantined animals must be reported to the Animal Control Officer.

## **Chapter 7.14 – Exemptions**

**7.1401 Exemptions.**Hospitals, clinics, and other premises operated by licensed veterinarians for the care and treatment of animals are exempt from the provisions of this ordinance, except where such duties are expressly stated. The licensing and vaccination requirements of this ordinance shall not apply to any animal belonging to a non-resident of the City and kept within the City for longer than thirty (30) days, provided all such dogs shall at all times while in the City, be kept within a building enclosure or vehicle, or be under restraints by the owner.

#### **Chapter 7.15 – Investigations**

**7.1501 Animal Control Officer.**For the purpose of discharging the duties imposed by the ordinance and to enforce its provisions, the Animal Control Officer, or any Deputy Sheriff is empowered to enter upon any premises upon which a dog is kept or harbored and to demand the exhibition by the owner of such dog. It is further provided that the Animal Control Officer may enter the premises where any animal is kept in a reportedly cruel or inhumane manner, and demand to examine such animal and to take possession of such animal, when in his opinion, it requires inhumane treatment.

**7.1502 Authority.**The Animal Control Officer or any member of the Spink County Sheriff's Office is hereby authorized and empowered to follow and enter upon enclosure or lot within the limits of the City in quest of any animal suspected of being affected by rabies, or to apprehend any dog which he has observed to be running at large.

#### **Chapter 7.16 – Interference**

**7.1601 No Interference.** No person shall interfere with, hinder, or molest any official in the performance of any duty of his office, or seek to release any animal in the custody of the Animal Control Officer except as herein provided.

#### **Chapter 7.17 – Records**

**7.1701 Record Keeping.** It shall be the duty of the Animal Control Officer to keep, or cause to be kept, accurate and detailed records of the impoundment, and disposition of all animals coming into custody. It shall be the duty of the Animal Control Officer to keep, or cause to be kept, accurate and detailed records of all bite cases reported to him and his investigation of same. It shall be the duty of the Animal Shelter to keep, or cause to be kept, accurate and detailed records of all dogs/cats impounded and destroyed or released, which records shall be open to inspection at reasonable times by such persons responsible for similar records of Spink County, South Dakota, and shall be audited annually in the same manner as other City records are audited.

#### **Chapter 7.18 – Teasing and Molesting**

**7.1801 Unlawful to Tease.**It shall be unlawful for any person to tease, molest, bait or in any way bother any domesticated animal not belonging to him or not legally under his control.

#### **Chapter 7.19 – Tranquilizers**

**7.1901 Authority to Tranquelize.**The Animal Control Officer, or his duly appointed employees or any member of the Spink County Sheriff's Office is hereby authorized to use, operate, and possess such devices that are designed to propel projectiles for the purpose of subcutaneous injections of tranquilizers, depressants, or other drugs into animals.

#### **Chapter 7.20 – Abandonment of Animals and Allowing Animals to Roam Freely**

**7.2001 Animals Running Freely.**It shall be unlawful for any person to abandon any dog or other domesticated animal or allow such animals to freely roam upon a public right of way or upon the property of another. Violation of this ordinance shall also be deemed a public nuisance.

#### **Chapter 7.21 – Public Nuisance**

**7.2101 Limited Number of Pets.**If any person owning or keeping more than five (5) dogs and failing to keep such dogs within the confines of his own property such failure shall amount to a public nuisance and be subject to provisions of SDCL 21-10-5 et.seq.

#### **Chapter 7.22 – Dogs in Packs**

**7.2201 Dealing With Packs.**Any officer authorized under this ordinance to enforce the terms thereof, or any Peace Officer, as defined by 23A-45-9.7 or Conservation Officer, as defined by SDCL 41-2-11, shall have authority to dispatch or destroy dogs in packs which are actively chasing, barking, harassing or attacking any livestock, poultry, big game animals, small game animals, or game birds, if in his opinion all other means of controlling or subduing such pack would fail. Three (3) or more dogs shall constitute a pack.

#### **Chapter 7.23 – Vicious Animals**

**7.2301 Responsibility of Owner.**An animal is declared to be vicious within the meaning of this ordinance when a propensity to attack or bite human beings or other animals shall exist and is known or ought reasonable to be known to the owner. No vicious animal shall be allowed off the premises of its owner unless muzzled and on a leash, in the charge of the owner or a member of the Owner's immediate family over sixteen (16) years of age.

Any vicious animal which is found off the premises of its owner other than provided herein, shall be seized by any Animal Control Officer or Law Enforcement Officer and impounded. PROVIDED: if the animal cannot be captured, it may be destroyed; PROVIDED FURTHER: if the animal has been seen running at large, or bites a person and it can be witnessed, the Animal Control Officer or Law Enforcement Officer may order the owner to deliver the animal to a county animal control shelter within twenty-four (24) hours and the owners ordered to appear in Court to show cause why this animal should not be destroyed; PROVIDED FURTHER: the owner of the animal shall be ordered to pay all accompanying costs associated with the animal's destruction, should such action be ordered.

#### **Chapter 7.24 – County Animal Control Officer**

**7.2401 City Animal Control Officer.**There may be a person designated by the City Council as City Animal Control Officer whose duties and jurisdiction are herein described.

#### **Chapter 7.25 – Geographic Jurisdiction**

**7.2501 City of Mellette.** This ordinance providing for the control of dogs shall apply to the City of Mellette, Spink County, South Dakota.

#### **Chapter 7.26 Kennels**

- 7.2601** All kennels shall be licensed with the City of Mellette and be subject to all provisions of Title 7 - Animal Control and Title 10 Licenses.
- 7.2602** All kennels` shall be maintained in a clean and sanitary basis with all animal waste removed on a regular basis and disposed of in a sanitary manner.
- 7.2603** All kennels shall pay an annual fee of \$50.00 to the City of Mellette.

## **TITLE 8 – HEALTH CODE**

**Chapter 8.01 – Protection of Public Health**

**Chapter 8.02 – Enforcement**

**Chapter 8.03 – Removal of Offensive Matter from Premises**

**Chapter 8.04 – Service of Notices, Citations and Orders**

**Chapter 8.05 – Garbage**

## **Chapter 8.06 – Disposal of Garbage, Rubble, Commercial Solid Waste, Bulky Items, Household Waste and White Goods**

### **Chapter 8.01 – Protection of Public Health**

**8.0101 Public Health Protection.** For the purpose of protecting the public health within those areas located in the City of Mellette, the following health code is hereby adopted.

### **Chapter 8.02 – Enforcement**

**8.0201 Nuisance Officer.** The City of Mellette hereby appoints as Nuisance Officer in conjunction with Spink County and other municipalities located within Spink County for the enforcement of a health code, animal control and nuisance.

### **Chapter 8.03 – Removal of Offensive Matter from Premises**

**8.0301 Clean Environment for Pets.** The health, nuisance and Animal Control Officer shall have power and authority to require any person or persons owning property within the City of Mellette to remove all offensive, dangerous, deleterious matter from said premises, and to that end shall have power and authority to enter upon any premises or in any building in the City of Mellette to examine the same, and in case there is found to be any offensive, dangerous, deleterious matter on said premises, or in said building, may direct in writing the removal thereof; and if such person or persons shall neglect or refuse to do so for a period of twenty four (24) hours after such notice, he, upon conviction thereof shall be subject to the penalties as set forth under these ordinances, together with the expenses of removing such nuisance and costs of prosecution, and it is hereby made the duty of the appointed health, animal control and nuisance officer, to remove and abate such nuisance immediately upon the expiration of twenty four (24) hours after the notice aforesaid.

### **Chapter 8.04 – Service of Notices, Citations and Orders**

**8.0401 Serving Notices.** In order to carry out the intent of this chapter whenever the ordinance provides that notices, citations, and orders are to be made or served by the Appointed Officer, such notices, citations, and orders may be made and served in a like manner and with like effect by the City Council.

### **Chapter 8.05 – Garbage**

**8.0501 Garbage Defined.** Solid and semisolid animal and vegetable wastes resulting from handling, preparing, cooking, storing, serving, and consuming of food or of material intended for use as food, and all offal, excluding useful industrial by-products from all public and private establishments and from all residences.

**8.0502 Garbage Container Defined.** A garbage container herein used shall mean a watertight metallic or plastic can, of a size permitted by the holder of the solid waste license with whom the owner or operator of each business or residence has contracted, covered with a tight fitting metal or plastic lid, which container must be kept in a sanitary condition at all times, with the outside thereof free and clean of grease or decomposed matter, secured in such manner that it cannot be tipped or spilled by dogs or otherwise.

**8.0503 Garbage Must be Deposited in Containers.** The occupant of every private home or dwelling place, and the operator of every place of business in the City, is hereby required to deposit and keep the garbage that accumulates each day in a garbage container as above defined. Grass, leaves, or other material to be used as compost for fertilizer may be kept in a pit or closed container, until such time as it may be used.

**8.0504 Nonresident Garbage.** No person shall bring garbage, rubble, commercial solid waste, bulky items, household waste or goods from outside the City Limits to deposit in containers of any type anywhere within the City of Mellette unless previous arrangements have been made with the Nuisance Officer.

**8.0505 Garbage Must be Wrapped.** All garbage shall be wrapped in paper, plastic, or other material so as to prevent as nearly as possible moisture from the garbage from coming in contact with the sides and bottom of the garbage container.

**8.0506 Burning Garbage and Rubbish.** No person shall burn any garbage outside of a residential building or business building at any place in the City of Mellette.

**8.0507 Nuisance and Penalty.** Every accumulation of garbage which is deposited, kept, burned, or transported without contractor's permission to any place in the City in violation of the provisions of this ordinance is hereby declared to be a public nuisance, and any person who maintains or permits the maintenance of such nuisance shall upon convictions be subject to the penalties established in this Ordinance.

#### **Chapter 8.06 – Disposal of Garbage, Rubble, Commercial Solid Waste, Bulky Items, Household Waste and White Goods**

**8.0601 Removal of Garbage, Commercial Solid Waste, and Household Waste.** The owner or operator of each business and residence within the City of Mellette, South Dakota shall contract for the regular removal and disposal of all garbage, commercial solid waste, and household waste with a person or entity that holds a valid solid waste license.

**8.0602 Removal of Rubble, Bulky Items, and White Goods.** Individuals may remove their own rubble, bulky items, and white goods without obtaining a license, providing the rubble, bulky items and white goods are disposed of in a legally permitted facility.

**8.0603 Bagging and Tying of Garbage.** All garbage, commercial solid waste, and household waste shall be bagged, tied, and placed in a suitable container at the curbside or alley side adjacent to the residence or business in accordance with the wishes of and at the times directed by the business with whom the person or business has contracted for the removal of garbage, commercial solid waste, and household waste. Suitable containers are those receptacles equipped with a lid to prevent contents of the containers from being blown out and scattered.

**8.0604 Penalty.** The penalty for violating this ordinance shall be a fine not exceeding two hundred (\$200.00) dollars or by imprisonment not exceeding a maximum of thirty (30) days or by both such fine and imprisonment.

**8.0605 Mellette Disposal Facility.** The City of Mellette maintains a disposal site on the north side of the city for disposal of trees, leaves, branches, and lawn clippings only. No other items are accepted or can be disposed of at this site. All loads entering must be fully secured and properly piled (no throwing items over the fence).

### **TITLE 9 – MISCELLANEOUS NUISANCES**

**Chapter 9.01 – Nuisances Defined**

**Chapter 9.02 – Maintenance of Buildings and Premises**

**Chapter 9.03 – Rat Eradication**

**Chapter 9.01 – Nuisances Defined**

**9.0101 Nuisances Defined and Prohibited.** No person shall create or commit, maintain, or permit to be created, committed, or maintained any nuisances defined herein.

Whatever is dangerous to human health, whatever renders the ground, the water, the air or food, hazard or injury to human health, the following specific acts, conditions, and things are, each and all of them, hereby declared to be and constitute nuisances.

A. Imperfect Plumbing. Any imperfect, leaking, unclean, or filthy sink, water closet, urinal, or other plumbing fixture in a building used or occupied by human beings.

B. Garbage and Refuse. Depositing, maintaining, or permitting to be contained or to accumulate upon public or private property any household wastewater, sewage, garbage, tin cans, excrement, and decaying fruit, vegetables, fish, meat, or bones or any fowl, putrid, or obnoxious liquid substance.

C. Impure Water. Any well or other supply of water used for drinking or household purposes, which is polluted, or which is so structured or may become polluted.

D. Manure. The accumulation of manure.

E. Breeding Place for Flies. The accumulation of manure, garbage, or anything whatever in which flies breed.

F. Stagnate Water. Any excavation which stagnate water is permitted to collect.

G. Weeds. Permitting weeds to grow to maturity on any private property, including vacant lots.

H. Poison Ivy. Permitting poison ivy to be or grown upon any private property within the municipality of the City of Mellette.

I. Dead Animals. For the owner of a dead animal or fowl to permit it to remain non-disposed for longer than twenty-four (24) hours after its death.

J. Polluting Bodies of Water. Throwing or leaving any dead animals or decayed animal or vegetable matter or any slops of filth whatever, either solid, or fluid into any pool of water.

K. Privies and Cesspools. Erecting or maintaining any privy or cesspool except such sanitary privies and cesspools, the plans of which are approved by the State Health Department.

L. Garbage Handling Improperly. Throwing or letting fall or permitting to remain on any street, alley, or public ground, highway to dumping ground and any highway within one mile of the city limits, any manure, garbage, rubbish, filth, fuel, or wood while engaging in handling or removing any such substances.

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

N. Bonfires in Public Places. Burning, causing, or permitting to be burned in any street, alley, or public ground any dirt, filth, manure, garbage, sweeping leaves, ashes, paper, rubbish, or material of any kind.

O. Rubbish on Street. The piling or depositing of any dirt, shavings, sawdust, leaves, ashes, manure, straw, or waste material of any kind upon streets, alleys, or public ground.

P. Offensive Premises. Permitting any grocery store, shop, factory, warehouse, stable, barn, or other place to become nauseous or offensive.

Q. Dangerous Agencies. Anything that is dangerous to human health, or which renders the ground, the water, the air, or food a hazard or injury, to the public health.

R. Refrigerators or Airtight Containers. The keeping, leaving, or permitting to retain outside of any dwelling, building, or other structures or premises, in a place accessible to children, of any discarded refrigerators, freezers, or other containers which have an airtight door or lid, snap lock or other locking device which may not be released from the inside, without first removing the said door or lid, snap lock or other locking device from said refrigerator, freezer or airtight container, is declared to be a nuisance and in violation of SDCL 34-28-3 and the person responsible for said violation shall be subject to a fine in an amount set by the City Council and on file at the office of the City Finance Officer.

S. Smokestacks and Smoke Nuisance. The construction, use, or maintenance of any smokestack or chimney, which emits sparks, cinders, or dense smoke, which is dangerous to the health, comfort, or property of persons, or the value of property.

T. Use of Sanitary Sewer. Permitting drainage water, blood, buttermilk, whey, by-products of milk, sewer pipe consuming acids, or any substance or material which interferes with the normal flow of sewage or prevents, blocks, or stops the flow of sewage.

U. Unconfined Refuse. The depositing, unloading, placing, storing, or otherwise piling of any dirt, straw, shavings, seeds, grain screenings, chaff, leaves, ashes, paper, or material of any kind upon property without covering the same in order to prevent it to be moved and blown about by wind upon property of another or upon any street or alley or public property.

V. Dilapidated Buildings. A building or structure within the city limits which is so dilapidated, decayed, unsafe, unsanitary, or utterly fails to provide the amenities essential to decent living that is unfit for human habitation and is likely to cause or is causing aggravation, sickness, or disease so as to work an injury to health, morals, safety, or general welfare of the community.

W. Incomplete demolition, removal and back filling.

## **Chapter 9.02 – Maintenance of Buildings and Premises**

**9.0201 Maintenance of Buildings and Premises.** It shall be unlawful for any person owning, leasing, occupying, or having charge of possession of any buildings on premises in the city to keep or maintain such buildings or premises in a manner which is at variance with, and inferior to the level or maintenance of surrounding properties. The following condition or conditions constitutes such a variance and are hereby declared a Public Nuisance:

1. Buildings which are or appear to be abandoned, boarded up, partially destroyed, or partially constructed and uncompleted subsequent to the expiration of the building permits.
2. Buildings with deteriorating or peeling paint that allows the exterior building coverings to deteriorate or permit the effects of sun and water penetration so as to encourage decay, dry rot, warping, and cracking.
3. Buildings with broken windows, doors, attic vents, and under floor vents.
4. Overgrown vegetation over six inches excluding agricultural land in the City of Mellette, which is unsightly and/or likely to harbor rats or vermin.
5. Dead, decaying, or diseased trees, weeds, and other vegetation.
6. Abandoned, discarded, or unused furniture, stoves, refrigerators, sinks, toilets, cabinets, or other household fixtures or equipment stored so as to be visible at ground level from a public street, alley, or adjoining premises.
7. Unlicensed, abandoned, wrecked, dismantled, or inoperative trailers, campers, boats, and other motor vehicles which are accumulated and stored in yards.
8. Building exteriors, walls, fences, driveways, or walkways which are cracked, broken, defective, or deteriorated, in disrepair, or defaced.

9. Any like or similar condition or conditions.

**9.0202 Sanitation of Buildings and Premises.** It shall be unlawful to permit by act or omission the following specific acts, conditions, and things which are hereby declared to be Public Nuisances:

1. Failing, refusing, or neglecting to keep sidewalks, if such exist, in front of a house, place of business, or premises in a clean and safe condition.

2. Maintaining upon such premises 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, and general welfare.

3. Maintaining upon such premises or upon the sidewalk abutting or adjoining such lot, parcel, tract, or piece of land, loose earth, mound of soil, fill material, asphalt, concrete, rubber, or waste materials 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 the 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 six months from the time of the placement of waste materials upon premises.

For sites where filling, grading, or excavating activities have or will span more than one year, it shall be the duty of the owner, lessee, occupant, or person in possession of said premises to level or remove the waste materials from said premises at least once a year during the months of either June, July, Or August for the purpose of maintaining weed and rodent control.

**9.0203 Enforcement and Abatement.**

A. Any councilman or Elector, designated Nuisance Control Officer, or the City of Mellette can bring a complaint to the city council, that there exists within the city limits a building or structure or other matter that constitutes a nuisance within the meanings of this ordinance.

B. Upon receipt of the complaint the City Council may set a date and time for a hearing to determine the condition of the building, structure, or property and the action to be taken.

C. The last owner of record at the County Register of Deeds and if different, the person who receives the tax notice from the Spink County Treasurer shall be given at least fourteen (14) days' notice by certified mail of the date, time, and place of said hearing. At that hearing the Council shall hear testimony and take evidence as to the condition of the building or structure.

D. Right of Entry: Whenever necessary to make an inspection to enforce as to the provisions of this chapter, or whenever the City Council or their authorized representative has reasonable cause to believe there exists in any building or upon any premises, any condition which is prohibited under this chapter, that Building Official, Councilman, or authorized representative may enter such building or premises at all reasonable times to inspect the same or to perform any duty imposed upon the Mellette City Council by this chapter. If such building or premises is occupied, he shall first make reasonable effort to locate the owner or other person having charge of such premises and show proper credentials and demand entry. If such entry is refused, that authorized representative shall have recourse of every remedy provided by law to secure entry.

No owner or occupant or any other person having charge or care of any building or premises shall fail or neglect, after proper demand made as hereby provided, to properly permit entry therein by that Councilman or their authorized representative for the purpose of inspection and examination pursuant to this chapter.

**9.0204 Issuance of Notice to Abate.** If at the hearing held pursuant to 9.0203, the Mellette City Council determines that a nuisance exists, the City shall have cause to give notice to abate the unlawful condition or conditions existing on the premises. Such notice shall be in writing to the person creating, permitting, or maintaining such nuisance to abate the same within a reasonable time as provided in such notice as follows:

1. If the council has determined that the building or structure must be repaired, the order shall require that all required permits be secured therefore, and the work physically commenced with such time not to exceed thirty (30) days from the date of the order and completed within such time as the City Council shall determine is reasonable under all of the circumstances.
2. If the Council has determined that the building or structure must be vacated, the order shall require that the building or structure shall be vacated within a certain time from the date of the order as determined by the Council to be reasonable.
3. If the City Council has determined that the building or structure must be demolished, the order shall require that the building be vacated within such time as the Council shall determine reasonable (not to exceed sixty (60) days from the date of the order). The order shall also require that all necessary permits be secured thereof within sixty (60) days from the date of the order and that the demolition be completed within such time as the Council shall determine reasonable.

**9.0205 Failure to Abate.** In the event a person shall fail to abate any nuisance, permitted, or maintained by him following written notice to him to do so, the City Council or the authorized representative shall cause such nuisance to be abated.

The City Finance Officer shall prepare a statement of expense incurred in the razing, demolishing, removing, reconstruction, or other affirmative act necessary to abate the unlawful condition and shall file such statement with the City Finance Officer. Such abatement shall refer to the particular premises including the improvements, structures, or buildings thereon, upon which the actions taken to abate the unlawful condition occurred. With regard to the premises of each piece of property therein referred to, the statement shall show the legal description in which the lot lies.

**9.0206 Abatement by State Law.** In addition to the method of abatement of nuisances provided in this chapter, the City may abate any nuisance found within the City in the manner provided by the State Law or recover the expense so incurred from the person maintaining such nuisance in a civil suit instituted for such purpose.

**9.0207 Cost of Assessment and Collections of Cost Incurred.** The City Finance Officer is hereby authorized to bill the expense incurred from the abatement and if payment is not received within ninety (90) days, the City Finance Officer is authorized to send a copy of the bill to the Spink County Treasurer's Office for collection through taxes. If county taxes are currently delinquent at the time of filing, the City Finance Officer is hereby instructed to pursue the collection through a civil suit to collect debt incurred against that delinquent tax property.

Any person who shall violate any of the provisions of this ordinance hereof, shall be subject to a maximum possible penalty of a two hundred (\$200.00) dollar fine and/or thirty (30) days of jail as provided herein.

**9.208 Demolition of Buildings and Premises.**

It shall be unlawful for any person owning, leasing, occupying or having charge of any buildings or premises in the city to demolish any building or structure and to not remove all footing and foundation material and other materials, or to bury such materials within the city limits. Suitable back fill materials shall be used to fill the lot back to level and shall continue to be filled if settling of the back fill occurs.

**Chapter 9.03 – Rat Eradication**

**9.0301 Definitions.** Terms used in this chapter, unless the context otherwise plainly requires shall mean:

A. Business Building. Any structure, either public, or private, that is adapted for occupancy for transaction of business, play, sale or storage of goods, wares, or merchandise, or rooming houses, office buildings, public buildings, stores, theaters, markets, restaurants, grain elevators, warehouses, workshops, factories, and all out buildings, sheds, barns, and other structures on premises used for business purposes.

B. Rat Proofing. A form of rat proofing is required to prevent the ingress into business buildings, from the exterior or from one business building to another. It consists essentially of the closing, with material impervious to rat gnawing, of all openings, in the exterior wall, ground, or first floors, basements and foundations; that may be reached by rats from the ground by climbing or by burrowing.

C. Rat Harborage. Any condition which provides shelter or protection for rats, thus favoring their multiplication and continues existence in, under, or outside of a structure of any kind.

D. Owner. The actual owner of the business building, either individual, partnership, or corporation, the agent of the owner in charge of said building, and the person having custody of said building, and the person to whom any rental upon said building is paid. In the case of business buildings leased under agreement that the lessee is responsible for maintenance and repairs, the lessee will in such cases also be considered as the "owner" for the purpose of this ordinance.

E. Occupant. The individual, partnership, or the corporation that, has the use of or occupies any business building, or a part or portion thereof, whether the actual owner, tenant, or subtenant. In the case of vacant buildings, or any vacant portion of a business building, the owner, agent, or other person having custody of said building, shall have the responsibilities of an "occupant" of said building.

**9.0302** Rat Proofing Buildings. It is hereby provided and required that all business buildings in said City of Mellette shall be rat proofed, freed of rats, and maintained in a rat proof and rat free condition, under the direction and supervision of the City Council.

**9.0303** Notice to Owner. Upon receipt of written notice and/or order from the City Council the owner of any building specified in said notice or order shall take immediate steps for rat proofing said buildings, and unless said work and improvements required for such rat proofing have been completed by the owner of said building in the time specified in said written notice or order, or within the time to which a written extension may have been granted by the City Council, then the owner shall be deemed to have violated a provision of this ordinance.

**9.0304** Notice, Charge Against Owner. Whenever the City Council notifies the occupant of a business building that there is evidence of rat infestation of said building, said occupant shall immediately institute appropriate steps for freeing said building of rats within ten days after receipt of such notice. If within 10 days the building is not free of rats the City shall institute such action as is necessary and shall charge occupant for labor, material, and equipment necessary for the eradication measure carried out.

**9.0305** Maintaining Rat Proofing Condition. The occupants of all rat proofing business buildings are required to maintain the premises in a rat proofing condition and to repair all breaks and leaks that may occur in the rat proofing.

**9.0306** Inspections. The City Council is empowered to make unannounced inspections of both the interior and exterior of business buildings within the City of Mellette as in their opinion may be necessary to determine whether there has been a full compliance with this ordinance, and to require a full compliance with this ordinance. If at any time of any inspection, the City Council finds evidence of rat infestation, and/or the existence of breaks or leaks in the rat proofing, or new openings through which rats may again enter said buildings, the City Council shall serve upon the owner or occupant of said building a notice and/or order to abate the conditions found.

**9.0307 Installation of Floors.** Whenever conditions inside or under business buildings provide such extensive harborage for rats that the City Council deems it necessary to eliminate such harborage, he may require the owner to install cement floors or basement or to replace wooden first floors or ground floors to require the owner to correct such other interior rat harborage as may be necessary in order to facilitate the eradication of rats in a reasonable length of time.

**9.0308 Removal of Rat Proofing.** It shall be unlawful for the occupant, owner, contractor, public utility company, plumber, or any other person to remove the rat proofing from any business building for any purpose and fail to restore the same in a satisfactory condition; and, in like manner, it shall be unlawful for any such person to make any new openings that are not sealed or closed against the entrance of rats.

**9.0309 Metal or Plastic Containers.** Everywhere within the City of Mellette, all garbage or other refuse shall be placed and stored in covered metal or plastic containers, compartments, or rooms, unless kept in a rat proof building.

**9.0310 Dumping of Garbage and Rubbish Unlawful.** It shall be unlawful for any person, firm, or corporation to place, leave, dump, or permit the accumulation of any garbage, rubbish, or trash in any building or upon any premises in said City so that the same shall or may provide food or harborage for rats.

**9.0311 Storage of Lumber and Other Material.** It shall be unlawful for any person, firm, or corporation to permit to accumulate upon any premises whether improved or vacant, or upon any open lot or alley in said City, any lumber, boxes, barrels, bricks, stones, or any other materials that may be permitted to remain thereupon for any longer time than a temporary period reasonably required for the use of such materials in a building or repairing of property, unless same shall be placed on open racks that are elevated not less than eighteen (18) inches above the ground, and evenly piled or stacked so that such material will not afford harborage for rats.

## **TITLE 10 – LICENSES**

### **Chapter 10.01 – General Provisions**

**Chapter 10.02 – Carnivals and Circuses**

**Chapter 10.03 – Dances**

**Chapter 10.04 – Juke Boxes and Mechanical Amusement Devices**

**Chapter 10.05 – Intoxicating Liquors**

**Chapter 10.01 – General Provisions**

**10.0101 License, Unlawful Without.** It shall be unlawful for any person, persons, firm, or corporation to engage in any activity for which a license is required without first having obtained a license, as hereinafter provided. The City Council may at any time expend the general provisions of this chapter by requiring any person, persons, firm, or corporation engaging in any trade, business, or occupation with the City of Mellette which is not specified by this ordinance to obtain a license, as deemed necessary.

**10.0102 Application for License.** Any person, persons, firm, or corporation wishing to obtain a license as herein provided, shall make written application to the City Council, stating the name of the applicant, address, purpose of the activity, the length of time for which said license is wanted, and the particular place at which said license is to be used.

Fees for all licenses shall be fixed by the City Council, where not specified in this ordinance, and all license fees shall be paid in full at the time of application in such manner as approved by said Council.

**10.0103 License Expiration.** Any annual license granted under the provisions of this chapter shall expire on the 31<sup>st</sup> day of December next following the granting thereof, except as otherwise provided, and shall not be granted for any sum less than the annual rate, and there shall be no rebate made on the termination of said calling, vocation, or kind of business for which said license was issued.

**10.0104 Revocation.** The City Council shall have the authority at any time to suspend or revoke any license granted under the provision of this chapter whenever said council shall be satisfied upon written complaint that any such calling, vocation, or kind of business for which said license has been issued, has been made or conducted in an improper or illegal manner, and in case of such revocation the City Council may refund to the holder of such license such proportionate amount of money paid therefore as said City Council shall deem just.

**10.0105 Issuance of License.** Except as otherwise provided, all licenses shall be issued by the Finance Office after issuance of the license has been approved by the City Council and the applicant shall have complied with all requirements for issuance of such license. Unless otherwise provided, all licenses shall be signed by the City Finance Officer and shall have affixed thereto the official seal of the City of Mellette.

**10.0106 Record of Licenses.** The City Finance Officer shall keep a record of all licenses issued by the City stating when and to who issued, for what purpose and for what length of time, the amount of money paid for said license, and the place where such activity is to be carried on.

**10.0107 Approval of Bonds.** Any bond, liability insurance, or deposit required shall be subject to the approval of the City Finance Officer, and in case such City Finance Officer deems the security inadequate, new, or additional security may be required; the license may be suspended pending the furnishing of such new or additional security, and if not furnished, the license may be revoked.

**10.0108 Appeal.** Any person aggrieved by the action of the City Finance Officer, or the Mayor in the denial of an application for permit of license or revocation of a license as provided in Section 10.01.04 shall have the right of appeal to the City Council, or the City of Mellette. Such appeal shall be taken by filing with the City Council within fourteen (14) days after the notice of action complained of has been mailed to such person's last known address, a written statement setting forth fully the grounds for the appeal. Service of such appeal shall be grounds for the appeal. Service of such appeal shall be made to the City Finance Officer. The City Council shall set

a time and place for a hearing of such appeal and notice of such hearing shall be given to the appellant. The decision and order of the City Council on such appeal shall be final and conclusive.

#### **Chapter 10.02 – Carnivals and Circuses**

**10.0201 Contracts.** It shall be unlawful for any person or persons owning, managing, or operating any circus, menageries, Wild West shows, carnivals, or other exhibition in the City of Mellette without first entering into a contract with the City of Mellette.

#### **Chapter 10.03 – Dances**

**10.0301 Definition.** A public dance hall is hereby defined to be any room, place, or space in which the sole purpose is to hold any dances which the public may participate in whether or not a charge for admission or for dancing is made.

##### **10.0302 License Required.**

A. It shall be unlawful for any person, firm, or corporation to conduct, operate, or maintain any public dance hall as herein defined in the City of Mellette, or within one mile of the corporate limits thereof, or within one mile of the outer boundary of the City Park located within the corporate limits of the City of Mellette without first obtaining from the City Council of the City of Mellette a license therefore, and without having paid the license fee as herein provided.

B. Application, payment of fee, and licensing procedure has been set forth in Chapter 10.01.

**10.0303 Fees.** The annual license fee to conduct, operate, or maintain a public dance hall under the provisions of this chapter shall be in an amount set by the City Council and on file at the Office of the City Finance Officer.

**10.0304 Minors Not Allowed.** It shall be unlawful for any person or persons, firm, or corporation engaged in, conducting, or operating a public dance hall in the City of Mellette or its jurisdiction, to suffer, permit, or allow any person under the age of twenty-one (21) years, unaccompanied by his or her father, mother, or legally appointed guardian, to enter or remain in said dance hall. It shall be unlawful for any person or persons under the age of twenty-one (21) years unaccompanied by his or her father, mother, or legally appointed guardian, to enter or remain in any said dance hall.

**10.0305 Misrepresentation of Age.** It shall be unlawful for any person to misrepresent his or her age in order to obtain admission to a public dance hall, or to be permitted to remain therein, or to any public officer making inquiry of such person. It shall also be unlawful for any person to represent himself or herself to be a parent or guardian of, or as authorized to accompany any person under the age of twenty-one (21) years in order that such person may obtain admission to a public dance hall or be permitted to remain therein when the person making the representation is not in fact either a parent or legal guardian of such other person or authorized by the parents or guardian to accompany such other person.

**10.0306 Hours.** It shall be unlawful to continue after the hour of two o'clock A.M. any public dance or to hold or conduct such dance, between two o'clock A.M. and seven o'clock A.M. Public dances are not allowed on Sundays, except for Twelve o'clock A.M. midnight to two o'clock A.M. because of the Saturday nighttime "run over".

**10.0307 Building.** No license for a public dance hall shall be issued until the City Council is satisfied that the room, place, or hall to be used for such public dance hall complies with and confirms to all ordinances and health and fire regulations of the City of Mellette, and all laws of the State of South Dakota, and that is properly

ventilated and properly supplied with sufficient toilet conveniences and is a safe and proper place for such purposes.

**10.0308 Spink County Sheriff May Vacate Dance Hall.** It shall be the duty of the Spink County Sheriff's Office to cause the dance hall or place in which any dance or ball is held to be vacated whenever any provision of the state laws or regulations or municipal ordinances or regulations relating to public dances is being violated or when any disorder of a gross, violent, or vulgar character shall take place.

**10.0309 Penalty, Revocation of License.** Any person or persons violating any of the provisions of this chapter or any owner, proprietor, manager or other person in control of or conducting a public dance who refuses, fails, or neglects to prevent vulgar or indecent dancing as herein described or in any manner that violates any of the provisions of this chapter or interferes with an officer of the Spink County Sheriff's Office in carrying out the provisions of this chapter, shall upon conviction thereof be punished by a fine as set forth in this ordinance. Upon conviction of the owner, proprietor, manager, or person in control of or conducting any public dance hall under this chapter, for the violation thereof, the license issued for the offending dance hall shall be forthwith revoked and the City Council upon being satisfied that any person licensed to conduct a public dance or dance hall is not complying with the provisions of this chapter, may revoke any such license, and in either case no similar license shall be issued to the licensee within the period of one year next following such conviction or revocation of license.

#### **Chapter 10.04 – Juke Boxes and Mechanical Amusement Devices**

**10.0401 Definition of Terms.** As used in this chapter, unless the context otherwise indicates:

A. The term "Juke box" shall mean any music vending machine, contrivance, or device which, upon the insertion of a coin, slug, token, plate, disc, or key into any slot, crevice, or other opening or by the payment of any price, operates, or may be operated, for the emission of songs, music, or similar amusement.

B. The term "musical amusement device" shall mean any machine which upon the insertion of a coin, slug, token, plate, disc, may be operated by the public generally for the use of a game, entertainment, or amusement, whether or not registering a score. It shall include such devices as marble games, pinball machines, skill ball, mechanical grab machines, and all games, operations, or transactions similar thereto under whatever name it may be indicated.

C. The term "video game" shall mean any electronically powered machine or device having a video display or Cathode Ray Tube (CRT) display which, upon the insertion of a coin, slug, token, plate, or disc, may be operated by the public generally for use as a game, entertainment, or amusement, whether or not registered a score.

D. The term "person, firm, or corporation" or "association" as used herein shall include the following; any person, firm, corporation, or association which owns any such machine; the person, firm, or corporation or association in whose place of business any such machine is placed for the use of the public; and the person, firm, or corporation or association having control over such machine; provided, however, that the payment of such fee by any person, firm, corporation, or association enumerated herein shall be deemed a compliance with this section.

**10.0402 Gambling Devices not Permitted.** Nothing in this chapter shall in any way be constructed to authorize, license, or permit any gambling devices whatsoever, or any mechanism that has been judicially determined to be a gambling device, or any way contrary to the law, or that may be contrary to any future laws of the State of South Dakota, nor shall it affect, regulate, or prohibit such gambling devices as are permitted and regulated under state law.

**10.0403 License Required.** Any person, firm, or corporation or association displaying for public patronage or keeping for operation any juke box, mechanical amusement device or video game as herein defined by section

10.0401 shall be required to obtain a license from the City of Mellette, upon payment of a license fee. Application for such license shall be made to the City Finance Officer upon a form to be supplied by the City Finance Officer for that purpose and processed.

#### **Chapter 10.05 – Intoxicating Liquors**

##### **10.0502 Restrictions on General Conduct of Business.**

A. No on-sale license shall sell, serve, or allow to be consumed on the premises covered by the license, any intoxicating beverages, between the hours of two o'clock A.M. and seven o'clock A.M.

B. Notwithstanding the restrictions of paragraph A, an on-sale/off-sale malt beverage licensee or an on-sale liquor licensee may obtain a special permit from the City extending its hours of operation for a special event; provided however, that said licensee makes application for a special permit to the City Finance Officer no less than 48 hours prior to the event and pays the required fee for the special permit at the time of approval of application.

#### **TITLE 11 – PUBLIC OFFENSES**

**Chapter 11.01 – Offenses Against Public Welfare**

**Chapter 11.02 – Offenses as to Public Places**

**Chapter 11.03 – Offenses as to Property**

**Chapter 11.04 – Animals**

**Chapter 11.05 – Fireworks, Firearms and Explosions**

**Chapter 11.06 –Public Nuisances**

**Chapter 11.01 – Offenses Against Public Welfare**

**11.0101 Disturbing the Peace.** No person shall disturb the peace of the City or any person by violent, tumultuous, or offensive conduct, or by loud or unusual noises or by profane, obscene, indecent, violent, or threatening language, or by assaulting, striking, or attempting to assault or strike another person, or inviting or defying another person to fight or quarrel, or by willfully and maliciously destroying or attempting to destroy or injure any property belonging to another, or by engaging in a fight with another.

**11.0102 Resisting, Escaping From, or Assaulting an Officer.** No person shall resist or obstruct any peace officer in the performance of any official duty, nor in any way or aid or assist any person to neither escape from any such officer nor assist any person to escape from any lawful confinement. No person shall assault or strike any peace officer, nor in any way interfere with a peace officer in the discharge of his/her duty.

**11.0103 False Emergency Alarms Prohibited.** No person shall knowingly make or give any false alarm or fire or other emergency, by calling or causing to be called the Fire Department, the Sheriff's Officers, or any authorized emergency vehicle.

**11.0104 Prohibiting Persons from Taking or Carrying Open Bottles or Cans Containing Alcoholic Liquor in Vehicles.** No person shall take, carry or have in his/her possession within the City of Mellette, in any vehicle, any opened can or bottle or other container in which there shall be any quantity of beer or other alcoholic beverage.

**Chapter 11.02 – Offenses as to Public Places**

**11.0201 Crowds Obstructing Streets.**It shall be unlawful for persons to gather in crowds or groups, or for any person to stand on any public street or sidewalk in such manner as to obstruct free passage thereon, or to annoy other persons passing along the same, and any peace officer is authorized to disperse any crowd or group or to cause the removal of any person violating the provisions of this section, and to summarily arrest any person in case of refusal to obey any by such officer for the purpose of clearing the way or preventing annoyance to any passerby on any public street or sidewalk.

**11.0202 Littering.** It shall be unlawful for any person or persons to throw or deposit paper, ashes, or rubbish on the streets, alleys, or public grounds within the corporate limits of the City of Mellette.

**11.0203 Abandoned Vehicles.**No person shall abandon a vehicle within the City and no person shall leave any vehicle at any place within the City for such time under such circumstances as to cause such behicle reasonably to appear to have been abandoned.

A. **Determination of Abandonment.**Whenever any vehicle is left unattended on any public street, alley, public place, or parking lot within the City for longer than twenty-four (24) hours without approval of the City Council where such vehicle is parked, it shall be deemed to be an abandoned vehicle and subject to provisions of this chapter.

B. **Vehicles Blocking Traffic, Wrecked Vehicles.** A vehicle found unattended upon bridge or cuseway or where a vehicle constitutes an obstruction and hazard to traffic or a wrecked vehicle may be removed at any time without regard to the twenty-four (24) hour period provided for in this article.

C. **Leaving of Wreched Non-Operating Vehicle on Street.** No person shall leave any partially dismantled, non-operating, wrecked or junked vehicle on any street or highway within the city.

D. Duty of 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 an abandoned vehicle, partially dismantled, non-operating, wrecked or junked vehicle or vehicle in a state of substantial disrepair to remain on such property longer than thirty (30) days; except that this section shall not apply with regard to a vehicle in an enclosed building or to the vehicle on the premises of a six (6) foot solid fenced-in business enterprise or to a vehicle in an appropriate storage place or depository maintained in a lawful place and manner by the City or authorized by the City.

E. Removal. Whenever any peace officer finds an abandoned vehicle within the City, he is hereby authorized to provide for the removal of such vehicle to a garage or place of safety.

F. Notice to the Owner. It shall be the duty of the City Council to attempt to notify the registered owner, and if unnumbered, the lien holder, of the removal and storage of any vehicle under the provisions of this chapter and where such vehicle has been stored.

G. Recovery by Owner, Lien Holder. The registered owner or lien holder of any vehicle removed and stored under the provisions of this article may recover the same upon the payment of all costs incident to the removal and storage of such vehicle.

H. Sale of Unclaimed Vehicle. After three months from the date of mailing the notice of removal and storage provided for in this article, the vehicle shall remain unclaimed, such vehicle may be sold by the City Council at public auction upon notice to be published in newspaper of general circulation in the county not less than once a week for two consecutive weeks.

I. Notice of Sale. The notice of sale provided by in this article shall contain a description of the removal and stored vehicle, including the year, make, model, serial number, color, license number, if any, a statement that the vehicle was found abandoned, the date thereof, the place, date, and time of which such vehicle shall be sold, which date shall not be sooner than one week following the date of the last publication of notice of sales.

J. Lien for Costs. The City council or whomever is designated by the City Council to provide storage to the abandoned vehicle, shall have a possessory lien upon any vehicle removed under the provisions of this article for the costs in taking custody of and storage of such vehicle.

K. Title May Vest in City, When. If after six (6) months from the mailing date of notice of removal and storage provided for by this article, the vehicle shall remain unclaimed, the title to such vehicle may be vested in the City, and such vehicle may be disposed of in any manner as may be provided by the City Council. The process of any such disposal shall first be applied to the costs incurred in the enforcement of this article with the balance to be deposited to the general fund of the City.

L. Title May Vest in City – Notice to the Commissioner of Vehicles. Within thirty (30) days after acquiring title to any vehicle under the provisions of this article, the City shall notify the commissioner of motor vehicles thereof and shall provide the commissioner, on some form as he may prescribe, all facts and information relevant thereof, as he may require. Upon receipt thereof, the commissioner shall appropriately mark the title and registration records and notify the owner of the records at his/her last known address of the actions taken.

### **Chapter 11.03 – Offenses as to Property**

**11.0301 Injuring Signs.** No person shall deface, remove, change, mark on in any way interfere with, or obliterate either wholly or in part any sign, signboard, or card placed, posted, extended or erected by the City.

**11.0302 Traffic Signs, Injuring, or Place Unauthorized Prohibited.** No person shall deface, injure, move, obstruct, or interfere with any official traffic sign or signal, street sign, or parking meter.

**11.0303 Destroying Trees and Plants.** No person shall willfully injure, destroy, or deface any tree, shrub, hedge, or grass in any parking lot or park.

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

**11.0304 Interference with Electric Light Posts and Apparatus.** No person shall interfere with, injure, break, or jar any electric light, telephone or fire alarm system, post, or pole apparatus in any manner or climb any telephone, electric light, or fire alarm pole without being properly authorized to do so.

**11.0305 Unauthorized Connection with Gas, Water or Electrical Pipe or Wire.** No person shall, without lawful authority, connect or cause to be connected with any main service pipe, wire, or any other conductor of any gas, water, or electrical energy, any pipe, wire, or other device for the purpose of obtaining gas, water, or electrical current therefrom; nor shall with intent to defraud, connect, or cause to be connected with any meter installed for the purpose of registering the amount of gas, water, or electricity supplied to any customer, any pipe, wire, or appliance connected therewith that such meter will not measure or register the full amount of gas, water, or electricity supplied to any customer.

**11.0306 Interference with City Engineer, Instruments, Stakes.** No person shall interfere with the City Engineer while engaged in his/her official duties in any manner or by driving any vehicle of any kind against the person, surveying instruments, or apparatus of said City Engineer or of any of his/her assistants, or by moving or displacing any stake, monument, or bench mark fixed or located by him or his assistants.

**11.0307 Interference with City Property.** No person shall climb or in any manner interfere with any building, water tower, or structure belonging to the City, without being authorized to do so by the City; and no person shall in any manner injure or deface any such structure.

**11.0308 Destroying Property.** No person shall willfully damage, deface, break, destroy, or interfere with the property of the City of Mellette.

#### **Chapter 11.04 – Animals**

**11.0401 Animals Running at Large.** No person shall allow any horse, cow, swine, sheep or goats to run at large.

**11.0402 Fowl in the City.** No person shall allow any ducks, geese, chickens, or other domestic fowl to run at large.

**11.0403 Horses, Cows, Goats, Sheep in City.** No person shall keep any horse, cow, goat, or sheep, or erect or maintain any building or enclosure for use in keeping any such animals within three hundred (300') feet of any dwelling house or building used for human habitation, other than that of the owner of such animals. New enclosed buildings or structures containing livestock within the three hundred (300') foot limit may be approved with an agreement from adjacent land owners and will also need Spink County approval.

**11.0404 Pigs in Town Prohibited.** No person shall place, keep, or maintain any live hogs within the city, excepting such hogs as are kept in the yards or pens of the railway companies for shipping purposes, or in pens, houses, or yards or stockyards, packing houses, or butcher shops and kept for the purpose of immediate shipment or slaughter.

#### **Chapter 11.05 – Fireworks, Firearms and Explosions**

**11.0501 Discharge of Firearms or Air Rifles.** It shall be unlawful for any person except a peace officer in the performance of an official act, to discharge or fire any gun, air rifle, sling shot, or other dangerous weapon within the city limits of the City of Mellette.

**11.0502 Selling, Possessing or Discharging Fireworks Prohibited.** It shall be unlawful for any person to sell to any person in the City of Mellette or within one mile of the outer boundaries of the same, any firecrackers, cartridges, roman candles, rockets, or other fireworks that may be made or manufactured.

No person shall in the City of Mellette or within one mile of the outer boundaries of the same, discharge, or shoot off any fireworks, or firecrackers of any kind or light or throw any fireworks of any kind, except on the first day of July and continuing through the fifth day of July of each year, except between the hours of 11:00 P.M. through 5:00 A.M. on Sunday through Thursday and 12:00 Midnight and 5:00 A.M. on Friday and Saturday.

Public display of fireworks are permitted at any time, provided that any individual, firm, partnership or corporation has received permission from the Mellette City Council prior to making such public display of fireworks.

**11.0503 Penalty.** Any person who shall violate any of the provisions of this ordinance hereof, shall be subject to a fine and/or imprisonment.

#### **Chapter 11.06 – Public Nuisances**

**11.0601 Public Nuisances Defined – Remedy.** A public nuisance consists of unlawfully doing any act or omitting to perform a duty within the corporate limits of the City or in any public grounds or parks belonging to the City or within one mile of the corporate limits of the City, which act or omission either:

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

The remedies against a public nuisance shall be those prescribed by SDCL, or by other statute.

**11.0602 Curfew.** No person under the age of eighteen years except as provided shall be on any public street or alley or in any park or other public grounds or buildings, place of amusement, entertainment or refreshment, vacant lot, or any other unsupervised place between 11:00 P.M. and 5:00 A.M. of the following day on Sunday through Thursday and 12:00 Midnight and 5:00 A.M. of the following day on Friday and Saturday.

**A. The restrictions above do not apply when the minor:**

1. Is accompanied by the minor's parent, guardian, or other person having the minor's lawful care, custody or control;
2. Is returning home by a direct route from and within thirty minutes after a school activity or a religious or other voluntary association when prior notice of the activity and its place and probably time of termination has been given to law enforcement by an adult person authorized by the school or religious or voluntary association to do so;
3. Is carrying a certified card of employment and is on the way to or from the place of employment;

4. Is upon an emergency errand or other legitimate business directed by the minor's parent, legal guardian, or other adult having the lawful custody of the minor.

B. Responsibilities of Parent, Guardian, or Custodian. No parent, guardian or other adult having custody and control of a minor under the age of 18 years of age shall knowingly permit the minor to violate the provisions of this ordinance. Any parent or guardian of any child under eighteen (18) years of age who shall allow or permit such minor to be in any park or other public grounds or building, place of amusement, entertainment, or refreshment, vacant lot or any unsupervised place within the city limits of the City of Mellette, thereof, are in violation of the foregoing sections and provisions of this ordinance and shall be subject to penalty or penalties hereinafter provided.

C. Responsibility of Others. It shall be unlawful for any person not the parent, guardian, or custodian as defined herein to accompany, loiter, or congregate with any minor under the age of eighteen (18) years in any park or other public grounds or building, place of amusement, entertainment or refreshment, vacant lot or alley during the hours prohibited under the above sections, or the owner or operator of any motor vehicle during the hours prohibited by this ordinance and shall be subject to penalty or penalties hereinafter provided.

D. Penalty. Any person who shall violate any of the provisions of this ordinance hereof, shall be subect to a maximum fine of two hundred (\$200.00) dollars and/or thirty (30) days of jail as provided herein.

## **TITLE 12 – PLUMBING CODE**

### **Chapter 12.01 – Adoption of National Code**

### **Chapter 12.02 – Licensing and Inspection**

### **Chapter 12.01 – Adoption of National Code**

**12.0101 Adoption of National Plumbing Code.** There is hereby adopted by the City Council for the purpose of establishing rules and regulations governing plumbing as defined in this Code, including permits and penalties, that certain plumbing code known as, "The National Plumbing Code", as adopted by the American Standards Association, being particularly the most recent edition thereof, and the whole thereof, excepting such portions as are hereinafter deleted, nullified, or amended, of which a copy is on file in the office of the Finance Officer of the City of Mellette, and the same are hereby adopted and incorporated as fully as if set out at length herein and from the date on which this ordinance shall take effect, the provisions thereof shall be controlling pertaining to plumbing, as defined in this code, within the corporate limits of the City of Mellette.

#### **12.0102 Title and Scope.**

A. Title. National Plumbing Code. This code shall be known as the National Plumbing Code, may be so cited, and will be referred to in this ordinance as this code.

The administration and enforcement of this ordinance shall be the duty of the City Council who is hereby authorized to take such actions as may be reasonably necessary to enforce the purposes of this code. Such persons may be appointed and authorized as assistants or agents of such administrative authority as may be necessary to carry out the provisions of this code.

B. Scope. The provisions of this code shall apply to govern plumbing as defined in this code, including the practice, materials, and fixtures used in the installation, maintenance, extension, and alteration of all piping, fixtures, appliances, and appurtenances in connection with any of the following: sanitary drainage or storm drainage facilities, the venting system, and the public or private water supply systems, within or adjacent to any building or other structure, or conveyance; also the practice and materials used in the

installation, maintenance, extension, or alteration of the storm water or sewage system of any premises to their connection with any point of public disposal or other terminal.

C. Facilities. It is recognized that certain facilities in or adjacent to public streets that are referred to in this code are only partially owned or controlled by the owner or occupants of the building or premises to which this code applies.

**12.0103 Repeal and Interpretation.** All ordinances or parts of ordinances in conflict with the provisions of the National Plumbing Code are hereby repealed, and in the event any ordinance or part of ordinance of the City of Mellette is inconsistent in any manner with the provisions of said National Plumbing Code, then in that case the provisions of the National Plumbing Code shall govern.

## **Chapter 12.02 – Licensing and Inspection**

**12.0201 Definition.** Plumbing in this chapter shall be deemed to mean the professional, art, trade of, and all work done and all matters used in and for (a) introducing, maintaining and extending a supply of water through a pipe or pipes or any appurtenances thereof in a building, structure or establishment; (b) installing, connecting, or repairing any system of drainage whereby foul waste, rain, or surplus water, gas, odor, vapor, or fluid is discharged or proposed to be discharged through a pipe or pipes from any building, structure, or establishment; (c) performing all classes of work generally done by plumbers, including the installation of water heaters or water heating equipment.

The plumbing system of a building includes the water supply distributing pipes; the fixtures and fixture traps; the soil wastes and vent pipes; the house drain and house sewer; the storm water drainage with their devices; and appurtenances and connections all within or adjacent to the building structure or premises.

**12.0202 City Council Authorization.** The City Council is authorized to adopt such rules and regulations as shall be necessary for the examination of applicants for plumbing licenses. The City Council of Mellette hereby establishes that plumbers need only meet the state guidelines to conduct plumbing in Mellette. No city license is required.

**12.0203 Application for License.** Any person desiring to engage in the business of plumbing as a Master Plumber shall first make application for a license therefore to the State of South Dakota.

**12.0204 Permit Required.** Before commencing any work within the purview of the definition of plumbing as herein contained, the plumber or person doing such work must first obtain from the Finance Officer a written permit. This permit must at all times during such work and until the completion thereof be posted in some accessible place on the outside of the building wherein such work is being done; provided, however, that no permit shall for ordinary repairs or water pipes, faucets, hot water tanks, water tanks, or for the removal of obstructions in fixtures of piping which are generally known and considered as maintenance work. It is intended that replacement of fixtures where no new fixture is cut into the system shall be considered as maintenance.

## **TITLE 13 – SEWER AND WATER**

### **Chapter 13.01 – Sewers**

### **Chapter 13.02 – Water**

### **Chapter 13.01 – Sewers**

**13.0101 Permit for Connection.** No person, company, or corporation shall connect its property with any opening or tap into any of the public sewers of the City without first having obtained a permit to do so from the Finance Officer and the payment of a sum in an amount set by the City Council and on file at the office of the City Finance Officer, plus all costs from main to lot line to the Finance Officer as a fee for permission to connect to the said sewer and inspection of sewer. No permit shall be granted to connect any property with any public sewer in this City, or any connection therewith until the applicant for the same shall agree to comply with the terms and conditions of this title. The owner shall indemnify the City of Mellette, from any loss or damage that may directly or indirectly be occasioned by the installation or the constructing or repairing of a sewer.

**13.0102 Assessment for Connection.** Property having paid its just portion of the costs of construction of the sewer to be connected with shall not be required to pay the above fee.

**13.0103 Connection to be Made by Plumber.** No person except a licensed plumber working under the supervision of the City Engineer shall be permitted to make connections with any public sewer.

**13.0104 Specifications.** All sewers shall be constructed and connected in accordance with the provisions of the National Plumbing Code heretofore adopted by Title 9 of this ordinance.

**13.0105 Grease Trap.** A proper grease trap or catch basin shall be provided by all hotels, restaurants, butcher shops, and lard rendering establishments.

**13.0106 Connection with Cesspools Prohibited.** No connection from any cesspool or privy vault shall be made with any sewer or drainage pipe.

**13.0107 Use of Storm and Sanitary Sewers.** It shall be unlawful for any person in the City of Mellette to connect any sanitary sewer with any storm sewer, or to permit any sewage to flow or run into any storm sewer; and it shall be unlawful for any person to connect any storm sewer with sanitary sewer or to permit or cause any storm or drainage water to run or flow into any sanitary sewer.

**13.0108 Use of Sanitary Sewers.** It shall be unlawful for any person in the City of Mellette to permit any blood, buttermilk, whey, and sewer pipe consuming acids to flow or run into any sanitary sewer.

**13.0109 Inspection.** The City Engineer or his/her duly authorized representative shall inspect all sewers, connections, and appurtenances thereto before any trenches and grades are refilled. All sewers shall be left open and clean for inspection of joints and sewer lines. The applicant for the building sewer permit shall notify Finance Officer when the sewer is ready for inspection. Upon completion of said inspection the applicant, shall be immediately notified if the sewer is approved or rejected.

**13.0110 Trailer Houses or Trailer Coach Connected with Sewer System.** Every trailer house or trailer coach may connect with the City sewer system by making and filing an application with the Finance Officer describing the trailer house or trailer coach; the place to where the sewer connection is to be made; and the description of the lot where the trailer house or trailer coach is to be located. The owner of the lot upon which the trailer house or trailer coach is located must pay a fee in an amount set by the City Council and on file at the Office of the Finance Officer.

The Finance Officer upon receipt of the application is authorized to issue such permit for a period of six (6) months and the fee attached to the application is the payment for said period of time.

Any dissatisfied applicant may appear before the Mayor and the City Council with any matter which may be in dispute. The decision of the City Council is final.

**13.0111 Property Outside the City Limits – Charge for Use of Sewer.** Any property outside the corporate limits of the City of Mellette may hereafter be connected to the sanitary sewer system of the City of Mellette. An

annual tap fee for the use of the sanitary sewer system must be paid, and an annual fee for each and every connection to said sewer system must be paid. Said fees shall be paid in advance. The amounts of said fees shall be set by the City Council and on file at the office of the City Finance Officer.

If any sewer bill is not paid within ten (10) days after the same falls due, the City of Mellette shall have the right to, in addition to the provisions of the preceding paragraph, at any time thereafter before said bill and penalty is paid, shut off the sewer from the users premises, and the same shall not be again connected without first making application to the City Council and approved thereof at the special or regular meeting of said City Council.

**13.0112 Sewer Rates.** All residential sewer users shall pay a monthly fee, currently \$30.50, to be set annually by the City Council and on file at the office of the City Finance Officer. This shall be submitted with water payments to the City Finance Officer no later than the 15<sup>th</sup> day of each month.

All commercial sewer users shall pay a monthly fee, currently \$38.00, to be set annually by the City Council and on file in the office of the Finance Officer for the first 20,000 gallons of water use. Any commercial consumer using over 20,000 gallons shall pay an additional fee set by the City Council and on file at the office of the Finance Officer for each gallon over.

Further, the council reviewed Resolution 20-02 as required by the State, which reads as follows: In addition to the other sewer charges, the City hereby establishes a surcharge of \$10.50 per month payable by each customer of its system who receives or benefits from the services of the project financed by the loan with the borrower bond Series 2020. The collection of the surcharge shall start on July 1, 2020. 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 book keeping 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 110 percent debt coverage.

**13.0113 Sewer Rents for Use – Pay to Finance Officer.** A monthly rate for use of sewer shall be paid by the owner of the premises to the Finance Officer, who shall keep a true and accurate account of all receipts and collections.

**13.0114 Late Payments – Additional Deposits.** If, for any reason, any residents or businesses wait with the payment of sewer fees for more than one (1) month and service is disconnected according to the provisions herein, said user shall first pay a fee of \$100.00 prior to reinstatement for services. Payments received after the 15<sup>th</sup> of every month will pay a late fee set by the City Council and on file at the office of the Finance Officer.

**13.0115 Sewer Minimum fees.** Every property owner, whether utilizing sewer services or not, shall be responsible for a minimum monthly fee of \$30.50 per month per curb cock if the real estate has a structure located on it. If the real estate has no structure, then the fee is \$10.50 per month. The minimum fee can be adjusted from time to time via resolution of the city council. The purpose of this fee is to assist in the maintenance and upkeep of the sewer infrastructure of the City of Mellette. This ordinance shall apply to every property owner within the city limits that has a curb cock installed to its property. If the property owner is currently utilizing sewer service, they shall not be responsible for the fee in this section. If the property owner has requested that the water to their

property be turned off, either temporarily or permanently, or the property owner has had water turned off for nonpayment of fees, this section shall apply. This ordinance shall apply to every connection within the city limits.

## **Chapter 13.02 – Water**

**13.0201 Town Council – Duties.** The City Council shall have the immediate control, protection, and management of everything appertaining to the Water Works of the City of Mellette and have all the powers duties hereinafter enumerated.

**13.0202 Employees – Appointment& Compensation.** The City Council shall appoint all other regular employees of the water works and fix the salaries or compensation of every person connected there within.

**13.0203 Water Mains – Map.** The City Council may provide and maintain a comprehensive map of all water mains, branches, extensions, hydrants, and gates, showing their location and size. Any changes of or additions to the water system require that the maps and records thereof be corrected and enlarged as the occasion may require. The map will be on file with the Finance Officer.

**13.0204 Inventory and Record.** The Finance Officer shall, at the end of each year, make and file with the City Council, a complete inventory in detail, of all tools, implements, furniture, and other articles of personal property belonging to the water department. He shall also keep in a book provided therefore, records with a suitable diagram showing the location, number, and size of all taps in the main and service pipes connecting therewith, and such other records as he may be directed.

**13.0205 Permit.** Any person desiring to make service connection with the water system shall make application in writing to the Finance Officer in such form as the City Council may prescribe and pay the Finance Officer the fee for tapping the main as hereinafter provided for. The application shall be filed in the office of the City Finance Officer. Upon the filing of the application and the payment of the fee, a permit shall be issued authorizing the connection to be made at the place provided therein. No tap shall be made until a permit is issued therefore.

**13.0206 Fees for Connection.** The City Council is hereby authorized by resolution to prescribe a schedule of fees for making a tap upon the City water mains and connections to the curb stop. Said fees to be in an amount set by the city.

**13.0207 Repair of Service.** Whenever any iron service pipe breaks or leaks between the corporation cock and meter, such iron service pipe must be replaced with copper or 160 pounds per square inch pipe, and all service pipes between the corporation cock and the meter hereafter installed, or changed shall be copper or 160 pound per square inch pipe; and if copper pipe is used, the same shall be extra heavy soft copper pipe known as “Type K” stamped thereon.

**13.0208 Cut Offs.** All stop boxes and cut offs for controlling the supply of water to consumers shall be placed approximately six feet from the property line nearest to the main, where the tap is to be made with the top of the stop box even with the grade of sidewalk or parking. However, this rule shall not apply where the water supply is controlled by a valve in the street, which must have a manhole. All such cut offs are under the control of the City. The user or owner of the premises supplied with water shall be responsible for any damage to the curb box.

**13.0209 Meter Required -Fees.** All places supplied with water shall be metered by a meter furnished by the City and of a type approved by the City Council. All meters shall be tested before installation. The owner of the premises where the meter is to be installed shall pay the Finance Officer a sum in the amount equal to the cost

of such meter. Payments shall be made in advance of installation to the City to ensure the payment of all water rent and other charge occasioned by such water service.

**13.0210 Meter Repairs.** The City will make all necessary repairs to meters, and all repairs to said meters shall be made at the expense of the owner of the premises or user and may be charged against the rental account of such owner or user and become payable as water rent.

When any meter is returned or taken, it shall be determined the amount of damage, if any, to the same and the cost of repairing such meter. The Finance Office shall subtract from the deposit the amount of such damages or repairing as determined, any amount due the City for water rent, any amount due the City for any cause arising out of such water service and return the balance.

**13.0211 Placing of Meters and Cut Off Valves.** All meters shall be suitably placed on service pipe, with a compression stop and waste on the inlet side next to the meter, so as to be easy access and whenever possible not to exceed two feet from the wall or place where the service pipe enters the building or structure. The meter shall be kept free from all obstructions so that the same may be easily read and inspected and shall be protected from freezing or other damage. The cut off valve shall have a handle or wrench attaching thereto for the purpose of turning the same and must be kept accessible at all times. One inch and larger meters shall have cutoff valves on both inlet and outlet side. Meters of two-inch size or larger shall have a tee with one inch opening inserted between meter and stop valve on outlet side of meter.

**13.0212 Owner Responsible for Pipes and Fixtures.** All owners must at their own expense, keep their service pipe from the point of connection with the shut off and all other apparatus in good working order and properly protected from frost and other damage. No claim shall be made against the City of Mellette by reason of the breaking of any of the service pipes or apparatus, or for any other damage that may result from any shutting off or turning on of water, or for any variation of pressure. Water shall not be wasted or improperly used, and no reduction will be made from the rates because of leaking pipes or fixtures or for any other cause.

**13.0213 Notice to Discontinue Required.** Owners or consumers desiring to discontinue the use of water shall give 7 days' notice thereof to Finance Officer during normal business hours, and the minimum charge for water rent as provided in section 13-2-30 of this chapter shall in all cases apply until such notice is given and the water service discontinued, regardless of whether said premises are occupied and used or not. Upon the receipt of such notice, it shall be the duty of the city maintenance man to at once shut off the water at the curb cock, and the water shall not be turned on again unless a fee is paid to cover the expense of shutting off and turning on. Said fee shall be in an amount set by the City Council and on file at the office of the Finance Officer.

**13.0214 More than One Consumer from One Service.** Two or more premises cannot be supplied from the same service pipe unless each premise has its own curb cock. Owners of buildings who lease or sub-divide, shall be responsible for all water used in said premises. If more than one meter is placed upon one service pipe, the piping must be arranged that each meter can be set on separate pipe lines, and shall be so placed that no one of them shall measure water which has passed through another meter.

**13.0215 Must Not Permit Others to Use Water.** No consumer shall permit the owner or occupant of any other premises to use water from his/her service, except by special permission from the City Council.

**13.0216 Valve Between Meter and Boiler.** When a meter is placed on a pipe connected to a boiler or other hot water apparatus, an approved check and relief valve must be placed between such meter and said boiler or other hot water apparatus.

**13.0217 Building Purpose.** Contractors, builders, or others desiring water for building purposes must make application to the Finance Officer thereof.

**13.0218 Testing Meters.** In case there is any doubt of the accuracy of any meter on the part of the consumer, he may have the meter tested by the City. If the meter should prove to be more than five percent fast, proper deductions will be made from the bill for the preceding period. In case the meter is more than five percent slow, the proper amount will be added to the bill.

**13.0219 Meter Reading.** The Finance Officer shall be responsible for reading all City water meters on a monthly basis, computing the water rates and issuing invoices to residential and commercial users. The water rate fee will be set by the City Council and on file in the office of the Finance Officer.

Payments are due to the City Finance Officer no later than the 15<sup>th</sup> day of each month. Payments received after the 15<sup>th</sup> of the month shall be subject to a late fee set by the City Council and on file at the office of the Finance Officer. If, for any reason, any residents or businesses wait with the payment of sewer fees for more than one (1) month and service is disconnected according to the provisions herein, said user shall first pay a fee of \$100.00 prior to reinstatement for services.

**13.0220 Meters Failing to Register.** In cases where water meters fail to register the amount of water passing through them by being stopped up or from any cause whatever, the quantity used shall be determined and the charge made based upon the average amount used during two or more preceding periods of similar length.

**13.0221 Boxes for Meters.** All meters located outside of cellars must be placed in boxes. All such outside meter boxes must be constructed of brick, stone, cement, or other material other than wood and not to be less than three feet long and two and one-half feet wide, inside measurement, and must be provided with two close fitting covers so arranged as to provide a dead air space between each cover, and with the steps to enable one to descend into the box. The top of the meter box shall be at grade.

**13.0222 Interfering with fire Hydrant.** No person except the Chief of the Fire Department shall open, take water from, or in any way interfere with, injure, break, or deface any fire hydrant belonging to the Water Department of the City of Mellette.

**13.0223 Only Licensed Plumbers Allowed.** No person except a regularly licensed plumber or his/her employee shall be permitted to do any work on any pipes or connections made with the mains of or in any way connected with the water supply of the City of Mellette, and no plumber shall directly or indirectly allow any other person to do any work on said appliances under his/her license. All such plumbers shall be governed by all the rules and regulations of this Title.

**13.0224 Breaking Seals.** No person shall break any seal upon any meter, valve, private fire hydrant, or other fixtures that may be sealed. Provided that the seals on private fire hydrants and private fire protection valves may be broken in case of fire and when so broken shall be reported to the city maintenance man within twenty-four (24) hours.

**13.0225 Pipes Inspected Before Covered.** No water pipes laid underground shall be covered and the trenches filled until the water has been turned into such pipes and the said pipes have been tested and found to be watertight and below frost line, except when otherwise specially permitted.

**13.0226 May Shut Off Water to Make Repairs.** In case of leaks or other accidents to pipes or other apparatus connected with the City Water Works, plumbers may shut off water to make necessary repairs, but in all cases where it is necessary to repair or remove water meter, notice may be given to the city maintenance man and no plumber or other person shall remove any meter from a premises or change the location of any meter in any

premises without receiving a permit therefore from the Finance Officer. In all cases, when plumbers make repairs to pipes or fixtures on any premises, they shall leave the water turned on or turned off as they found it to be when they entered upon the premises to make such repairs.

**13.0227 Leave Water Turned Off.** In no case shall any plumber after the completion and test of any plumbing job, if it be the first installation of service pipe, leave the water turned on but in all cases the stop cock at the curb shall be shut off.

**13.0228 Water Shut Off – Expense.** When the water has been shut off on account of nonpayment of its bills or for violation of any of the rules and regulations of the City, it will not be turned on again until all the arrears are paid, together with an additional payment of an amount set by the City Council and on file at the office of the Finance Officer, to cover the expense of shutting off and turning on. If any person from whose premises the water has been shut off for any of the reasons herein provided shall turn the water on or cause the same to be turned on without authority from the City Council, he shall be deemed guilty of a misdemeanor. Shut off and turn on fees shall be set annually by the City Council.

**13.0229 Water Rates.** Each residential and commercial consumer shall pay on a monthly basis, and the fee shall be set by the City Council and on file in the office of the Finance Officer.

The monthly water rate shall be \$50.00 per month for the first 1,000 gallons and \$6.00 per each additional 1,000 gallons to take effect on May 1, 2024.

Any entity utilizing more than 30,000 gallons per month for 10 months per calendar year shall be considered a bulk water user. The monthly bulk user base rate for water shall be \$222.51.

**13.0230 Water Fee - Collection.** Water fees shall be collected by the Finance Officer who shall keep a true and accurate amount of all receipts and collection.

**13.0231 Delinquent Rents.** It shall be the duty of the Finance Officer to report to the City Council all delinquents on or before the 15<sup>th</sup> day of the following month in which the same became due. And it shall thereupon be the duty of the Finance Officer to notify persons whose rent is delinquent and the owner of the property occupied by such persons that unless such delinquent water rent be paid within ten (10) days, the water service will be discontinued and in case the delinquent rent is not paid within that time, the Water Superintendent shall discontinue water service to the property occupied by him, together with the fee for turning on the same. The Water Superintendent is authorized to disconnect and take the meter and apply the meter deposit or any part thereof, or any amount due to the City, under the provisions of this chapter.

**13.0232 Owner – Lessee – Liable.** The owner of private property, which property has upon its pipes connected with the City Water Works to convey water upon such property shall as well as the lessee or occupant of the premises, be liable to the City of Mellette for the rents or rates of all water from said Water Works used upon said premises, which may be recovered in an action against such owner, lessee or occupant, or against any of all of them.

**13.0233 Fires.** In case of fire the Chief of the Fire Department shall have full management and control for the time being of all mains, gates, and fire hydrants and it shall be the duty of the Chief of Police to carry out any lawful order of the Fire Department in relation to the Water Works.

**13.0234 Hydrants.** Any person desiring to lay large pipes for hydrant or hose couplings to be used only in case of fire, will be permitted to connect with the street main at their own expense upon application to the Finance Officer, and under his/her direction, and will be allowed to use the water for fire purposes only, free of charge; but all such pipes must be provided with a suitable valve, which must be sealed, and a stop and waste cock

attached at the bottom of the inside of the building. In case the seal is broken for the extinguishment of fire, the party must immediately give notice to the Chief of Police and in case the seal shall have been broken for any other use, the party offending shall be subject to a fine in an amount set by the City Council and on file at the office of the Finance Officer.

**13.0235 Drinking Fountains.** Service pipes to all outdoor drinking fountains are to be provided with a stopcock or a street valve, which will be under the exclusive control of the City.

**13.0236 Use Without Meter Unlawful.** It shall be unlawful for any person to use any water from the City Water Works except through a meter regularly installed under the provisions of this ordinance or turn the water on and off with at any curb cock or street valve without the permission of the City Council.

**13.0237 Water – Restrictions.** The City Council shall have the right to limit or prohibit temporarily the use of water from the City distribution system for any purpose excepting domestic purposes within the dwellings of consumer or in business establishments during emergencies in the event of plant breakdown, prolonged drought, or shortage of water supply for any reason to the end that fire protection efficiency may be maintained at its maximum. Notice of such limitation or prohibition of the use of such water shall be given by publishing a notice thereof once in the official newspaper of the City or by personal notice. Any person violating the terms of such prohibition or restriction after such notice shall be guilty of a misdemeanor or subject to penalties in this ordinance. Water service to the premises involved may be discontinued entirely during such emergency.

**13.0238 Penalty.** Any person violating any of the provisions of this chapter shall in addition to the ordinary penalties prescribed for violation of this ordinance, be subject to having water service turned off from the premises of such person and service shall not be restored until there has been full compliance of this chapter and the payment of such fees for restoring service as may be provided by this chapter, which may include the imposition of a penalty of \$250.00 deposit required before restoration of service, as determined by the City Council.

**13.0239 Water Minimum fees.** Every property owner, whether utilizing water services or not, shall be responsible for the minimum monthly fee per month per curb stop if the real estate has a structure located on it. If the real estate has no structure, then the fee is 50% of the minimum fee per month. The minimum fee can be adjusted from time to time via resolution of the city council. The purpose of this fee is to assist in the maintenance and upkeep of the water infrastructure of the City of Mellette. This ordinance shall apply to every property owner within the city limits that has a curb cock installed to its property. If the property owner is currently utilizing water service, they shall not be responsible for the fee in this section. If the property owner has requested that the water to their property be turned off, either temporarily or permanently, or the property owner has had water turned off for nonpayment of fees, this section shall apply. This ordinance shall apply to every connection within the city limits.

## **TITLE 14 – STREETS, SIDEWALKS AND PUBLIC PLACES**

**Chapter 14.01 – Names of Streets and Avenues**

**Chapter 14.02 – Sidewalks**

**Chapter 14.03 – Snow Removal**

**Chapter 14.04 – Trees in Public Places**

**Chapter 14.05 – Use of Streets and Public Places**

**Chapter 14.06 – Excavations in Public Places**

**Chapter 14.07 – Moving Buildings**

## **Chapter 14.01 – Names of Streets and Avenues**

**14.0101 Plots Park of Ordinance.** Those plots indicating the names of streets and avenues of the City of Mellette, South Dakota, now on file in the office of the Register of Deeds of Spink County, South Dakota, are hereby incorporated as a part of this ordinance.

**14.0102 Official Map.** The official map of the City of Mellette shall be those maintained in the office of the Register of Deeds in Spink County, South Dakota.

**14.0103 Names of the Streets and Avenues.** The official names of the streets and avenues in the City of Mellette Shall be those as shown on the official map or maps maintained in the office of the Register of Deeds of Spink County, South Dakota.

## **Chapter 14.02 – Sidewalks**

**14.0201 Supervision of Sidewalk and Curbing Construction.** The building and construction of all sidewalks and curbing within the limits of the streets and alleys of the City of Mellette shall be done under direct supervision of agents and all such sidewalks shall be constructed on the grades as determined by the said city.

**14.0202 Specifications.** The construction of all sidewalks and curbing whether to be done by direct contract with the City of Mellette or by contract with the abutting property owners, shall be done strictly in accordance with the specifications for sidewalks and curbing adopted by the City Council and on file in the office of the Finance Officer. The City Council shall have full power to condemn work ad material not in accordance with the requirements of said specifications.

**14.0203 Permit Required.** Before any sidewalk or curbing is constructed within the limits of the streets and alleys in the City of Mellette 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 City Finance Officer.

**14.0204 Bond.** Before any such contractor or person shall receive a permit for the construction of any sidewalk or curbing within the limits of the streets or alleys of the City of Mellette, such person or contractor must first execute a guaranty bond in an amount equal to the total amount of the work to be performed by him under the contract therefore, with good and sufficient surety approved by the City Council; or may give a bond of an amount set by the City Council and on file at the office of the City Finance Officer to cover all work to be done by such contractor during the year in which the bond is given. All such bonds shall require that the contractor or person receiving such permit shall replace all sidewalks and curbing constructed by him at any time within the period of three years, from the time of completion of said sidewalks or curing which, in the opinion of the City Engineer, were not laid in accordance with the required specifications, provided however, that no bond shall be required where the owner of the abutting property does his/her own work.

**14.0205 Width of Sidewalks.** The width of the sidewalks in the residential districts shall be four (4) feet and the width of sidewalks in the business district shall be eight (8) feet.

## **Chapter 14.03 – Snow Removal**

**14.0301 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 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. This must be done within twenty-four (24) hours after snowfall. Snow removed may not be shoveled or blown into the streets.

**14.0302 Penalty.** Any person who fails to remove such snow or places the same in the street shall be subject to the penalties in this ordinance; and in addition, thereto, shall be liable to the City for any damage caused by the neglect to keep such sidewalk clear and free of snow and ice as provided in this chapter.

#### **Chapter 14.04 – Trees in Public Places**

**14.0401 Trimming Trees.** The occupant of any private premises, or the owner of the same, if not occupied, abutting on any public street, road, or alley within the City of Mellette shall keep all trees standing upon such premises, or between the same and the center of adjoining street, road, or alley so trimmed that no bough or branches thereof shall be lower than seven feet above the surface of the street, road, or alley or any sidewalk thereon; provide that upon the failure of any occupant or owner to trim such trees as in this section provided, the City Council of the City of Mellette shall have authority to remove or cause to be removed under its provisions any trunk, limb, or branch of any tree that is, or in the judgement of said City Council, which shall extend or hang lower than fifteen (15) feet above the surface of any street, road, alley, walk way, or sidewalk, whether such trees are growing on privately owned property and may cause the same to be trimmed and charged the expense thereof the occupant or owner of such property.

**14.0402 Permission to Plant and Maintain.** No person shall plant, spray, fertilize, preserve, prune, remove, cut above ground or otherwise disturb any tree on any street or city-owned property without first receiving permission from the City Council.

**14.0403 Trees – Injury.** It shall be unlawful for any person to injure any tree or shrub planted in any public place by physical means, use of herbicides, or any means whatsoever, nor shall any person remove or cut down any tree, hedge, or shrub in any such public place without first having secured a permit from the Mayor to do so.

**14.0404 Trees – Guide Wires.** It shall be unlawful for any person to attach any wire or rope to any tree in a public place without having a permit from the Mayor to do so.

**14.0405 Trees – Public Service Corporation.** Any person, company or firm having the right to maintain wire, cables, and poles in the public street and alleys and other public places, must keep the before mentioned wire and cables and poles free from and away from any trees or shrubs in such places so far as it may be possible and shall keep all such trees and shrubs trimmed away from said poles and wire subject to the supervision of the Mayor; and in asking for excavations in streets or other public places for underground services or the repair thereof, said person, company, or firm shall take proper care to avoid injury to the roots of any tree, hedge, or shrub.

**14.0406 Trees – Appeal.** Any person affected or grieved by any decision of the Mayor shall file a petition before the City Council who shall, within two days, either affirm or modify the decision of the Mayor.

**14.0407 Trees and Grass Plots.** It shall be unlawful for persons owning or occupying lots or parcels of land within the City of Mellette to embellish the same by planting shade trees within the limits of the street adjoining such premises; provided, that such shade trees are planted between the sidewalk and the gutter; also to make and keep in order lawns and grass plots between the sidewalk and curbing, and any person who shall injure such trees or any of them or any shade trees now growing within the limits of any street or any grass plot of lawn which may have been planted or made in conformity with this section, or any shade tree, shrub, flower, or plant growing in any private or public grounds within the City, or cause the same to be injured by grading, breaking, tearing, cutting, picking, tying animals thereto, or in any manner, shall be subject to the penalties in this ordinance.

**14.0408 Cottonwood Trees.** No female Cottonwood trees are allowed within the city limits.

#### **Chapter 14.05 – Use of Streets and Public Places**

**14.0501 Obstruction on Streets.** No person shall place, leave, or keep on any public street, road, alley, sidewalk or other public ground in the City of Mellette, any wagon, automobile, cart, truck, sleigh, or other vehicle except when the same shall be in actual use; nor shall any person place, leave or keep on any public street, road, alley, sidewalk or other public ground of this City any other article, substance or material which may obstruct the free use of said street, road, alley, sidewalk, or public ground, except as hereinafter provided.

**14.0502 Materials in Streets – Permits.** The City Council is authorized to grant permission in writing to any person to deposit and keep lumber, stone, brick, or other materials for building in any public sidewalk, street, road, or alley adjacent to the building to be erected or repaired, but such permissions shall not excuse the obstruction or occupancy with such materials of more than one-third in width of any through way of any street or road.

**14.0503 Cleaning Streets or Sidewalks of Rubbish.** Every person to whom permission may be granted, as in the last section provided, to keep and place building material in the street, road, or alley shall cause all such material and the rubbish resulting therefrom, to be removed from such sidewalk, street, road, or alley at the expiration of the time limited in the permit, unless the time shall, for good cause, be extended by the City Council; and any person depositing and keeping any building material on such sidewalk or in such street, road, or alley shall there remain, keep one or more lighted devices so placed that such material may be easily seen by persons passing along such sidewalk, street, road, or alley.

**14.0504 Excavation Near Street.** It shall be unlawful for any person, owner, or occupant of any lot or parcel of land within the City of Mellette 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, streets, or alley or public grounds.

**15.0505 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 the City of Mellette, or so constructed that any part of the building proper shall project into or over such street, road, alley or sidewalk; provided that jut windows, cornices, and other projections from the 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 or upon the sidewalk nor shall any person erect in any public street or road any flight of stairs or step leading to any floor of any building.

**14.0506 Eave Pipes.** No person shall place or maintain any pipe leading from the eaves of any building or any part of any building in said City in such a position that the water discharged from the roof of said building will flow upon or over any public sidewalk in the City of Mellette.

**14.0507 Garbage in Streets.** It shall be unlawful for any person, firm, or corporation to throw or deposit any ashes, dirt, garbage, decaying vegetables, meat, fish, manure, filthy water, slops, or any other offensive or putrid material or thing into or upon any street, avenue, land, alley, or public ground within the corporate limits of the City of Mellette or into any stream of water within the limits of said City of forming the boundaries thereof.

**14.0508 Animals and Vehicles on Sidewalks.**No person shall drive, ride, or lead any horse or mule or drive or lead any cow or any other animal upon any public sidewalk in the City of Mellette, or draw or propel or cause to be drawn or propelled thereon any vehicle ordinarily drawn by horses; or drive or operate, cause to be driven or operated, any motor vehicle upon any sidewalk in the City of Mellette, except that the same may be driven across any sidewalk in entering or leaving the premises.

**14.0509 Use of Streets for Sale of Vehicles, Etc.** No person shall display for sale any vehicle or other personal property upon any of the streets or avenues in the City of Mellette.

#### **Chapter 14.06 – Excavations in Public Places**

**14.0601 Permit Required.** No person shall make or cause to be made any excavation in or under any street, parking, sidewalk, alley, or public ground, or remove any earth, soil, paving, gravel, or material therefrom without having first obtained a permit therefore as hereinafter provided.

**14.0602 Application.** Application for such permit shall be made to the Finance Officer. Such application shall be accompanied by a fee of an amount set by the City Council and on file at the office of the Finance Officer, which amount shall be considered compensation to the City for the granting of such permit and the necessary investigation prior thereto. Before any such permit is issued, the person requiring the same shall state in this application therefore where such excavation is to be made, the extent thereof, in front of what lot or lots, and for what purpose excavation is to be made.

**14.0603 Supervision of Excavations.** The Chief of Police shall supervise all excavations made for any purpose in the streets, alley, or public ground and he shall require that all excavations be backfilled in the manner specified.

**14.0604 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 by day and night suitable guards, fences, flares, and signals so as to prevent injury to person, animals, or vehicles on account of such excavations. Such flares shall be kept lighted from sundown until sunrise.

**14.0605 Refilling Excavations.** Any person making such excavation shall when the same shall be completed, promptly and without delay, refill the same as herein provided.

In refilling any excavation, the earth shall be thoroughly settled as the refilling progresses by using water to compact the earth; 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 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 City.

**14.0606 Cutting Pavements.** Where it is necessary to cut the street pavement in making any street excavation, there shall be deposited with the Finance Officer before permit is issued, an amount determined by multiplying the number of square yards of pavement to be removed by the per square yard charged of an amount set by the City Council and on file at the office of the Finance Officer. The deposit shall be credited to the permanent street fund and be used in replacing said pavements.

**14.0607 Excavations near Streets.** It shall be unlawful for any person, owner, or occupant of any lot to make or cause to be made any excavation on said lot adjacent to any street, alley, public ground, or traveled road or roadway, except the same be securely guarded so as to prevent the injury of any person or animal passing upon or along the same.

**16.0608 Operating in Sidewalks.** It shall be unlawful to make, cause to be made, or maintain any opening in any sidewalk for the purpose of providing light for a basement or cellar or for ventilating the same, unless such opening shall be guarded with a substantial railing of iron not less than three feet high, or with a substantial iron grating or other strong substantial cover, the grates of which shall not be more than one inch apart. No railing or grate shall occupy more than two feet of sidewalk, measuring from the inner side thereof.

**14.0609 Excavations Under Sidewalks.** Any person having or erecting any building abutting upon any street, avenue, or alley in the City of Mellette, may excavate under the sidewalk to the curb for any purpose of constructing a cellar or basement under the sidewalk in front of or adjoining said building; provided, that said

excavation shall be surrounded upon the outer side and ends thereof with a substantial wall, to be approved by the building committee, sufficient to maintain the said sidewalk. The plan of said sidewalk shall be approved by the building committee; and provided further, the permission to make such excavations and to construct such sidewalk, shall be first obtained from the Finance Officer. The excavation shall be securely guarded by barricades at all times and one or more lighted fares, so long as the same shall remain open.

#### **Chapter 14.07 – Moving Buildings**

**14.0701 Permission to Move Building on Streets.** It shall be unlawful for any person to move any building into, along, or across any public street, alley, or highway within the City of Mellette without first having obtained permission to do so in compliance with the provisions of this chapter.

**14.0702 Application Must State.** Anyone desiring to move any building into, along or across any public street, alley, or highway within the City of Mellette, shall first apply in writing for permission to do so, to the office of the Finance Officer, fully stating the name of the applicant, the name of the owner of the building, the description of the lot of which it is to be moved, the street along which it is proposed to move such building, the time when the removal will take place, and the size of the building; which application shall be accompanied with a minimum sum of guarantee bond and/or fees charged in the amount set by the City Council and on file in the office of the Finance Officer, to be deposited with the Finance Officer. The pledge or guarantee bond 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 such removal, to be returned to the person depositing same upon an official report of the condition of the streets, sidewalks, crossings, or other public or private property after such removal, made by the Chief of Police to the officer or employee to whom has been delegated the supervision of the streets.

Fees charged in the amount set by the City Council and on file at the office of the Finance Officer will be retained by the City along with the original cost of the permit.

**14.0703 Guarantee Fund.** Whenever the officer or the employee in charge of the streets shall decide from any examination of the application and from such other information as he may obtain, that the amount of the pledge or guarantee fund is not sufficient for ample protection of the City against the probably damages and expenses that may be caused by the removal of such building, the officer is hereby authorized and it shall be their duty to require the deposit of a sum larger than the minimum amount set by the City Council but not to exceed a maximum amount set by the City Council and on file at the office of the Finance Officer.

**14.0704 Permit – Contents.** On the receipt of the application as hereinbefore provided, the officer or employee to whom has been delegated the supervision of the streets may personally or through the Chief of Police, investigate the representations of the application and if such investigation is satisfactory, he shall approve said application by endorsement thereon and the Finance Officer 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 such officer or employee, said removal to be finished prior to the time stated in such permit.

**14.0705 Refunding Guarantee Fund.** Before refunding said guarantee fund or any part thereof, it shall be the duty of the officer or employee in charge of the streets to examine the report and pay out of said fund or set aside for each such purpose the amount claimed or ascertained as the damages for injuries to the public or private property, including the expenses for protection to electric and telephone wires as aforesaid, caused or occasioned by the removal of such building. When granting the permit, the City Council shall establish the fee based upon necessary supervision of the work, traffic control, cleanup costs incurred by the City, and the portion owed for any bond redemption.

**14.0706 Application Must Serve Notice to Owners of Wires, Etc.** If the permit includes streets, alleys, and highways which are located or across or along strung electric power lines or telephone wires, it shall be the duty of

the applicant o provide to the City proof that all related utilities have been disconnected or that proper arrangements have been made.

**14.0707 Permit Fees Required to Remove Buildings Based on Assessed Value.** Prior to removing a building, a permit must first be approved by the City Council. The permit application shall include all provision of chapter 14.0702 of this ordinance. Prior to approval by the City Council, the applicant must: (1) provide proof of payment of all real estate taxes, including such real estate taxes accrued, but not yet due, to the date of removal of said building, and (2) pay the City the portion owed for any bond redemption assigned to said building in addition to the permit fees as specified below.

The permit application shall be accompanied by a permit fee in the amount of seven point five percent (7.5%) of the assessed valuation of the building as established by the County Director of Equalization on the most recent tax notice, with a minimum fee of five hundred (\$500.00) dollars or less, and is determined to be uninhabitable by the City Council, a permit in the sum of five hundred (\$500.00) dollars shall be deposited with the application. The City Council may, in its discretion, refund a portion of the permit fee.

In the event the assessed valuation of a building is excessive, the City Council may, in its discretion, refund a portion of the permit fee that the City Council feels is excessive.

## **TITLE 15 – TRAFFIC CODE**

**Chapter 15.01 – General Regulations**  
**Chapter 15.02 – Operation of Vehicles**  
**Chapter 15.03 –Parking**

**Chapter 15.04 –Pedestrians**

**Chapter 15.05 –Speed Regulations**

**Chapter 15.06 –Traffic Signs and Signals**

**Chapter 15.07 –Miscellaneous Provisions**

**Chapter 15.08 –Snowmobile Operation**

**Chapter 15.01 – General Regulations**

**15.0101 Definitions.** Terms used in this title, unless the content otherwise plainly requires, shall mean:

A. Authorized Emergency Vehicles. Vehicles of the Fire Department, police vehicles, and such ambulances and emergency vehicles of municipal departments or public service corporations as are designed or authorized by the Spink County Sheriff.

B. Crosswalk. That portion of a roadway ordinarily included within the prolongation of curb and property lines at intersections, whether marked or not, or any other portion of a roadway clearly indicated for pedestrian crossing by lines or other markings on the surface of the street.

C. Curb. The extreme edge, or lateral boundary of a roadway, whether marked by curbing or not.

D. Department. The Police Department of the City of Mellette, whose duties are fulfilled by the Spink County Sheriff's Office.

E. Double Parking. The standing of a vehicle upon a street at the rear of another vehicle which is parked diagonally at the curb, or the standing of a vehicle upon the street alongside and parallel to another vehicle which is parked parallel at the curb.

F. Driver or Operator. Any person who is in actual physical control of a vehicle.

G. Left Hand Side of a Street. The side to the left of the vehicle as it moves forward.

H. Right Hand Side of a Street. The side to the right of the vehicle as it moves forward.

I. Motor Vehicle. Every vehicle which is self-propelled.

J. Vehicle. Every device in, upon, or by which any person or property is or may be transported or drawn upon a street, provided that for the purpose of this Title a bicycle or animal that is being ridden, driven, or led shall be deemed a vehicle.

K. Parking. The standing of a vehicle, whether attended or unattended upon a roadway, otherwise then temporarily for the purpose of and while actually engaged in loading or unloading passengers.

L. Pedestrian. Any person afoot.

M. Private Road or Driveway. Every road or driveway not open to the use of the public vehicular travel.

N. Right-of-Way. The privilege of the immediate use of the street.

O. Roadway. That portion of a street devoted to vehicular traffic.

P. Semi-trailer. Every vehicle of the trailer type so designed and used in conjunction with a motor vehicle that some part of its own weight and that of its own load rests upon or is carried by another vehicle.

Q. Sidewalk. That portion of the street between the curb lines and the adjacent property lines.

R. Street. The term street shall mean any street, avenue, boulevard, alley, highway, or public place set apart for the public vehicular travel.

S. Street Intersection. That portion of a street where it joins another at an angle, whether or not it crosses the other street, and shall include the full width of the street between the curb lines, extended, of the intersection streets.

T. Through Streets. Streets, or parts thereof, that have been so designated and marked, by order of the City Council.

U. Trailer. Every vehicle without motive power designed for carrying property or passengers wholly on its own structure and for being drawn by a motor vehicle.

**15.0102 Enforcement – Duty of Police Department.**

A. It shall be the duty of the Chief of the Police Department office to enforce all the regulations and requirements of this title. The Spink County Sheriff's Department is herein substituted for a City Police Department.

B. Whenever any police officer shall find a vehicle standing or parked upon any street, as defined in this chapter, in the City of Mellette, in violation of any of the provisions of this title, he is hereby authorized to move such vehicle to a position and location permitted under the sections of this title relating to the parked vehicles.

**15.0103 Police to Direct Traffic.** Police officers shall direct all traffic in conformance with the traffic laws and ordinances, provided that in the event of a fire or other emergency, or to expedite traffic or safeguard pedestrians, members of the Police or Fire Department may direct traffic as conditions may require.

**15.0104 Obedience to Police.** It shall be unlawful for any person to refuse or fail to comply with any lawful order, signal, or direction of the Police Department.

**15.0105 Authority of Police Department to Adopt Regulations.** The Chief of Police or Sheriff of Spink County, with the approval of the City Council, is hereby empowered to make and enforce regulations necessary to make effective the provisions of this title and to make temporary regulations to cover emergencies or special conditions, provided any such regulations are not inconsistent with the provisions of this title.

**15.0106 Public Employees to Obey Traffic Regulations.**

A. The provisions of this title shall apply to the operator of any vehicle owned or used in the service of the U.S. Government, this State, Country, or City; and it shall be unlawful for any such operator to violate any of the provisions of this title, except as otherwise permitted in this title.

B. The provisions of this title regulating the movement, parking, and standing of vehicles shall not apply to authorized emergency vehicles as defined in this title while the operator of such vehicle is operating the same in an emergency in the necessary performance of public duties this exemption shall not, however, protect the driver of any such vehicle from the consequence of a reckless disregard of the safety of others.

**Chapter 15.02 – Operation of Vehicles**

**15.0201 Driving on the Right Side of the Street.** Upon all streets, except upon one-way streets, the operator of a vehicle shall drive the same upon the right half of the street and shall drive a slow moving vehicle as closely as possible to the right hand edge or curb of a street unless it is impractical to travel on such side of the

street and except when overtaking and passing another vehicle subject to the limitations applicable in overtaking and passing set forth in this title.

The foregoing provision of this section shall not be deemed to prevent the marking of lanes for traffic upon any street and the allocation of designated lanes to traffic moving in a particular direction or at designated speeds.

**15.0202 Overtaking and Passing.** The driver of any vehicle over-taking another vehicle proceeding in the same direction shall first give audible warning of his/her intention to pass and shall then pass at a safe distance to the left thereof, but only when such left side is clearly visible and free from oncoming traffic for a sufficient distance ahead to permit such overtaking and passing to be made in safety and shall not cut in front of overtaken vehicle until safely clear of same, and in no case shall a vehicle pass another vehicle in a street intersection. The driver of a vehicle shall move to the right of the roadway a sufficient distance to allow passing when so signaled from a vehicle behind desiring to pass and shall not increase the speed of his/her vehicle until completely passed by overtaking vehicle. Vehicles shall not travel two or more abreast on any street.

**15.0203 Slow Driving.** No person shall drive any vehicle at any unnecessarily slow rate of speed so as to hinder and retard the traffic.

**15.0204 Following too Closely.**The operator of a motor vehicle shall not follow another vehicle more closely than is reasonable and prudent, having due regard to the speed of such vehicles and the traffic upon and condition of the roadway.

**15.0205 Vehicles Shall Not be Driven on Sidewalks.**

A. The operator of a vehicle shall not drive on or within any sidewalk area, except as a permanent or temporary driveway.

B. A vehicle shall not be allowed to cross a sidewalk except where a driveway has been provided. In crossing a sidewalk to or from an alley, lot, or building, no vehicle shall be driven at a speed greater than four (4) miles per hour.

C. Every person driving any vehicle to or from an alley, lot, private driveway, or building across any sidewalk shall give ample notice and warning of his/her approach; and in the business district, shall come to a full stop before crossing the sidewalk.

**15.0206 Operation of Vehicles on Approach of Authorized Emergency Vehicle.** Upon the approach of any authorized emergency vehicle or vehicles giving audible signal by bell, siren, exhaust whistle, or flashing lights, the operator of every other vehicle shall immediately drive the same to a position as near as possible and parallel to the right-hand edge or curb of the street, clear of any intersection and shall stop and remain in such position until the authorized emergency vehicle or vehicles shall have passed, unless otherwise directed by a Police Officer.

**15.0207 Following Any Authorized Emergency Vehicle Prohibited.** It shall be unlawful for any driver of any vehicle other than one on official business to follow any authorized emergency vehicle traveling in response to a fire alarm closer than five hundred (500) feet or to drive or park such vehicle within three hundred fifty feet of the place where any fire apparatus has stopped or may be located in answer to a fire alarm.

**15.0208 Brakes, Bell, Horn and Lights.** Every motor vehicle operated or driven upon the streets and alleys of this City shall be provided with adequate brakes in good working order sufficient to control such motor vehicle at all times when the same is in use and a suitable and adequate bell, horn, or other device for signaling and shall, during the period of one-half hour after sunset and one-half hour before sunrise, display lighted lamps as required in SDCL and any amendments thereto.

**15.0209 License Plates.** No person shall operate or drive a motor vehicle within the City of Mellette without having conspicuously displayed thereon license plate or plates as required by the statutes of the State of South Dakota, securely fastened, and shall be kept free from mud, dirt, or other obstruction so that said license plate or plates shall be clearly legible by other persons upon said roadways.

**15.0210 Driver's Permit Required.** It shall be unlawful for any person who is a resident of the State of South Dakota to drive or operate upon any of the streets or roadways within the City of Mellette any motor vehicle without first having secured and having in his/her possession a permit to do so issued by the State of South Dakota under the provisions of SDCL, and any acts amendatory thereto.

**15.0211 Motor Vehicles Left Unattended, Brakes to be Set.** No person driving or in charge of a motor vehicle shall allow such vehicle to stand on any street unattended without first setting the brakes thereon when standing upon any grade, turning the front wheel to the curb or side of the roadway.

**15.0212 Unlawful to Drive through Processions unless Directed by Police Officer.** It shall be unlawful for the operator of any vehicle to drive between the vehicles comprising a funeral or other authorized procession while they are in motion. This provision shall not apply to intersections where traffic is controlled by Police Officers.

**15.0213 Backing Around Corners or into Intersection Prohibited.** It shall be unlawful for the operator of any vehicle to back such vehicle around a corner at an intersection or into an intersection of public streets.

**15.0214 Driver's View of Control.** No person shall drive a motor vehicle when there are more than three persons in the front seat thereof, or when such motor vehicle is so loaded as to obstruct the view of the driver to the front or sides of said vehicle, or so as to interfere with the driver's control over the mechanism of the vehicle.

**15.0215 Crossing Fire Hose.** No vehicle shall be driven over any unprotected hose of the Fire Department when laid down on any street or private driveway to be used at any fire or alarm of fire without the consent of the Fire Chief of the Fire Department official in command.

**15.0216 Careless Driving.** Any person who drives any vehicle upon a street, alley, or public place carelessly and heedlessly in disregard of the rights and safety of others, or without due caution and circumspection and at a speed or in a manner so as to endanger or be likely to endanger any person or property, shall be guilty of careless driving.

**15.0217 Driving or Control of Vehicle Prohibited with Alcohol in Blood or While Under Influence of Drugs or Alcohol.** SDCL Chapter 32-23 shall govern any provisions pertaining to driving or being in control of a vehicle while under the influence of alcohol or any controlled substance or drug.

**15.0218 Clinging to Moving Vehicles.** No person traveling upon any bicycle, coaster, sled, skis, roller skates, or any other toy vehicle shall cling to or attach himself or his/her vehicle to any other moving vehicle upon any street.

**15.0219 Riding on Outside of Vehicle.** No person shall ride upon the running board or fenders of any motor vehicle in motion and no person driving a motor vehicle shall allow any person to ride upon the running board, fenders, or outside of any such vehicle he is driving while same is in motion.

**15.0220 Boarding or Alighting From Vehicle in Motion.** No person shall board or alight from any vehicle while same is in motion.

**15.0221 Keep to the Right in Crossing Intersections.** In crossing an intersection of highways, except upon a one-way street, the driver of a vehicle shall at all times cause such vehicle to travel on the right half of the highway unless such right half is obstructed or impassable.

**15.0222 Meeting of Vehicles.** Operators of vehicles proceeding in opposite directions shall pass each other to the right. Each giving to the other at least on-half of the main traveled portion of the roadway as nearly as possible.

**15.0223 Driving on Roadways Laned for Traffic.** Whenever any roadway has been divided into two or more clearly marked lanes for traffic, the following rules in addition to all others consistent herewith shall apply.

A. A vehicle shall be driven as nearly as practical entirely within a single lane and shall not be moved from such lane until the driver has first ascertained that such movement can be made with safety.

B. Official signs may be erected directing slow moving traffic to use a designated lane or designate those lanes to be used by traffic moving in a particular direction regardless of the center of the roadway and drivers of vehicles shall obey the directions of every such sign.

**15.0224 Driving on Divided Highways.** Whenever any highway has been divided into two roadways by leaving an intervening space or by a physical barrier or clearly indicated dividing section so constructed as to impeded vehicular traffic, every vehicle shall be driven only upon the right hand roadway and no vehicle shall be driven over, across, or with any such dividing space, barrier, or section, except through an opening in such physical barrier or dividing section or space or at a crossover or intersection established by public authority.

**15.0225 Right-of-Way.** Subject to the exceptions stated in the next succeeding section, the right-of-wayrule as between vehicles at intersections is hereby declared as follows:

A. The operator of a vehicle approaching an intersection shall yield the right-of-way to a vehicle which has fully entered the intersection;

B. When two vehicles approach an intersection at approximately the same time, the operator of the vehicle on the left shall yield the right-of-way to the vehicle on the right;

C. The operator of any vehicle traveling at an unlawful speed shall forfeit any right-of-way, which he may otherwise have hereunder.

**15.0226 Exceptions to Right-of-Way.** The operator of a vehicle entering a public street shall yield the right-of-way to authorized emergency vehicles when the latter are operated upon official business and the operators thereof sound audible signal by bell, siren, or exhaust whistle. This provision shall not relieve the operator of an emergency vehicle from the duty to drive with due regard for the safety of all persons using the street, nor shall it protect the operator of any such vehicle from the consequences of an arbitrary exercise of such right-of-way.

**15.0227 Stopping Prohibited in Specified Places.** It shall be unlawful for the operator of any vehicle to stop, stand, or park such vehicle on any of the following places, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or a traffic control sign or signal.

A. Within an intersection;

B. On a crosswalk;

C. Within fifteen feet of inside boundary line of the sidewalk, or if no sidewalk is in place, within twenty five feet of the intersecting roadway, except that this provision shall not apply to alleys;

D. Within fifteen feet of the driveway entrance to any fire station, or directly across the street from such entrance;

E. Within fifteen feet of a fire hydrant;

F. In front of a private driveway;

G. On a sidewalk;

H. Alongside or opposite any street excavation or obstruction when such stopping, standing, or parking would obstruct traffic;

I. Parking against direction of traffic on through streets.

**15.0228 Stranding for Loading or Unloading Only in Certain Places.**

A. It shall be unlawful for the operator of a vehicle to stop, stand, or park said vehicle for a period of time longer than necessary for the actual loading or unloading of passengers in any place marked as a passenger loading zone.

B. It shall be unlawful for the operator of the vehicle to stop, stand, or park said vehicle for a period of time longer than is necessary for the actual loading or unloading of passengers or for the unloading and delivery or pick up and loading of materials in any place marked as loading zone.

C. The City Council shall have authority to determine the location of passenger zones and loading zones as described herein, and shall cause to be erected and maintained appropriate signs indicating the same.

**15.0229 Emerging from Alley or Private Driveway.** The operator of a vehicle emerging from an alley, driveway, or garage shall stop such vehicle immediately prior to driving onto a sidewalk or onto the sidewalk area extending across any alleyway.

**15.0230 Stop Before Entering Through Street.** Every operator of a vehicle or other conveyance traversing any street intersection any through street, as designated and marked by order of the City Council, shall bring such vehicle or conveyance to a full stop at the place within fifteen feet where such street meets the prolongation of the nearest property line of such through street, subject, however to the direction of any traffic control signs or signals or any law enforcement officer at such intersection. The vehicle entering a through roadway (where there is a stop sign) must yield to the right-of-way to all vehicles which are either within the intersection, or so close thereto as to constitute an immediate hazard.

**15.0231 Turning at Intersections.**

A. Right Turns. The operator of a vehicle intending to turn to the right at an intersection or into an alley or driveway shall approach the point of turning in the line of traffic nearest to the right-hand edge or curb of the street, and in turning shall keep as closely as practicable to the right-hand edge or curb of the street.

B. Turning Left. The operator of a vehicle intending to turn to the left at an intersection or into a driveway shall approach the point of turning in the lane of traffic to the right of and next to the center of the roadway; and unless otherwise directed by "turning marker" the operator of a vehicle in turning left at an intersection shall pass to the right of the center of the intersection before turning.

C. Turning Markers. The Chief of Police is hereby authorized to place turning markers within or at the entrance to the intersections directing that traffic turning left shall follow a line to travel other than directed in subdivision (b) of this section. Whenever turning markers have been placed as herein provided, traffic turning left shall follow the line as directed by such marker.

D. Turning Left on "Go" Signals. The driver of a vehicle intending to turn to the left at an intersection where traffic is controlled by traffic control signals or by a police officer, shall proceed to make such left

turn with proper care to avoid accident and only upon the “green” or “go” signal, unless otherwise directed by a police officer.

E. Turning Right on “Stop” Signals. The driver of any vehicle which is stopped as close as practicable at the entrance to the crosswalk and to the far-right side of the roadway, then at the entrance to the intersection in obedience to a “red” or “stop” signal, may make right turn but shall yield the right-of-way to any pedestrian and other traffic proceeding as directed by the signal at the intersection. This provision permitting a right turn after a stop when facing a steady red light alone or “stop” signal shall not be effective if the City Council prohibits such turn and if a sign is erected at such intersection giving notice thereof.

**15.0232** Turning Around at Intersections Prohibited. At any intersection where traffic is controlled by traffic control signals or by a law enforcement officer, or where warned by an official traffic control sign displaying the words “No U Turn,” or “No Left Turn,” it shall be unlawful for the operator of a vehicle to turn such vehicle at the intersection in a complete circle, or so as to proceed in the opposite direction or to make a left turn.

**15.0233** Turning Around in Mid-block Prohibited. The operator of a vehicle shall not turn such a vehicle so as to proceed in the opposite direction except at an intersection.

**15.0234** Turning Movements and Required Signals.

A. No person shall turn a vehicle at an intersection unless the vehicle is in proper position upon the roadway as required in Section 15.0232 of this Chapter, or turn a vehicle to enter a private road or driveway or otherwise turn a vehicle from a direct course or move it right or left upon a roadway unless and until such movement can be made with reasonable safety. No person shall so turn any vehicle without giving an appropriate signal in the manner thereafter provided in the event any other traffic may be affected by such movement.

B. A signal of intention to turn right or left when required shall be given continuously during not less than the last one hundred (100) feet traveled by the vehicle before turning.

C. No person shall stop or suddenly decrease the speed of a vehicle without first giving an appropriate signal in the manner provided herein to the driver of any vehicle immediately to the rear when there is opportunity to give such signal. The signal provided herein shall be used to indicate an intention to turn, change lanes, or stop and shall not be flashed on one side only on a parked or disabled vehicle or flashed as a courtesy or “do pass” signal to operate of other vehicles approaching from the rear.

**15.0235** Signals by Hand and Arm or Signal Device. Any stop or turn signal when required herein shall be given either by means of the hand and arm or by a signal lamp or lamps or standard approved mechanical signal device; but when a vehicle is so constructed or loaded that a hand and arm signal would not be visible both to the front and rear of such vehicle, then said signals must be given by such a lamp or lamps or signal device.

**15.0236** Method of Giving Hand and Arm Signals. All signals herein required given by hand and arm shall be given from the left side of the vehicle in the following manner and such signals shall indicate as follows:

- A. Left Turn – Hand and arm extended horizontally;
- B. Right Turn – Hand and arm extended upward;
- C. Stop or Decrease Speed – Hand and arm extended downward.

**15.0237** Restrictions on “U” Turns. No vehicle shall be turned so as to proceed in the opposite direction within any intersection in or designated no-passing zone in the City of Mellette, nor may any such turning movement be otherwise made elsewhere in the City of Mellette.

**15.0238 Exhibition Driving.** Any person who drives a vehicle within the City limits of Mellette and in such manner that creates or causes unnecessary engine noise, tire squeals, skids, or slides upon acceleration or stopping or that stimulates a temporary race; or that causes the vehicle to unnecessarily turn abruptly or sway shall be guilty of exhibition driving.

**15.0239 Penalty.** Except as otherwise specifically provided, any person violating any of the provisions of this Ordinance shall be punishable by a fine as set by State Law.

### **Chapter 15.03 – Parking**

**15.0301 Limited Parking.** The City Council may from time to time by resolution establish or cause to be designated and marked streets or parts thereof where vehicles may be parked for limited time periods only. The driver or person in charge of any vehicle parked in such a limited time zone shall comply with such time limit for parking as shown on the signs, or marked on the curb, in the immediate vicinity in which such vehicle is parked. Whenever a notice is left by any member of the Police Department in or on any vehicle which has exceeded the parking time limit requesting the person in charge of such vehicle to report to the police station or municipal court, said person shall appear at the hour and place designated, and default in so doing shall in itself, be deemed a violation of this Chapter.

**15.0302 Emergency Limited Parking.**

A. In order that the streets may efficiently be cleaned in the event of snowfall, the Chief of Police is authorized to place signs in any block or blocks within said City, stating that snow removal will be made at a stated time in which case it shall be unlawful to park any motor vehicle upon any of said streets or avenues upon which said signs have been placed during the period designated; provided further that such signs shall be placed at the end of each of said blocks to be cleaned.

B. Provided further that any automobile parked in violation of this section may be removed by the city, and the owner thereof, in addition to the other penalties prescribed, shall be required to pay the cost of such removal.

**15.0303 Non-Parking Areas.** The City Council may from time to time, by resolution, establish and cause to be designated and marked non-parking areas, along street curbs. No vehicle shall be parked at any time or for any period except to load or unload passengers or merchandise in such places so designated and marked.

**15.0304 Spaces Reserved for Police Cars, Handicapped Parking, Etc.** The City Council may from time to time, by resolution, establish and cause to be designated and marked, by suitable signs or otherwise, space for the exclusive use, day and night, of police cars, busses, and such other vehicles as they may deem entitled to such privilege. After a space has been so designated and marked it shall be unlawful for any other vehicle to park within such space day or night except momentarily to take on or let off passengers.

**15.0305 Parallel and Diagonal Parking.** Vehicles shall park in either a parallel or diagonal manner, according to the signs and paint demarcations in the parking area. Parallel parking shall be done so that the vehicle is parallel to the curb headed in the direction of traffic, for that side of the street and not closer than four feet (4) to any other vehicle, front or rear, and the front and rear wheels on the right side of such vehicle not be more than eighteen inches (18) from the curb. Diagonal parking shall be done so that the vehicle shall be parked at an angle with curb approximately forty-five (45) degrees with the right front wheel touching or within twelve (12) inches of the curb.

**15.0306 Prohibited Vehicles.** No vehicles of more than eighteen feet (18) in length or seven feet (7) in width, or with a load exceeding such length or width shall be parked upon any street which has been designated for diagonal parking in such a manner as to obstruct traffic.

**15.0307 Backing to Curb.** No vehicle shall be backed to the curb or be left standing backed to the curb except where it is necessary in order to load and unload goods or merchandise and then only for such length of time as may be necessary to load or unload.

**15.0308 Double Parking.** No vehicle shall be double parked on any street unless said vehicle is in charge of some person able to drive same, and it shall be the duty of such person to at once move the same upon the request of any law enforcement officer or driver of any vehicle which is blocked by such double parked vehicles.

**15.0309 Parking in Alleys.** No vehicle shall be parked in any alley except for the purpose of loading, unloading, and delivery of merchandise; and in such cases, the vehicle shall be parked so as not to block the alley for traffic and shall not be so parked for a long time than thirty (30) minutes at one location.

**15.0310 Parking on Crosswalks.** No vehicle shall be parked or left standing on any crosswalk, except momentarily for the purpose of taking on or letting off passengers.

**15.0311 Stopping Near Curb.** No vehicle shall stop or be allowed to stand anywhere in the streets except as near as possible to the right-hand curb.

**15.0312 Parking Near Fire Hydrant or Fire Station.** No person shall stop or park any vehicle within fifteen (15) feet of a fire hydrant or within fifteen (15) feet of the driveway entrance to a fire station.

**15.0313 Parking in Private Driveway.** No persons shall stop or park a vehicle so as to block any private driveway.

**15.0314 Parking in Traffic to Converse.** No person or persons shall park or stop any vehicle in any lane of traffic for the purpose of talking with any pedestrians or with a person or persons of another vehicle.

#### **Chapter 15.04 – Pedestrians**

##### **15.0401 Pedestrians Right-of-Way.**

A. The operator of any vehicle shall yield the right-of-way to a pedestrian crossing the roadway within any marked crosswalk or within any unmarked crosswalk at the end of a block, except at intersections where the movement of traffic is being regulated by police officers or traffic control signals.

B. Whenever any vehicle has stopped at a marked crosswalk or at any intersection to permit a pedestrian to cross a roadway, it shall be unlawful for the operator of any other vehicle approaching from the rear to overtake and pass such stopped vehicle.

C. It shall be unlawful for a pedestrian to cross a roadway at any point other than within a marked or unmarked crosswalk.

**15.0402 Pedestrian's Rights and Duties at Controlled Intersections.** At intersections where traffic is controlled by a police officer, a pedestrian shall yield the right-of-way to vehicles lawfully proceeding directly ahead on a "GO" signal, and the driver of a vehicle while making a right or left turn shall yield the right-of-way to pedestrians proceeding across the street to the "GO" signal. It shall be unlawful for a pedestrian to cross or attempt to cross a street when the traffic is stopped.

**15.0403 Pedestrians to Use Right Half of Crosswalk.** Pedestrians shall move, whenever practicable, upon the right half of crosswalks.

**15.0404 Pedestrians Soliciting Rides.** It shall be unlawful for any person to stand in a roadway for the purpose of soliciting a ride from the operator of any private vehicle.

#### **Chapter 15.05 – Speed Regulations**

**15.0501 Restrictions as to Speed.** Any person driving a vehicle on a street or highway shall drive the same at a careful and prudent speed not greater than is reasonable and proper, having due regard to the traffic, surface, and width of the street, or highway and to any other conditions existing, and no person shall drive any vehicle upon a highway or street at such a speed as to endanger the life, limb, or property of any person.

**15.0502 Speed Limitations.** It shall be unlawful for any driver to drive any vehicle upon a highway or the streets of the City of Mellette or in any municipal park at a greater rate of speed than the following:

A. Fifteen (15) miles per hour when approaching within fifty (50) feet of a railroad grade crossing when the driver's view is obstructed. A driver's view shall be deemed to be obstructed when at any time during the last two hundred (200) feet of his/her approach to such crossing, he/she does not have a clear and uninterrupted view of such crossing and of any traffic on such railway for a distance of four hundred (400) feet in such direction from such crossing.

B. Fifteen (15) miles per hour when passing a school during a school recess or while children are going to or leaving school during the opening or closing hours.

C. Fifteen (15) miles per hour when approaching within fifty (50) feet and in traversing an intersection of streets when the driver's view is obstructed. A driver's view shall be deemed to be obstructed when at any time during the last fifty (50) feet of his/her approach to such intersection he does not have a clear and uninterrupted view of such intersection for a distance of two hundred (200) feet.

D. Twenty-five (25) miles per hour on "Through Streets".

E. Fifteen (15) miles per hour in the City parks and in the City Cemetery.

F. All other roads and highways are posted.

#### **Chapter 15.06 – Traffic Signs and Signals**

##### **15.0601 Traffic Signs and Signals.**

A. The City Council shall, by resolution, determine and designate the character or type of all official traffic signs and signals, provided that all traffic signs and signals erected and in operation are hereby designated official traffic signs and signals. Subject to this selection, the Chief of Police is hereby authorized, and as to those signs and signals required hereunder, it shall be his/her duty to place and maintain or cause to be placed and maintained, all official traffic signs and signals. All signs and signals, required hereunder for a particular purpose shall be approved by the City Council, and as far as practicable, standard throughout the City of Mellette.

B. No provisions in this Title for which signs are required shall be enforceable against an alleged violator if at the time and place of the alleged violation, the sign herein required is not in proper position and sufficiently legible to be seen by an ordinarily observant person.

**15.0602 Obedience to Traffic Signs and Signals.** It shall be unlawful for any operator to disobey the instructions of any official traffic sign or signal upon the street placed in accordance with the provisions of this Title, unless otherwise directed by a law enforcement officer.

**15.0603 Interference with Signs or Signals Prohibited.** It shall be unlawful for any person willfully to deface, injure, move, obstruct, or interfere with an official traffic sign or signal.

**15.0604 Display of Unauthorized Signs and Signals Prohibited.** It shall be unlawful for any person to place or maintain or to display upon or in view of any street any unofficial sign, signal, or device which purports to be or is an imitation of or resembles an official traffic sign or signal, or which attempts to direct the movement of traffic.

Every such prohibited sign, signal, or device is hereby declared to be a public nuisance and the Chief of Police is hereby empowered to remove the same or cause it to be removed without notice.

**15.0605 Council Authorized to Designate Crosswalk.** The City Council may by resolution establish safety zones of such kind and character and at such places as they may deem necessary for the protection of pedestrians and may mark lanes for traffic on street pavements at such places as they may deem advisable consistent with the provisions of this Title; and that space such zones and lanes in accordance with such resolution.

#### **Chapter 15.07 – Miscellaneous Provisions**

**15.0701 Accident – Duty to Stop.** The driver of any vehicle involved in any accident resulting in injury or death to any person or damage to property shall immediately stop and give his/her name and address and the name and address of the owner and the license number of the vehicle he is driving to the person struck or the driver or occupants of any vehicle collided with and shall render to any person injured in such accident reasonable assistance, including the carrying of such person to a physician or surgeon for medical treatment if it is apparent that such treatment is necessary or is requested by the injured person.

**15.0702 Duty to Give Immediate Notice of Accident to Law Enforcement Officer.** The driver of any motor vehicle involved in an accident resulting in bodily injuries or death to any person or property damage as required by state law shall immediately by the quickest means of communication, give notice of such accident to the Police Department.

**15.0703 Duty Upon Striking Animal.** The driver of any vehicle which collides with any dog or domestic animal causing injury thereto shall stop and attempt to notify the owner; if the owner cannot be notified at once, the driver shall report the accident to the Police Department in order that the injured animal may be properly cared for.

**15.0704 Duty Upon Striking Unattended Vehicle.** The driver of any vehicle which collides with or is involved in an accident with any vehicle or other property which is unattended resulting in any damage to such other vehicle or property shall immediately stop and shall then and there either locate and notify the operator or owner of such vehicle or other property of his/her name, address and the name and address of the owner and the license number of the vehicle he is driving or shall attach securely in a conspicuous place in or on such vehicle or other property a written notice giving his/her name, address, and the name and address of the owner and the license number of the vehicle he is driving and shall without unnecessary delay notify the Police Department. Every such stop shall be made without obstructing traffic more than is necessary.

**15.0705 Repair of Vehicle with Reportable Damage Prohibited Unless Required Notice Affixed – Violation as Misdemeanor.** The person in charge of any garage or repair shop shall not commence repair on any motor vehicle which shows evidence of having been involved in a reportable accident or struck by any bullet unless the vehicle bears the notice provided by the State Public Safety Department.

**15.0706 Parades and Processions.** No parade or procession other than a funeral procession shall be held or participated in upon the streets except with the prior consent of the City Council. The consent of the City Council to the holding of such parade or procession shall be given unless it reasonably appears that the holding of the same would unreasonably obstruct and impeded traffic or would be likely to disturb the peace and quietness of the City.

**15.0707 Interfering with Traffic.** No vehicle shall be parked or left standing on any street so as to interfere with or interrupt the traffic on said street. Disabled vehicles are excepted from this but only for such reasonable period of time as may be required to remove the disabled vehicle from its position of interference.

**15.0708 Weight and Size of Vehicle and Loads.** No person shall drive or operate any vehicle upon any street, the gross weight of which, including the load, or the size of which does not comply with the requirements of the state law governing such vehicles.

**15.0709 Brakes and Signaling Device.**

A. Every motor vehicle, trailer, semi-trailer and pole trailer, and any combination of such vehicles shall be equipped with brakes in compliance with the requirement of Chapter 32-18 of the South Dakota Codified Laws or revision thereof;

B. Every motor vehicle shall be equipped with a horn in good working order capable of emitting sound audible under normal conditions from a distance of at least two hundred (200) feet.

**15.0710 Lights.** A motor vehicle upon a highway within the state during the period from a half hour after sunset to a half hour before sunrise and at any other time when there is not sufficient light to render clearly discernible any person on the highway at a distance of two hundred (200) feet shall be equipped with at least two lighted lamps on the front and two on the rear of such motor vehicle, such lamps to conform to state law, Chapter 32-17, South Dakota Codified Laws, provided that a motorcycle or motor bicycle shall be required to display but one lighted lamp in front and one in the rear.

**15.0711 Headlights Dimmed.** No person shall use headlights or side lights upon any vehicle on any street unless the same are dimmed in such a way as to prevent the light being dazzling or blinding to persons using the street.

**15.0712 Spotlights.** No person shall use a spotlight in the streets unless in an emergency and then so as not to blind or inconvenience persons using the street.

**15.0713 Play Streets.** The City Council may declare any street or part thereof as "Play Street", and place appropriate signs or devices in the roadway indicating such use.

**15.0714 Muffler, Excessive Smoke, and Noise.** No person shall operate or drive any motor vehicle unless such motor vehicle times be kept closed so that the exhaust is effectively muffled. No person shall operate a motor vehicle in such manner as to emit unnecessary or excessive smoke or noise from the motor of such vehicle or to needlessly sound the horn or other noisemaking device.

**15.0715 Prohibiting the Use of "Smitty" or "Hollywood" Mufflers.**

A. The use of "Smitty" or "Hollywood" mufflers or other devices of a like character which make loud noises or explosions are hereby declared unlawful.

B. It shall be unlawful to use a "Muffler Cutout" on any motor vehicle on any street or roadway in the city.

**15.0716 Vehicles with Lugs Prohibited.** No person shall operate or move any tractor or vehicle equipped with mud lugs, ice spurs, or spikes upon or across any street that is surfaced with Portland cement concrete or surfaced with bituminous material or any other hard surfacing material without first laying plans at least two inches in thickness over the surface of such street in a manner so as to protect such street surface from any damage.

**15.0717 Pneumatic Tires with Metal Studs Not Permitted.** It shall be unlawful to operate upon the streets of the City of Mellette, motor vehicles equipped with pneumatic tires in which there are embedded metal studs or wires of tungsten or other similar metal.

**15.0718 Vehicles Prohibited on Closed Streets.** No vehicle shall be driven upon any street that has been closed to traffic by the proper authority.

**15.0719 Manner of Arrest.** Except in cases of driving while intoxicated or under the influence of intoxicating liquor or any stupefying or exhilarating drug, and except in the more serious and aggravated cases of speeding or careless or reckless driving, and except when reasonably necessary to secure appearance, a person charged with violation of a traffic ordinance of the City of Mellette by a police officer need not be arrested in the regular manner but may first be given an opportunity, after notice, to appear voluntarily to answer for such traffic violation.

**15.0720 Notice to Appear.** A person charged with violation of a traffic ordinance shall be given a notice to appear before the Circuit Court Magistrate or the County Clerk of Courts at the time stated in such notice, which shall be written within seven (7) days from the time of the offense; and that in event of failure to do so, a warrant will be issued for his/her arrest. The notice shall state the name and address of the offender, if known; the license number and make of the vehicle involved in the violation; the nature, date, and location of the offense; and the time and place where the offender is to appear to answer to the charges. The notice shall be made in duplicate and the portion of the original stating the offense and the place and time to appear shall be given to the owner or driver charged with the offense or left in or upon the vehicle involved in the violation.

**15.0721 Appearance and Deposit for Fine.** A person who has received a notice of traffic violation as provided in the proceeding section shall appear at the time and place specified in such notice. In cases of parking violations and other minor traffic violations for which the person charged has been ordered to appear before the Circuit Court Magistrate or County Clerk of Courts, he may make a deposit for the fine as authorized by the Court and sign a statement authorizing a Circuit Court Magistrate or County Clerk of Courts to enter his/her plea of guilty to the offense, then he shall not be required to appear in Court. Any person who has been guilty of three or more violations of the provisions of the traffic ordinances of this City shall not be permitted to deposit the fine as hereinabove authorized but must post a bond for his/her appearance in Court at the time specified by the department, said bond to be in an amount set by the City Council and on file at the office of the Finance Officer.

**15.0722 Failure to Appear.** Upon failure of a person to appear in response to a notice of traffic violation as herein provided, he shall be subject to arrest in the manner otherwise provided by law.

**15.0723 Evidence of Traffic Violations.** In any proceeding for violations of the provisions of this Title 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 vehicle was the person who was operating or parking such motor vehicle at the time when such violation occurred or who parked such motor vehicle at the point where such violation occurred.

#### **Chapter 15.08 – Snowmobile Operation**

**15.0801 Snowmobile Defined.** A snowmobile is any engine-driven vehicle of a type which utilizes sled type runners, wheels, or skis with an endless belt tread or similar means of contact with the surface upon which it is operated. No snowmobile shall be operated within the incorporated limits of the City of Mellette except upon compliance with the Ordinance.

**15.0802 Permitted Operations.** Snowmobiles shall operate over designated roadways when the same shall be snow covered or snow packed only, and such vehicles shall not be permitted to operate on the sidewalks.

**15.0803 Age Restrictions on Drivers.** The age restriction shall be set as State Law prescribes.

**15.0804 Mufflers.** Every snowmobile shall be at all times equipped with a muffler in good working order and in constant operation to prevent excessive or unusual noise or annoying smoke.

**15.0805 Brakes.** Every snowmobile shall be quipped with brakes adequate to control the movement of and to stop and hold such vehicle.

**15.0806 Flagging.** All snowmobiles shall exhibit a red flag or cloth not less than twelve inches square and hung or suspended five feet above ground level so that the entire area thereof is visible from all directions while on any road, street, or alley.

**15.0807 Safety Equipment and Inspection.** No snowmobile shall be driven on the roadway, street, or alley when said snowmobile is in such unsafe condition as to endanger any person or property. The City Police may at any time upon reasonable cause to believe the snowmobile is unsafe or not equipped as required by this ordinance, require the driver of such vehicle to stop and submit such vehicle to an inspection and test with reference thereto as may be appropriate. No person shall operate any vehicle which has been found unsafe except to return such snowmobile to his/her residence, place of business, or to a garage until said vehicle has been placed in proper repair.

**15.0808 Lights.** A snowmobile in motion during the period of one-half an hour after sunset to one-half an hour before sunrise shall display at least one lighted lamp on the front and back of said snowmobile; which headlight and taillight shall be in conformity with the standards set by South Dakota Law.

**15.0809 Hours of Permitted Operation.** No snowmobile shall be operated within the City of Mellette between the hours of 9:00 P.M. and 6:00 A.M. except that a driver may drive during this restricted time when he is coming into town to his/her residence or drive during this restricted time when he is leaving town to go to his/her residence or when driving from work to his/her residence.

**15.0810 Rules of the Road.** Every operator of a snowmobile shall observe all of the rules of the road pertaining to vehicles and in addition shall yield the right-of-way to motor vehicles. All ordinances of the City of Mellette pertaining to the operation of vehicles shall be applicable to the operation of snowmobiles and are adopted by reference and made a part hereof, the same as if set forth fully herein.

**15.0811 Permitting Unauthorized Person to Drive a Snowmobile is Unlawful.** No person shall authorize or knowingly permit a snowmobile owned by him or under his/her control to be driven on any public highway by any person who is not authorized hereunder or in violation of any of the provisions of this Ordinance.

**15.0812 Penalties.** Any person who shall violate one or more of these provisions hereof shall be subject to a fine.

**15.0813 Access and Exit Routes and Other Regulations for Off-Road Vehicles.**

A. Owners of off-road vehicles including snowmobiles and all terrain vehicles (three-wheelers) are to use the shortest routes when entering or leaving the City.

B. All ATV vehicles shall be operated only during the hours from one half hour before sunrise until one half hour after sunset.

C. Operators of all such vehicles shall be in possession of a valid driver's license and shall meet all other requirements of State traffic laws.

**Chapter 16.01**  
**Chapter 16.02**

**Restrictions**  
**Maintenance**

**Chapter 16.01    Height and Fencing Material Restrictions**

- (c) No person shall construct, erect or maintain or cause to be constructed, erected or maintained any perimeter fences that obstruct, hinder or impair visibility at intersections of public roadway in the City of Mellette.
- (d) No person may construct, erect or maintain any electric or electrified fences, nor any fence constructed of barbed wire or concertina wire, on any fence consisting solely of horizontal metal wires.

**Chapter 16.02    Maintenance and Repair**

- (b) All fences shall be maintained, repaired and kept free of tall grass and weeds.