

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

NOTICE IS HEREBY GIVEN That Ordinance No. 89-7, being an Ordinance in Revision of the Ordinances of the City of Freeman, South Dakota, was duly adopted by the City Council of the City of Freeman, on the 18th day of December, 1989, and that such Ordinance in Revision shall be effective January 16, 1990, unless the referendum shall have been invoked.

Dated this 18th day of December, 1989.

**Lois Haar
Finance Officer
City of Freeman, South Dakota**

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TITLE 1 – ADMINISTRATIVE CODE

Chapter 1.01 - Officers

1.0101 Appointment of Officers

There shall be appointed by the Mayor, a City Finance Officer, City Attorney, Chief of Police, Water Commissioner, Sewer Commissioner, and Street Commissioner and such other officers as may be provided by Ordinance.

Dated June 4, 1990

1.010101 There shall be appointed by the Mayor and confirmed by the City Council, the position of City Administrator for the purpose of administering, advising, managing and directing all departments and agencies of the City Government, including planning, organizing, directing and coordinating all municipal activities, serving as the Chief Administrative Officer of the City as well as the primary Economic Development Director. The City Administrator shall be responsible for the proper administration of all affairs of the City to insure a coordinated and efficient effort to meet goals and objectives established by the Mayor and City Council, and such other duties as may be assigned. The salary, benefits, bonding, as well as qualifications for the position shall be set and reviewed by the Mayor and confirmed by the City Council at such times as shall be deemed appropriate.

Dated February 18, 2008

1.0102 Salaries

A. The annual salary of the City Administrator, and all other wages of officers or employees of the City, as well as the timing of payment of such salary or wages, shall be fixed by resolution of the governing body.

B. The Finance Officer shall furnish bonds to be approved by the governing board in such sum as may be determined by Resolution or Ordinance, conditioned upon the faithful performance of their duties and to account and pay over and deliver all monies or property coming into their hands by virtue of their office.

Dated March 4, 2013

1.0103 The elective officer of the City shall be a Mayor and two Aldermen from each ward.

1.0104 Term of Elected Officers

The elective officers of the City shall hold their respective offices for a term of two years and until their successors are elected and qualified; provided that one alderman from each ward shall be elected each year. They shall qualify as provided by law.

1.0105 Mayor and Council – Compensation
The annual salaries of all elected officers of the City shall be set by resolution of the governing body, and shall be paid quarterly.

1.0106 Supervision of Departments
The Mayor, with the approval of the council, at the first meeting in May of each year, may appoint two members of the council to act in a supervisory capacity in the departments of water, street, liquor, police, fire and any other departments of the City, and such Councilman, so appointed, shall have supervision over the department to which he is named as supervisor, and shall from time to time and as requested by the council, report as to the condition and matters in said department.

1.0107 Definition – Supervisor of Streets
Whenever the term Supervisor of streets is used in this ordinance, it shall be deemed to designate and apply to that member of the council who has been appointed to act in a supervisory capacity over the streets and public ways.

1.0108 Qualifications of Officers
The City Mayor, Alderman, and City Attorney shall qualify by filling the constitutional oath of office. The City Finance Officer, shall also file such oath of office, and shall furnish a bond or undertaking to be approved by the Council, in the amount designated by the City Council by resolution, conditioned for the faithful performance of the duties of their offices.

1.0109 Committees to be appointed by the Mayor
The Mayor shall, at the first meeting of the City Council, in May of each year, appoint the following committees from the members of the City Council;

Streets and Alleys	Three Aldermen
Planning and Zoning	Two Aldermen
Sewer	Three Aldermen
Waterworks	Three Aldermen
Parks and Pools	Three Aldermen
Ambulance	Two Aldermen
Sanitary Landfill	Two Aldermen
Police	Two Aldermen
City Hall	One Alderman
Library	One Alderman
Liquor Board	Three Aldermen

Chapter 1.02 – Mayor and City Council

1.0201 Mayor and Duties

The Mayor shall preside at all meetings of the Council but shall have no vote. He/she shall perform such other duties as may be prescribed by the laws and ordinances, and take care that such laws and ordinances are faithfully executed. He/she shall annually and from time to time give the Council information relative to the affairs of the City, and shall recommend for their consideration such measures as he/she may deem expedient. He/she shall have the power to sign or veto any ordinance of resolution passed by the Council, and the power to veto any part of an ordinance or resolution appropriating money.

1.0202 Meetings

Regular meetings of the governing body shall be held in the city hall on the second Monday of each month at 6:30 o'clock pm. Special meetings may be called at any time by the Mayor to consider such matters as may be mentioned in the call for the meeting.

Dated May 6, 2019

1.0203 Notice of Special Meetings

The Finance Officer shall issue oral or written notice of each special meeting, stating by what authority the meeting is called, the time and place of holding such meeting, and the matters to be considered.

1.0204 President of Council – Vice President

At the first regular meeting after the annual election in each year and after qualification of the newly elected councilmen, the Council shall elect from among its own members a president and vice president, who shall hold their respective offices for the municipal year.

The President of the Council, in the absence of the Mayor from the city or his temporary disability, shall be acting mayor and possess all of the powers of the Mayor.

In the absence or disability of the Mayor and President of the Council, the Vice President shall perform the duties of the Mayor and President of the Council.

Chapter 1.03 – Fire Department

1.0301 Voluntary Fire Department

There is hereby established a Volunteer Fire Department for the City of Freeman to be composed of not less than 25 members and not more than 35 members.

Dated April 18, 1994

1.0302 By-laws

The Fire Department shall have the power to formulate and adopt by-laws for its government not inconsistent with the provisions of this chapter. These by-laws shall be submitted to the City Council for approval.

1.0303 Officers

The officers of the Fire Department shall be such officers as are designated by the constitution and by-laws adopted by the Freeman Fire Department, a branch of the City Government.

1.0304 Members

The members of the Fire Department shall be elected by a majority vote of the members of the department. The Secretary, after the election of its members shall file a list of the names of such members in the office of the City Finance Officer. The City Council shall have the right to approve or disapprove any members so elected.

1.0305 Duties of the Fire Chief

The Fire Chief shall have the supervision of the property used by the Fire Department, and shall see to it that the same is kept in good working order and is available at all times to combat fires. On advice of the Chief, the City of Freeman shall purchase all necessary equipment and repairs; but no major expenses shall be incurred without the approval of the Council.

The Chief shall be in command at all fire fighting in the City. He may give such orders to the members of the department and to the public, at such fires, as he may deem necessary for the control of such fires. He shall have the powers to prescribe a fire zone during a fire, and to prohibit spectators from entering therein.

He shall investigate all fires, and if he suspects that such is of incendiary origin, he shall report the same to the State Fire Marshal.

He shall from time to time advise the City Council of any changes in the Fire Department or its equipment.

He shall submit annual reports to the City Council, and file an inventory of the property used by the Fire Department.

1.0306 Members shall receive no compensation
The members of the Fire Department shall receive no compensation from the City for services rendered to the City as such firemen.

1.0307 Age of members
No person shall become a member of the Fire Department who has not attained the age of 21 years.

1.0308 Firemen must live within the City limits of Freeman
No more than five members of the Fire Department shall reside outside City zoning jurisdiction provided that these same members are employed within the City of Freeman zoning jurisdiction.

Dated April 18, 1994

1.0309 Removal of officers
The City Council shall have the power to remove an officer of the Fire Department when it deems it for the best interest of the city; but such removal shall only be made after a hearing at which the accused officer may appear and show cause why he should not be removed. The charges brought against the officer shall be put in writing and filed in the office of the City Finance Officer, who shall present the same to the City Council at its regular meeting. The Council shall fix a day of hearing, and cause the due notice to be given to such officer of said hearing and serve upon him a copy of the charges brought against him. If the charges at such hearing are substantiated, the officer may be removed by the Council.

1.0310 Use of fire apparatus
No fire apparatus belonging to the City shall be taken out of the limits to fight fires. However, in cases of serious fires, in neighboring towns and cities under mutual agreement of assistance between such towns and cities, when the Fire Chief supervises such assistance and use.

The fire equipment of the fire department shall not be used for private or Municipal purposes except in cases of emergency, and then only under the direction of the Fire Chief, to the end that such equipment and apparatus shall at all times be available and ready to combat fires. Such equipment shall be kept in good workable condition, and shall meet as far as possible the requirements and regulations of the State Fire Marshal's office.

- 1.0311** City assumes no liability for injury to firemen
Every member of the Fire Department, by joining the Fire Department, voluntarily assumes the hazards of injury and accident in the service, and the City will assume the responsibility for such accidents or injuries. But the City shall carry Workmen's Compensation Insurance for the members.
- 1.0312** Fire Zone
The Chief, or acting Chief in command, may prescribe limits around any fire, and it shall be unlawful for any person, except those who reside therein, firemen, policemen, and those given admission by any officer of the Fire Department, to enter therein.
- 1.0313** Hindering firemen and injuring fire apparatus
Any person who shall willfully injure, deface or interfere with any of the fire apparatus belonging to the City of Freeman shall upon conviction be punished as a misdemeanor.
- 1.0314** Driving over hose
Any person who shall drive or pull any vehicle over any unprotected hose of the Fire Department of the City of Freeman when laid on a street or alley to be used at any fire, or alarm of fire, or while at practice without the consent of the Chief or such other person as may be in command, shall upon conviction be punished as a misdemeanor.

Chapter 1.04 – Police Department

- 1.0401** Appointment
The police department shall consist of a Chief of Police and such other policemen as may be from time to time appointed. Such appointments shall be made at the time vacancy occurs.
- 1.0402** Duties
The Chief of Police and members of the police department shall perform such duties as shall be prescribed by the governing body for the preservation of the peace and any other duties which may from time to time be prescribed by the City Council.
- 1.0403** The Chief of Police must live within the city limits of the City of Freeman. All full time police department employees must live within one (1) mile of the city limits of the City of Freeman. A full time employee is one who is considered to have worked thirty-two (32) hours per week.

Dated February 3, 2014

Chapter 1.05 – Financial Regulations

- 1.0501** Annual reports by boards
Each of the boards appointed and acting for the City in the administration of the City, shall make an annual report of its receipts, disbursements and activities to the Council as soon as practicable after the close of the year, which report shall be filed with the City Finance Officer.
- 1.0502** Contracts by member of the Council
No officer or member of the Council shall enter into any contract, make any purchase, or create any indebtedness against the City in excess of \$100.00 without first having submitted the matter of incurring such indebtedness or making such contract to the Council or having received authority from the appropriate committee provided in 1.0109.
- 1.0503** Sale of personal property
Whenever the City deems it for the best interest of the City, that personal property belonging to the City be sold, which said property has been abandoned or is about to be abandoned for public use, said property may be sold under terms determined by state statutes.
- 1.0504** Claims
All claims against the City of Freeman shall be in writing and upon forms provided by the City Finance Officer and in such form as required by statute of the State of South Dakota.
- 1.0505** Funds
The City Finance Officer shall keep full, true and just accounts of all financial affairs of the City and shall keep such accounts and furnish in such form and in such manner from time to time as is required by the Division of Audits and Accounts of the State of South Dakota.

TITLE 2 – BOUNDARIES, WARDS AND ELECTION PRECINCTS

Chapter 2.01 – Boundaries

2.0101 Territorial Limits

The City of Freeman shall include all territory embraced within the original town or City of Freeman together with all subsequent additions taken into the City since that time, less territory legally excluded there from, if any, according to the recorded plats there of recorded in the office of the Register of Deeds, Hutchinson County, South Dakota.

Chapter 2.02 – Wards

2.0201 Wards

The City of Freeman shall be divided into three wards, which shall be combined and consolidated into one election precinct, and shall be designated respectively as Wards One, Two and Three. The wards shall be described by setting for the certain street or other landmarks that divide and border the wards. Any reference to a street below shall mean an imaginary line running down the approximate middle of each street or avenue. The wards of the City of Freeman are as set forth below and the map thereof, which is attached hereto and incorporated by this reference. Any discrepancies shall be resolved by reference to the map rather than the physical descriptions set forth therein.

Ward One shall include all that portion of the City north of Third Street located between the West boundary line of the City and Walnut Street. It shall also include all of that part of the City north of Fourth Street located between Walnut Street and US Highway 81.

Ward Two shall include all that portion of the City lying and being south of Fourth Street and east of a line commencing at the intersection of Fourth Street and Walnut Street, thence south on Walnut Street to the intersection of Walnut Street and Seventh Street, thence west on Seventh Street to the intersection of Seventh Street and Poplar Street, thence south on Poplar Street to the intersection of Poplar Street and College Street, thence east on College Street to the intersection of College Street and Dewald Street, thence south on Dewald Street to the intersection of Dewald Street and Klasi Street, thence east on Klasi Street to the intersection of Klasi Street and Walnut Street, thence south on Walnut Street to the South boundary line of the City.

Ward Three shall include all that portion of the City lying and being south of Third Street and west of a line commencing at the intersection of Third Street and Walnut Street, thence south on Walnut Street to the intersection of Walnut Street and Seventh Street, thence west on Seventh Street to the intersection of Seventh Street and Poplar Street, thence south on Poplar Street to the intersection of Poplar Street and College Street, thence east on College Street to the intersection of College Street and Dewald Street, thence south on Dewald Street to the intersection of Dewald Street and Klasi Street, thence east on Klasi Street to the intersection of Klasi Street and Walnut Street, thence south on Walnut Street to the South boundary line of the City.

Dated November 7, 2011

Chapter 2.03 – Voting Precincts

2.0301 Voting Precincts

Each ward of the City shall constitute a voting precinct for municipal elections, except that two or more precincts may be consolidated or ordinance as provided by state law.

Chapter 2.04 – Polling Places

2.0401 Polling places

Polling places for each election precinct or ward of the City shall be selected with reference to the convenience of the voters in the various election precincts, provided that the polling place for any ward in the City of Freeman may be established outside the ward within the city limits.

TITLE 3 – FIRE REGULATIONS

Chapter 3.01 – Fire Limits

3.0101 Fire Limits

The fire limits of the City of Freeman shall embrace the East Half of Blocks Four (4), Eleven (11) and Thirteen (13), and the West Half of Blocks Five (5), Ten (10), and Fourteen (14), in the said City.

3.0102 Enforcement

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

3.0103

Establishment of limits of districts in which storage of flammable liquids in outside above ground tanks and bulk storage of liquefied petroleum cases is to be restricted. No flammable liquids or liquefied petroleum gas shall be stored in outside above ground tanks in the fire limits of the City of Freeman, as defined in this chapter and as provided by state law and regulations. This provision shall not apply to any owners or occupants of said premises who have outside above ground tanks at the time this revision becomes effective. Any replacement of tanks after the effective date of this revision, however, shall be subject to the restrictions.

Chapter 3.02 – Construction of Building(s) Within Fire Limits

3.0201 Construction of Building or Buildings within Fire Limits

No buildings or building shall be constructed within the fire limits of the City of Freeman, as defined in 3.0101 of this ordinance, unless the same be construed in conformity with the following provisions:

- (a) All outside walls shall be of stone, brick or cement and roofed with fire proof material
- (b) No building shall be constructed within the fire limits of the City of Freeman, as defined in 3.0101 of this ordinance without plans and specifications for the same being first submitted to the Fire Chief and City Council for approval and the same approved by the City Council.

TITLE 4 – SANITATION

Chapter 4.01 – Nuisances

4.0101 Nuisances Defined and Prohibited

No person shall create, commit, maintain, or permit to be created, committed or maintained any nuisance as defined herein, within the City of Freeman or within one mile of the boundaries therein.

- A. Whatever is dangerous to human health, whatever renders the ground, the water, the air, or food a hazard or an injury to human health, and the following specific acts, conditions and things are, each and all of them hereby declared to constitute nuisances.
1. Garbage and Refuse. Depositing, maintaining, or permitting to be maintained or to accumulate upon any public or private property any household waste water, sewage, garbage, tin cans, offal, or excrement, any decaying fruit, vegetables, fish, meat, or bones or any foul, putrid, or obnoxious liquid substance.
 2. Impure Water. Any well or other supply of water used for drinking or household purposes which is polluted which is so constructed or situated that it may become polluted.
 3. Manure. The accumulation on manure, unless it be in a properly constructed fly-proof pit, bin or box.
 4. Breeding Places for Flies. The accumulation of manure, garbage, or anything whatever in which flies breed.
 5. Stagnant Water. Any excavation in which stagnant water is permitted to collect.
 6. Weeds. Permitting weeds to grow to maturity on any private property including vacant lots.
 7. Dead Animals. For the owner of a dead animal to permit it to remain undisposed of longer than twenty-four hours after its death.
 8. Privies and Cesspools. Erecting or maintaining any privy or cesspool within the City limits.

9. Garbage Handling Improperly. Throwing or letting fall on or permitting to remain on any street, alley or public ground any manure, garbage, rubbish, filth, fuel or wood while engaged in handling or removing any such substance.
10. Rodents. Accumulation of junk, old iron, automobiles or parts thereof, or anything whatever in which rodents may live, breed or accumulate.
11. Bonfires in Public Places. Burning, causing or permitting to be burned in any street, alley or public ground any dirt, filth, manure, garbage, sweepings, ashes, rubbish or material of any kind.
12. Parking trucks or trailers in Residential Districts. Parking or permitting trucks or trailers to remain on any street, area or public ground in a residential district is prohibited.
13. Abandoned Property. Any deteriorated, wrecked, or derelict property in unusable condition, having no value other than nominal scrap or junk value, if any, and which has been left unprotected outside of a permanent structure from the elements, and shall include, without being so restricted, deteriorated, wrecked, inoperative, or partially dismantled motor vehicles, trailers, boats, machinery, refrigerators, washing machines, plumbing fixtures, furniture and any other similar articles in such condition.
14. Dilapidated Buildings. Dilapidated buildings are defined to include uncovered and abandoned basements, excavations and buildings which are no longer usable for any purpose and which have deteriorated to the point where their continued existence may be a living and breeding place for rodents and would be dangerous to pedestrians, passersby and all traffic.
15. Refrigerators. Any refrigerator, ice box or deep freeze when same is not in use, or stored, or kept in such a manner or place that children may be injured or suffocated.

Chapter 4.02 – Vegetation

4.0201

Vegetation

“Weeds.” For purposes of the Title, the term “weeds” shall mean all weeds or plants declared to be primarily noxious weeds or secondary noxious weeds by the State Weed Board and all other weeds growing upon any lot or parcel of land in the city. The term “weeds” shall also include grass growing upon any lot or parcel of land in the city, which exceeds eight inches (8”) or more in height or are about to go to seed. The term “weeds” does not include crops grown in compliance with the Freeman City Zoning Ordinances. The term “weeds” also does not include plants growing on City property being utilized for governmental purpose.

Dated August 4, 2014

4.0202

Maintaining Weeds and Unhealthful Vegetation a Nuisance:

Duty of owner. Permitting weeds to grow on any private property and failing to clear unhealthful vegetation on any private property (including vacant lots) is hereby declared to be a nuisance. No owner, agent of such owner or occupant, of any lot, place or area within the City of Freeman shall permit on such lot, place or area (or upon any sidewalk abutting the same) any weeds, unhealthful vegetation or other deleterious or noxious matter that may be growing, lying or located thereon.

Dated August 4, 2014

4.0203

Notice to Destroy Weeds or Clear Unhealthful Vegetation:

The Chief of Police or City Administrator is hereby authorized and empowered to notify, in writing the owner of any such lot, place or area within the City (or the agent of such owner or the occupant of such premises) to cut, destroy or remove any such weeds or unhealthful vegetation, or other noxious matter found growing, lying, or located on such property (or upon the sidewalk abutting same). Such notice shall be made by either personal service or certified mail addressed to said owner, agent or occupant at his/her last known address. The City may impose a \$25.00 charge for each notification of a violation conveyed. The fee shall cover the cost of personnel services or certified mailing, letter preparation, or hand delivery to said owner or resident.

Dated September 14, 2020

4.0204

Action Upon Non-Compliance

Upon the initial failure, neglect or refusal of any owner, agent, or occupant so notified to comply with said notice within five days after personal service thereof (or within five days after certified mailing, as the case may be) the City Council is hereby authorized and empowered to enter upon the property and provide for the immediate cutting, destroying, or removal of such weeds, unhealthful vegetation, deleterious matter or other noxious growths. After each such action by the City, the

property owner shall receive a bill for such cutting, destroying and/or removal of materials. The rate shall be \$150.00 per hour per City employee involved in any abatement project, with a minimum of 1 hour. Payment shall be made within 30 days after mailing of the bill. In the event of unpaid bills, the City may defray such costs by special assessment against the property as follows.

Dated August 4, 2014

4.0205

Cost Assessed

The City Finance Officer shall cause an account of unpaid abatement bills to be kept against each lot for the removal/destruction of weeds, unhealthful vegetation, deleterious matter or other noxious growths upon said lot herein provided and shall certify said account showing the amount, the description of the property and the owner thereof to the Assessor, who shall thereupon add such assessment to the County or general assessment against said property and shall certify such special assessment together with the regular assessment to the County Auditor to be collected as municipal taxes for general purposes. Said assessment shall be subject to review and equalization the same as assessment or tax for general purposes.

Dated August 4, 2014

4.0206

Recovery by City

In lieu of spreading the cost of the destruction of such noxious weeds and other deleterious matter against said property in the City of Freeman, said amount may be recovered in a civil action against the owner or occupant of such property.

Dated August 3, 2015

4.0207

Penalty

Any person whose duty it is to destroy or remove such noxious weeds or unhealthful vegetation as set forth in the preceding sections or who fails to destroy same within the time herein before set forth shall be guilty of a misdemeanor and upon conviction thereof shall be fined not exceeding the maximum penalty of the South Dakota Codified Law (Statute 22-6-2 (2)), in addition to the other penalties as prescribed in this chapter.

Dated August 3, 2015

Chapter 4.03 – Slaughter Houses

4.0301

It shall be unlawful for any person, firm or corporation to carry on the business of slaughtering animals, or rendering of any animal matter or manufacturing the same into fertilizing material by the use of steam, heat, or otherwise, at any place within the City of Freeman, except by permit of the City Council; and any permit so granted may be revoked whenever it shall appear that the party has violated any provision of any ordinance of the relating to any such business.

4.0302 Blood, manure, meat, lard cannot be permitted to enter the City sewer system.

4.0303 The policemen of the City shall be permitted free entrance at all hours of the day or night, to all buildings used for the purpose of slaughtering animals or rendering of any animal matter, and free examination of all the apparatus and the manner of conducting the business.

Chapter 4.04 – Refuse

4.0401 Definitions

ITEM 1. This ordinance shall be known as the “Refuse Ordinance of the City of Freeman, South Dakota.”

ITEM 2. The term “garbage” as used in this ordinance shall mean all animal and vegetable wastes resulting from the handling, cooking, and consumption of foods originating in kitchens, stores, markets, restaurants, hotels and other places where food is stored, cooked and consumed.

ITEM 3. The term “rubbish” as used in the ordinance shall mean all combustible waste materials from households, stores and institutions, consisting of cans, bottles, papers, straw, leaves, ashes, lawn cuttings, garden wastes from any premises within the city limits of Freeman, South Dakota.

ITEM 4. The term “refuse” as used in this ordinance shall be interpreted to mean all solid wastes, including garbage and rubbish.

ITEM 5. The term “premises” as used in this ordinance shall include, but not limited to, business houses, offices, theater, hotels, restaurants, cafes, eating houses, tourist courts, trailer courts, apartment buildings, sanitariums, rooming houses, schools, rest homes, private residences, vacant lots and other places within the City of Freeman where refuse, garbage or rubbish accumulates.

ITEM 6. The term “owner” shall mean the actual owner of the building, either individual, partnership, or corporation, the agent of the owner in charge of said buildings, or the person to whom the rental upon said building is paid.

ITEM 7. The term “occupant” shall mean the individual, partnership or corporation, that uses or occupies any building or lot, or a portion thereof, whether the actual owner, tenant or sub-tenant. In the case of vacant buildings or lots, or any portion

thereof, the owner, agent, or other person having custody of said building or lot shall have the responsibility of the occupant of said building or lot.

ITEM 8. The term “rubble site” shall mean all premises owned by the City of Freeman and permitted as a Type IV Restricted Use Solid Waste Facility by the State of South Dakota Department of Environment and Natural Resources.

ITEM 9. The term “rubble” shall mean only the authorized waste as allowed in the City’s permit for the operation of a Type IV Restricted Use Solid Waste Disposal Facility; provided however that this term shall not include “scrap tires.” Scrap tires shall not be included in the definition of “rubble” and are specifically prohibited from disposal at the rubble site.

ITEM 10. The term “vegetation refuse” shall include, but is not limited to grass clippings, leaves, branches, trees, garden waste and other similar items.

Dated August 3, 2009

4.0402 All garbage, rubbish and trash, including large items, leaves, branches and grass must be securely covered, secured, or enclosed.

Dated August 3, 2009

4.0403 General Restrictions

ITEM 1. The sanitary landfill operated by the City of Freeman, Hutchinson County, South Dakota, is hereby closed.

ITEM 2. No rubbish shall be burned except in incinerators, stoves or furnaces located within buildings. No rubbish shall be burned on any street or alley in the City.

ITEM 3. Heavy accumulations such as broken concrete, ashes, sand or gravel, automobile frames and other bulky heavy materials shall be disposed of at the expense of the owner on a regular enough basis to prevent them from becoming a public nuisance.

Dated August 3, 2009

4.0404 Regulating the use of the Rubble Site

ITEM 1. The sanitary landfill operated by the City of Freeman, Hutchinson County, South Dakota, is hereby closed except as to those items specifically provided for in accordance to Paragraph 4.0404 (“paragraph”).

ITEM 2. Rubble may be disposed of by the residents and businesses of the City of Freeman as well as those within one (1) mile of Section 35, Township 99 North, Range 56, West of the 5th PM, subject to the terms and provisions of this paragraph.

ITEM 3. The fees for access to the rubble site shall be as follows:

- a. Any occupant of the City of Freeman desiring to use the above rubble site for disposal of his or her items as allowed above, shall be able to enter using their refuse collection account number.
- b. Any occupant within one mile of Section 35-99N-56, Hutchinson County, desiring to use the above rubble site for disposal of his or her items as allowed above, shall pay an annual fee of \$20.00 to be assessed on a calendar year basis.
- c. Any occupant desiring entrance to the rubble site for other than its normal hours of operation shall be assessed a fee of \$20.00 and tipping fee and the entrance shall be prearranged with the City. A minimum of one hour notification is required.

Appointments for multiple loads (40 yards or greater) must be made at a minimum of twenty-four (24) hours in advance. The rubble site attendant will open the gate. He will be present and monitor all loads coming to the rubble site. The attendant will be present the entire time. Off-hour multiple loads require a \$15.00 per hour rate and will be assessed to the customer. The attendant will complete appropriate documentation and fee collection. The attendant will be responsible to close and lock the gate. All materials must be properly sorted. A maximum of 5% of contamination will be allowed in the designated areas.

The contractor/owner is responsible to provide a loader for loads exceeding 40 yards. Material needs to be pushed in the appropriate areas, at the off load site.

- d. Any person hauling materials allowed as provided above from other than his or her own property shall be required to provide a job certification indicating the owner/occupant of the property from which the debris is coming from.

ITEM 4. In addition to the fees as set forth in ITEM 3 above, there is also imposed a fee for the quantity of rubble dumped at the rubble site which is hereby referred to as a "tipping fee". The tipping fee imposed shall be in proportion to the quantity of

rubble dumped based upon the size of vehicle delivering each load. The tipping fees imposed are as follows:

- a. Car load - \$5.00
- b. Pickup load - \$10.00
- c. Trailer (8 foot or less) - \$10.00
- d. Trailer in excess of 8 feet or truck containing 10 cubic yards or less - \$20.00
- e. Trailer or truck containing 11 cubic yards to 15 cubic yards - \$32.00
- f. Trailer or truck containing 16 cubic yards to 30 cubic yards - \$45.00
- g. CRT's - \$20.00

ITEM 5. Rubble acceptable for the rubble site shall be placed in the designated areas indicated by signs, or as otherwise indicated by a representative of the City. A maximum of 5% of contamination will be allowed in the designated areas. The City of Freeman will adhere to the State of South Dakota Department of Environment and Natural Resources (DENR) solid waste permit regulations pertaining to what is allowed and not allowed in the rubble site.

ITEM 6. For loads exceeding 40 yards the contractor/owner is responsible to provide a loader and operator for piling materials in the appropriate areas at the rubble site.

ITEM 7. The City of Freeman shall have authority to refuse entrance and dumping of rubble, which the City from time to time shall designate as not being acceptable for the rubble site.

ITEM 8. Any person violating the terms of this ordinance shall be subject to any or all of the following:

- a. A fine in the amount of \$200.00 per occurrence;
- b. The cost of any cleanup expense which results from an improper or unauthorized dumping; or
- c. Revocation of privileges.

ITEM 9. Vegetation refuse may be disposed of without charge, subject to hours and other restrictions imposed by the City of Freeman.

Dated March 2, 2015

4.0405

Accumulation Generally

No garbage, rubbish, trash or waste shall be thrown or permitted to fall on the ground, on private premises or into streets, alleys or vacated lots nor shall it be allowed to accumulate on any premises, except as hereinafter provided.

Dated August 3, 2009

4.0406

Where Deposits Unlawful

It shall be unlawful for any person to throw or deposit or cause to be thrown or deposited any rubbish, waste or garbage on any vacant lot, public thoroughfare, street or alley or public property or any place whatsoever.

Dated August 3, 2009

4.0407

Hauling for Hire

It shall be unlawful for any person to haul for hire, other than the City, any garbage, wastepaper, tin cans, bottles or other waste and discarded material within the City or away from the City; provided, however, that this section shall not apply to any person who elects to haul, transport and dispose of his own garbage and other waste, who may do so in conformity with this ordinance.

Dated February 18, 2002

4.0408

Garbage Containers Required

ITEM 1. Every household or occupant of any dwelling house or other building used for the housing of persons, and the owner, keeper or manager of every hotel, restaurant, store, wholesale business, retail business, commercial or industrial place of business, or other place where garbage accumulates in the City, shall use only those containers provided by the City for the keeping and storage for collection of garbage, rubbish, trash or other waste materials.

ITEM 2. The City shall provide individual containers of 90 gallons, or containers of 300 gallons per water meter hookup.

ITEM 2.1. In addition to the receptacles provided in ITEM 2 of this chapter, the City shall have the option of providing a receptacle of its choice for the sole collection of recyclable cardboard, to be known as a "recyclable receptacle".

Dated January 7, 2008

ITEM 3. The containers provided shall remain the property of the City.

ITEM 4. Any person or organization within the City of Freeman or within the one mile area as designated shall be allowed to secure a container or containers for a periodic time by paying the same rates as provided for residents or nonresidents, whichever the case may be. The minimum time period that they shall be billed for

shall be for one month or any fraction thereof. The City may require the payment of a damage deposit in advance for said use.

ITEM 5. The location and placement of the containers as well as the time of the pickup shall be determined from time to time by the City Council or by its employee(s) as directed. Any individual who receives certification from a license medical doctor that they are physically unable to place the container for pickup may make special arrangements with the City as to the placement and pickup of their container.

Dated February 18, 2002

4.0409 Exclusive Use of Containers

It shall be unlawful for any person to place, or permit another to place, any garbage or trash in any receptacle, at any refuse collection point or in any garbage container used in the city container collection service, unless the garbage, trash or refuse is from the premises served by the container or from the premises at which the container or collection point is located. City service containers, which are located at several points in the city area, are provided for garbage and trash from residential dwellings, apartment house areas, businesses, and institutions within the city limits, and garbage, trash and refuse from outside the city limits shall not be placed in the city service containers. It shall be unlawful for any person to place or deposit, or permit another to place or deposit, prohibited garbage, trash and refuse in city service containers or to put anything on the ground at these locations. No person shall remove any container from the premises to which is assigned or willfully or intentionally damage any garbage container.

Dated February 18, 2002

4.0410 Garbage Service to Non-Residents of the City

The City will allow any household or occupant of any dwelling house or other building used for the housing of persons, and the owner, keeper or manager of any restaurant, store, wholesale business, retail business, industrial or commercial or other place of business located within one (1) mile outside of Section 35, Township 99 North, Range 56, West of the 5th PM, Hutchinson County, South Dakota, to receive collection services. The regulation of the use of the containers shall be the same as those residents of the City of Freeman. The rates shall be as hereafter provided.

Dated February 18, 2002

4.0411 Rates and Charges

ITEM 1. For residents and businesses located within the City limits, the charge for a 90-gallon container for once a week pickup shall be \$15.00. A second 90-gallon container may be added for a monthly charge of \$14.00. Additional pickups shall be

subject to a charge of \$5.00 per container per pickup. No more than two (2) 90-gallon containers shall be allowed for any collection point.

ITEM 2. Residents who are certified to be a recipient of fuel assistance under the Low Income Energy Assistance Program (LIEAP) shall pay a monthly rate of \$8.00 for one 90-gallon container for the time period that they so qualify.

ITEM 3. For residents and businesses located within the City limits, the charge for a 300-gallon container for once a week pickup shall be \$52.00. For each additional container, a \$42.00 charge per month shall be made. Additional pickups shall be subject to a charge of \$16.00 per container per pickup.

ITEM 4. Non-residents and business not located within the City limits, but residing within the one (1) mile area outside of Section 35, Township 99 North, Range 56, West of the 5th PM who desire to have garbage pickup service shall be charged a monthly fee of \$18.00 for the first 90-gallon container; \$17.00 for the second 90-gallon container; \$62.00 for the first 300-gallon container and \$54.00 for each additional 300-gallon container. Additional pickups for the 90-gallon container shall be subject to a charge of \$6.00 per container per pickup. Additional pickups for the 300-gallon container shall be subject to a charge of \$19.00 per container per pickup. No more than two (2) 90-gallon containers shall be allowed.

ITEM 5. Sanitation service charges for residents and businesses will be billed with water and/or sewer used fees and such charges will be effective with the first monthly billing after this Ordinance shall become effective. Charges will be collected at the same time, in the same manner and by the same officers as water charges are collected by the City. If the sanitation service charges are not paid within twenty (20) days after billing, it shall be deemed delinquent, and the water service to such user or property may be discontinued until charges are paid.

ITEM 6. Sanitation service charges for those who reside within one (1) mile of Section 35, Township 99 North, Range 56 West of the 5th PM, shall be billed monthly.

ITEM 7. The charges for a recyclable receptacle shall be \$80.00 a month for a weekly pickup and \$40.00 a month for a bi-weekly pickup. Additional pickups shall be \$20.00 for each additional pickup.

Dated January 13, 2020

4.0412

Maintenance of Containers

ITEM 1. Every garbage container required by this Ordinance shall be maintained in a sanitary condition by the owner of the property to which it has been assigned, or its tenant; the container shall be thoroughly cleansed as needed by washing or scrubbing. Physical maintenance and repair of the container shall be done as prescribed by the City.

ITEM 2. All containers shall be maintained by the City except for normal washing to maintain its sanitary condition. Whenever damage results as a result of vandalism or as a result of fire due to the deposit of any refuse by the owner or occupant, the cost of replacing the container shall be the expense of the owner of the property to which it has been assigned. Containers left at the curb on the days other than normal collection days may be collected by the City. The owner or occupant may retrieve their container by paying a \$25.00 fee.

ITEM 3. Damage to any container shall immediately be reported to the city manager by the party to whom the container is assigned or by the party who has damaged the container.

Dated February 18, 2002

4.0413 Certain Material Prohibited

Materials impregnated with poisons, explosives, dangerous or corrosive chemicals, clothing taken from persons with infectious diseases, heavy metals or metal parts, rocks, bricks, concrete blocks, tires, automotive type batteries, grass clippings, weeds, leaves, trees, limbs or shrubs shall not be placed in garbage containers provided by the City. Small twigs may be allowed by the containers provided that they fit into said containers and the lid may be securely fastened at all times.

Dated February 18, 2002

4.0414 Protection of Contents of Containers

Garbage containers shall be kept closed tightly, except during the collection or deposit of garbage, trash or refuse or solid waste. The contents of all containers and receptacles shall be so protected that the wind cannot blow out and scatter the same over the streets, alleys and premises of the City.

Dated February 18, 2002

4.0415 Ashes Generally

No smoldering or burning materials of any type or nature whatsoever, including hot or live ashes, shall be placed or deposited in any of the City's garbage containers.

Dated February 18, 2002

4.0416 Flammable Materials

Highly flammable or explosive materials shall not be placed in containers for regular collection or disposal but shall be disposed of as directed by the first chief at the expense of the owner or possessor thereof.

Dated February 18, 2002

All ordinances and parts of ordinances in conflict with the provisions of this ordinance, or relating to the subject matter of this ordinance and not reenacted as part of this ordinance, excepting as stated in the ordinance, are hereby repealed.

Chapter 4.05 – Penalties for Violations

4.0501 Penalty for Violations of Ordinance

Any person violating any of the provisions of this ordinance and shall be convicted of the same shall be guilty of a Class 2 misdemeanor, and each day that such person shall violate any of the provisions of this ordinance shall constitute a separate offense and be punishable as such.

4.0502 Saving Clause

If any part of this ordinance should be held invalid for any reason, such holding shall not affect the validity of the remaining parts of this ordinance.

4.0503 Abatement

In addition to the above penalties, the City may abate any violation by the appropriate proceedings according to law.

TITLE 5 – LICENSES

Chapter 5.01 – Peddlers, Solicitors, Canvassers

5.0101 License Required

It shall be unlawful for any person to engage in the business of peddler, solicitor or canvasser, as defined in Section 5.0102 of this ordinance, within the corporate limits of the City of Freeman without first obtaining a license therefore as provided herein.

5.0102 Definition

1. Person: The word “person” as used herein shall include the singular and the plural and shall also mean and include any person, firm or corporation, association, club, co-partnership or society or any other organization.

2. Peddler: The word “peddler” as used herein shall include any person, whether a resident of the City of Freeman or not, traveling by foot, wagon, automotive vehicle, or any other type of conveyance, from to place to place, from house to house, or from street to street, carrying, conveying or transporting goods, wares, merchandise, meats, fish, vegetables, fruits, garden truck, farm products or provisions, offering and exposing the same for sale, or making sales and delivering articles to purchasers or who without traveling from place to place, shall sell or offer the same for sale from a wagon, automotive vehicle, railroad car, or other vehicle of conveyance, and further provided that one who solicits orders and as a separate transaction makes deliveries to this chapter. The word “peddlers” shall include the words “hawker” and “huckster”.

3. Solicitor, Canvasser: A canvasser or solicitor is defined as any individual, whether resident of the City of Freeman or not, traveling either by foot, wagon, automobile, motor truck, or any other type of conveyance, from place to place, from house to house, or from street to street, taking or attempting to take orders for sale of goods, wares and merchandise, personal property of any nature whatsoever for future delivery, taking subscriptions to periodicals, or for services to be furnished or performed in the future, whether or not such individual has, carries or exposes for sale a sample of the subject of such sale and who collects any advance payment on such: provided that such definition shall include any person who, for himself, or for another person, firm or corporation, hires, leases, users, or occupies any building, structure, tent, railroad box car, hotel room, lodging house, apartment, shop trailer, or any other place within the City for the sole purpose of exhibiting samples and taking orders for future delivery.

4. Exceptions: This chapter shall not include any person retailing goods, wares, or merchandise which can be shown to be his or her manufacture or production, or farm produce raised within the State of South Dakota by such person and shall not include anyone under contract with the City of Freeman to put on an exhibition.

This chapter shall not include any local person retailing goods, wares, or merchandise for which the proceeds or income shall be used for the benefit of a charitable, religious, civic or school organization.

5.0103

Issuance of License

After payment of the requisite license fee to the City Finance Officer, any person desiring to obtain a license under the provisions of this chapter shall make and file with the Finance Officer a sworn application in writing on a form furnished by the City Finance Officer, which shall give the following information:

1. Name and description of applicant.
2. Address (legal and local)
3. A brief description of the nature of the business and the goods to be sold, services to be rendered, if goods, wares, and merchandise are to be sold, whether of the sellers own manufacture, and in the case of products of farm or orchard, whether grown or produced by the applicant.
4. If employed, the name and address of the employer, together with the credentials establishing the exact relationship.
5. The length of time for which the right to do business is desired.
6. If a vehicle is to be used, a description of the same, together with the license number or other means of identification.
7. Name of other towns and cities in the State of South Dakota where applicant has had a similar license in the past year.
8. A statement as to whether or not the applicant has been convicted of any crime, misdemeanor, or violation of any municipal ordinance, the nature of the offense, the punishment or penalty assessed, and the name of the court, and the town or city.

9. Before issuing a license under this chapter to any person applying therefore, the licensing authority shall refer the application to the Chief of Police, who shall cause to be made such investigation of the applicant's moral character and business responsibility as he deems necessary for the protection of the public goods, including the inquiry of the Federal Bureau of Investigation and the Investigation Division of the Office of the Attorney General of the State of South Dakota, except that in the event the applicant has received a like license from the City of Freeman within one year last past, the licensing authority may waive this requirement. The Chief of Police shall cause the investigation herein provided for to be made within a reasonable time and shall certify to the licensing authority whether or not the moral character and business responsibility of the applicant is satisfactory.

5.0104 Licensing Authority

The Mayor of the City of Freeman shall issue any license issued under the provision of this chapter, and shall have discretion whether or not to grant the license after considering the showing on the applicant's behalf, and after making the investigation he deems necessary.

5.0105 License Fees

The license fee shall consist of \$25.00 per year and shall be paid by the applicant, for himself, and like fee for each additional employee or assistant.

5.0106 Bond

Before any such license shall issue, every applicant not a resident of the City of Freeman, represents a firm whose principal place of business is located outside the State of South Dakota, shall file with the City Finance Officer, a surety bond, running to the City in the amount of \$1,000.00, with surety acceptable to and approved by the Council, conditioned that the said applicant shall comply fully with all the provisions of the ordinances of the City of Freeman and the statues of the State of South Dakota regulating and concerning the business of peddler, solicitor or canvasser and guaranteeing to any citizen of Freeman that all money paid as a down payment will be accounted for and applied according to the representations made, and further guaranteeing to any citizen of the City of Freeman doing business with such license that the property purchased will be delivered according to the representation of said license, that all merchandise sold and delivered shall be as represented and that he will refund any money or deposit on any merchandise which is not as represented. Action on such bond may be brought in the name of the City to the use of benefit of the aggrieved person.

- 5.0107** **Renewal or Continuation**
In event any licensee desires to continue the business authorized under the license after the expiration date of such license, a new application shall be filed and the same procedure followed as for the initial license.
- 5.0108** **Licensee Constitutes City Finance Officer, his agent for Service of Process**
Before any license shall issue, there shall also be filed with City Finance Officer, an instrument in writing, signed by the applicant under oath, nominating and appointing the City Finance Officer his true and lawful agent, with full power and authority to acknowledge service of notice of process for and on behalf of said bond shall be deemed made when served upon said City Finance Officer.
- 5.0109** **Use of Street**
No peddler shall have any exclusive right to any location in the public streets, nor shall any peddler be permitted a stationary location upon the public streets, alleys or public grounds of the City of Freeman, nor shall he be permitted to operate in any congested area where his operations might impede or inconvenience the public. For the purpose of this section, the judgment of a police officer, exercised in good faith, shall be deemed conclusive as to whether the area is congested or the public impeded or inconvenienced.
- 5.0110** **Exhibition of Licenses**
Any person licensed under this chapter is required to exhibit his license at the request of any citizen.
- 5.0111** **Duty of Police to Enforce**
It shall be the duty of any police officer of the City of Freeman to require any person peddling, soliciting or canvassing, and who is not known by such officer to be duly licensed, to produce his peddler's license and to enforce the provisions of this chapter against any person found to be violating same.
- 5.0112** **Records**
The Chief of Police shall report to the City Finance Officer all convictions for violations of this chapter and the City Finance Officer shall maintain a record for each license issued and record the reports of violation thereof.
- 5.0113** **Revocation of License**
1. Licenses issued under the provisions of this chapter may be revoked by the Mayor of the City of Freeman after notice and hearing for any of the following causes:
 a. Fraud, misrepresentation, or false statement contained in the application for license.

- b. Fraud, misrepresentation or false statement made in the course of carrying on his business under the license.
- c. Any violation of this chapter.
- d. Conviction of any crime or misdemeanor involving moral turpitude.
- e. Conducting the business of peddling, soliciting or canvassing in an unlawful manner as to constitute a breach of the peace or to constitute a menace to the health, safety, or general welfare of the public.

2. Notice of the hearing for revocation of a license shall be given in writing, setting forth specifically the grounds of complaint and the time and place of hearing. Such notice shall be mailed postage prepaid, to the licensee at his last known address at least five days prior to the date set for hearing.

5.0114 Appeal or Review

Any person aggrieved by the action of the Mayor in the denial of an application for permit or license as provided in Section 5.0103 or in the decision with reference to the revocation of a license as provided by Section 5.0103 of this chapter, shall have the right of having the Council review said decision by filing with the City Finance Officer within fourteen days after notice of the action complained of has been mailed to such person's last known address, a written statement setting forth fully the grounds for such review. Service of such notice shall be made on the City Finance Officer. The Council shall set a time and place for a full and complete hearing in the same manner as provided in Section 5.0113 for notice of hearing on revocation, and the decision and order of the board on such matter shall be final and conclusive.

5.0115 Suspension of License

Upon complaint being made to the Council of any of the grounds for revocation set forth in Section 5.0113 and upon their determination that the health, welfare and safety of citizens of the City of Freeman requires it, may order immediate suspension of the license, and licensee shall not engage in the business authorized by said license, pending hearing and decision by the Council as provided in Section 5.0113.

5.0116 Transfer

No license issued under the provision of this chapter shall be used at any time by any person other than the one to whom it was issued.

5.0117 Expiration of License

All annual licenses issued under the provisions of this chapter shall expire on the 31st day of December in the year when issued. Licenses other than annual licenses shall expire on the date specified in such license.

Chapter 5.02 – Transient Merchants

5.0201

License

It shall be unlawful for any person, firm or corporation to engage in business in the City of Freeman as a transient retail merchant or an itinerant merchant as defined in Section 5.0202 of this ordinance without first having obtained a license therefore in compliance with the provisions of this chapter.

5.0202

Definitions

For the purpose of this chapter, a transient merchant or itinerant merchant is defined as a person, firm or corporation whether as owner, agent, or consignee or employee who engages in a temporary business or selling and delivering goods, wares and merchandise within said city and who in furtherance of such purpose hires, leases, uses or occupies and building, structure, motor vehicle, tent, railroad boxcar or any street, alley, lot or other place within the City for the exhibition and sale of such goods, wares and merchandise, either privately or at public auction; provided that such definitions shall not be construed to include any person, firm or corporation who, while occupying such temporary location, does not sell from stock but exhibits samples only for the purpose of securing orders for future delivery only. The person, firm or corporation so engaged shall not be relieved from complying with the provision of this chapter merely by reason of associating temporarily with any local dealer, trader, merchants or auctioneer.

5.0203

Application

Applicants for license under this chapter whether a person, firm or corporation shall file a written, sworn application signed by the applicant if an individual, or by a partner if a partnership, or by an officer if a corporation, with the City Finance Officer showing:

- A. The name or names of the applicant for license.
- B. The name or names of the person or persons having the management of supervision of applicant's business during the time it is proposed that it will be carried on in the City of Freeman and the permanent address and addresses of such person or persons, the capacity in which such person or persons will act; that is, whether proprietor, agent or otherwise.
- C. The place or places in the City of Freeman where it is proposed to carry on applicant's business and the length of time it is proposed that said business shall be conducted.
- D. A statement of the nature and character and quality of the goods, wares and merchandise to be sold or offered for sale by applicant, whether the same are proposed to be sold from stock in possession or by sample, at auction, by direct sales, or by taking orders for future delivery, where the goods or property

proposed to be sold are manufactured or produced and where such goods or products are located at the time said application is filed.

E. At least three references as to the integrity of the applicant.

5.0204 Investigation and Issuance

Upon receipt of such application the City Finance Officer shall refer such application to the Chief of Police of the City of Freeman who shall cause such investigation of such person or persons business responsibility or moral character be made as he deems necessary to the protection of the public good. The Chief of Police shall, as soon as such investigation can be made, return such application to the City Finance Officer with his recommendations as to whether or not such application should be granted and, in the event of his recommendation that such application be refused, his reasons therefore. Upon the receipt of such application with the endorsement of the Chief of Police as hereinbefore set forth, the Finance Officer shall present such application to the Mayor who shall act upon such application and, his/her discretion, either approve or disapprove the same.

5.0205 Bond

Before a license as provided in the chapter shall be issued for engaging in a transient or itinerant business, as defined by Section 5.0202 of this chapter, in the City of Freeman, such applicant shall file with the City Finance Officer, a bond running to the City of Freeman in the sum of One Thousand Dollars (\$1,000.00) executed by the applicant as principal and two sureties upon which service of process will be made in the State of South Dakota, said bond to be approved by the Council of the City of Freeman and conditioned that the said applicant shall comply fully with all ordinances of the City of Freeman and statutes of the State of South Dakota regulating and concerning the sale of goods, wares and merchandise and will pay all judgments rendered against said applicant for violation of said ordinances or statutes or any of them, together with all judgments and costs that may be recovered against him by any person or persons for damage growing out of any misrepresentation of deception practices on any person transacting such business with such applicant, his agent, servants or employees.

5.0206 Service of Process

Before any license as herein provided shall be issued, for engaging in businesses as itinerant or transient merchant such applicant shall also file with the City Finance Officer and instrument nominating and appointing the City Finance Officer as true and lawful agent with full power and authority to acknowledge service of notice of process for and on behalf of said applicant in respect to any matters connected with or arising out of the business transaction under said licenses, and the bond as heretofore required. Immediately upon service of process upon said City Finance Officer as herein provided, the City Finance Officer shall send to the licensee at his

last known address by registered mail a copy of said process. Said instrument shall also contain recitals to the effect that said applicant for said license consents and agrees that service of any notice or process may be made upon said agent, and when so made shall be taken and held to be as valid as if personally served upon the person or persons applying for said license under this chapter, according to the law of this or any other state, and waiving all claim or right of error by reason of such acknowledgement of service or manner of service.

5.0207

Fees

The fee required to be paid by such transient merchant or itinerant merchant as herein defined for the procuring of such license shall be \$75.00 per day, \$500.00 per week or \$1,000.00 per month and such license fee shall be paid to the City Finance Officer at the time of making the application and the license issued shall state the time for which said license is granted and the expiration date.

5.0208

Revocation

The permits and licenses issued pursuant to this chapter may be revoked by the Mayor after notice of hearing for any of the following causes:

1. Any fraud, misrepresentation or false statement contained in the application for license.
2. Any fraud, misrepresentation or false statement made in connection with the selling of goods, wares, or merchandise.
3. Any violation of this chapter
4. Conviction of the licensee of any felony or of a misdemeanor involving moral turpitude.
5. Conducting the business licensed under this chapter in an unlawful manner as to constitute a breach of the peace or to constitute a menace to the health, safety or general welfare of the public. Notice of hearing for revocation of a license shall be given in writing, setting forth specifically the grounds of the complaint and the time and place of the hearing. Such notice shall be mailed, postage prepaid, to the licensee, at his last known address, at least five days prior to the date set for the hearing.

5.0209

Appeal

Any person aggrieved by the decision of the Mayor in regard to the denial of the application for license as provided in Section 5.0203 of this chapter shall have the right to appeal to the Council of the City of Freeman. Such appeal shall be taken by filing with the Council within ten days after notice of the decision of the Council, a written statement showing the ground for the appeal. The Council shall set time and place for a hearing on such appeal and notice of such shall be given to such person in the same manner as provided in Section 5.0208 of this chapter for notice of hearing on revocation. The order of the Council on such appeal shall be final.

5.0210 House to House Soliciting Prohibited

The practice of going in and upon private premises in the City of Freeman, South Dakota, by solicitors, peddlers, hawkers, itinerant merchants and transient vendors of merchandise, not having been requested or invited to do so by the owner or owners, occupant or occupants of such private residence, for the purpose of soliciting orders for the sale of goods, wares and merchandise and or for the purpose of disposing of any or peddling or hawking the same is hereby declared a nuisance and punishable as such nuisance as a misdemeanor.

The Chief of Police and police force of the City of Freeman, South Dakota, are hereby required and directed to suppress the same, and to abate any such nuisance as is described in the first section of this ordinance.

Any person found guilty of violating any of the provisions contained in this ordinance shall upon conviction thereof pay a fine of not less than Ten (\$10.00) or more than the maximum penalty of the South Dakota Codified Law (Statute 22-6-2 (2)).

Dated August 3, 2015

Chapter 5.03 – House Movers

5.0301 License

It shall be unlawful for anyone to pursue the business of a house mover unless he shall have previously obtained a license so to do as hereinafter provided.

5.0302 Application

Any person desiring a license as a house mover shall make application to the City Council, said application to be accompanied by an annual license fee of Twenty-Five Dollars (\$25.00) and a bond running to the City in the sum of One Thousand Dollars (\$1,000.00) with sureties to be approved by the City Council, conditioned that the applicant will be pursuing the business of house mover, conform to all the regulations relating thereto, which are or may be established by the City Council, that he will promptly repair and make good any and all damage or injury to any pavement, sidewalks, crossroads, hydrants, street or any public building or part thereof and that will indemnify and keep harmless said City against all liability or damages which may arise in favor of any person by reason of any negligence or misconduct on his part or on the part of his agents or employees in connection with the moving of any building on any public street.

5.0303

Permits

Any such licensed house mover intending to move any building shall make application for permit so to do as provided in Chapter 7.04 of this ordinance provided, however, that a licensed house mover shall not be required to make the One Thousand Dollars (\$1,000.00) deposit provided for in said Chapter 7.04.

TITLE 6 – OFFENSES

Chapter 6.01 – Offenses against Public Welfare

- 6.0101** Intoxication
No person shall become drunk, intoxicated or under the influence of intoxicating liquor in any private house or place to the annoyance of any person. No person shall be or remain in a state of intoxication, drunkenness or under the influence of intoxicating liquor in any public place.
- 6.0102** Disorderly Conduct
No person shall conduct himself in any unseemly manner or way or in any manner tending to degrade or unsuited to the promotion of the morals, health or comfort of the inhabitants of the City.
- 6.0103** Disturbing the Peace
No person or said person's animals shall disturb the peace of the City or of any person by violent 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.
- 6.0104** Vagrancy
It shall be unlawful for any vagrant to be or remain within the limits of the City. A vagrant is an idle person, having no legitimate means of support, who does not seek or desire lawful employment and who subsists through charity of others or by unlawful means. Whenever it shall, in a prosecution under this section, be shown that any person who is able to work:
- A. Wanders about in idleness or lives in idleness without property sufficient for his support; or
 - B. Leads an idle, immoral or profligate life and does not work; or
 - C. Loafs, loiters or idles in the City, upon a public highway, or about any public place without any regular employment and without sufficient property for his support; or
 - D. Trades or barter stolen property; or
 - E. Unlawfully sells or barter any spirituous, vinous, malt or other intoxicating liquors; or
 - F. Attends or operates any gambling device or apparatus; or
 - G. Engages in practicing any trick or device or procure money or other things of value; or
 - H. Engages in any unlawful calling; or

- I. If any able-bodied married man, neglects or refuses, without lawful excuse, to provide support for his family; or
- J. Beggars in any public place or from house to house, or induces children or others to do so; or
- K. Falsely represents himself as a collector of alms for a charitable institution or purpose, it shall constitute a prima facie presumption that such person is a vagrant as defined in this section.

6.0105 Carrying Concealed Weapons

No person shall carry concealed about his person any pistol or other firearm, sling shot, brass knuckle or knuckles of other material or any sand bag, dagger, bowie knife, dirk knife, or other dangerous or deadly weapon, or any instrument or device which when used is likely to produce death or great bodily harm. Any peace officer may wear or carry such weapons as may be necessary and proper for the discharge of his official duties.

6.0106 Resisting

Escaping from or assaulting an officer. No person shall resist or obstruct any police officer in the performance of any official duty, nor in any way aid or assist any person to resist from any lawful confinement. No person shall assault or strike any police officer, not in any way interfere with a police officer in the discharge of his duty.

6.0107 Impersonating Officer

No person not duly authorized shall exercise the duties conferred by law upon a policeman, wear a policeman's badge or represent himself as being a policeman or peace officer, or attempt to exercise the duties of a policeman or peace officer.

6.0108 Indecency

No person shall appear in any public place in a state of nudity, in indecent dress or in dress intended to deceive others as to his or her sex, nor make any indecent exposure of his or her person. No person shall sell, distribute, give away, or exhibit to public view any indecent or lewd book or obscene magazine, post card, printed or written matter, article, things, pictures, drawing or representation. No person shall exhibit, show or perform any indecent, immoral or lewd show, act, play, motion picture or other representation in any thereafter or place of public resort.

6.0109 Insulting Person

No person shall make any impudent, insulting or licentious advance or salutation to any person upon any street or in any public place.

- 6.0110** Profanity
No person shall use any profane, vulgar or obscene language upon any street or other public place.
- 6.0111** Obscene Written and Printed Matter
No person shall exhibit, publish, pass, sell or offer for sale, or have in his possession with such intent, any obscene, lewd, or lascivious books, pamphlets, papers, magazines, writings, advertising circulars, cards, prints, letters, pictures, drawings, films or other immoral lewd or indecent representations or publications.
- All such obscene matter is declared to be a nuisance and any police officer is authorized to seize any such obscene matter found in the possession of any person arrested for a violation thereof, and upon a conviction of a violation of this section, the court shall order as a part of the judgement in addition to the other penalties prescribed, that the officer having the custody of such obscene matter shall destroy the same.
- 6.0112** False Emergency Alarms Prohibited
No person shall knowingly make or give any false alarm of fire or other emergency, by calling or causing to be called the Fire Department, the Police Officers or any authorized emergency vehicle.
- 6.0113** Displaying License Unlawfully
No person shall carry or display any city license or permit which has been terminated or revoked or which has not been lawfully procured and issued.
- 6.0114** Discharge of Firearms, Fireworks or Air Rifles
It shall be unlawful for any person except a public officer or specially appointed officer in the discharge of his duty, to discharge, or fire any gun, fireworks, air rifle, sling shot or other dangerous weapon within the limits of the City of Freeman. Firecrackers, roman candles, skyrockets, caps in any form for cap pistols and fireworks may be discharged during the period of 8:00 a.m. to 11:00 p.m. only, from June 27th through July 5th of each year, except in the fire zone of the City. No such fireworks herein set forth, shall be sold or offered for sale except during the period from June 27th through July 5th of each year.
- 6.0115** Blasting Powder
No person shall keep or store blasting powder in quantities of more than twenty-five pounds in the City of Freeman, South Dakota, and all blasting powder shall be kept in metal containers equipped with a tight fitting lid or cover.

- 6.0116** Dynamite
No person shall keep or store any dynamite or dynamite caps within the City of Freeman, South Dakota.
- 6.0117** Gasoline in Fire Limits
No person shall keep within any building within the fire limits of the City of Freeman, South Dakota, gasoline, naphtha or kerosene in quantities of more than five gallons, unless such gasoline, naphtha or kerosene is kept in steel or iron tanks buried at least two feet beneath the ground nor shall any person keep on his premises anywhere within the City of Freeman, South Dakota, any gasoline in quantities of more than five gallons without reporting the same to the Fire Chief of the Fire Department of the City of Freeman, South Dakota
- 6.0118** Tampering with Water System
It shall be unlawful for any person not having authority to do so, to:
1. Open any water hydrant or tamper with any water service furnished by the City of Freeman to the consumers;
 2. Molest, damage or trespass upon any equipment or premises belonging to the City of Freeman connected with any water service; or
 3. Molest any meter, seal or other equipment controlling or regulating the supply of water service.

Chapter 6.02 – Prostitution

- 6.0201** Leasing Room or House for Prostitution
No person shall knowingly let or lease to another any room, or building for the purpose of being used as a place of prostitution within the City of within one mile of the outer boundary thereof. Any person after having been informed that such room, house or building so let or leased by him is being used for such purpose by the lessee or any other person shall immediately take all legal measures to recover possession thereof.
- 6.0202** Keeping House of Prostitution
No person shall keep a house or place of prostitution within the City of within one mile of the outer boundary thereof, nor harbor or allow any person to be and remain in any such house or place.
- 6.0203** Frequenting House of Prostitution
No person shall frequent any house or place of prostitution, nor be an inmate or visitor of such house or place within the City or within one mile of the outer boundary thereof.

6.0204 Prostitution Prohibited
No person shall use or occupy any room, house or place for the purpose of prostitution, nor engage in prostitution within the City or within one mile of the outer boundary thereof.

6.0205 Enticing
No person shall within the City or within one mile of the outer boundary thereof, solicit, entice or urge any person to enter a house of prostitution nor solicit any person to occupy any room, house, building or other place for the purpose of prostitution.

Chapter 6.03 – Animals

Article I – In General

6.0301 Application to all Animals
All animals are subject to the regulations set forth in Article I, Article II, Article III and Article IV.

6.0302 Livestock not to run at large or be kept in certain areas of the City;
Exceptions:

- (a) It shall be unlawful for any person to raise, keep or maintain, or permit to run at large, any swine or hog, horse, cow, mule, donkey, sheep or goat, chickens, ducks, geese, turkeys, poultry or any other similar types, within any area of the City which is platted into lots of an area of a size commensurate with customary and normal residence building sites or an area of less than one (1) acre, notwithstanding the fact that any such animals or poultry may be maintained in an enclosed area on private property.
- (b) Any animal described in subsection (a) suffered or permitted to be within the areas described in subsection (a) in violation of this section is hereby declared to be a nuisance and menace to public health and safety by reason of the density of the population of the area.
- (c) Notwithstanding the provisions of subsection (a), the provisions of this section shall not be deemed to be applicable to sales pavilions and stockyards, slaughterhouses, locker plants, truck terminals, and other businesses which must of necessity temporarily confine animals for the purpose of sale, slaughter, transportation, or other business reasons, nor shall this section be applicable to persons situated on un-platted lands or an area of one (1) acre or more, provided such an area of one (1) acre or more is properly fenced and maintained.

- (d) It shall be unlawful for any person to drench or cause to be drenched with water any livestock while loaded in any vehicle in the City limits, or within a distance of one (1) mile from the boundaries thereof, or to clean or cause to be cleaned, with such confines, any vehicle used to carry livestock except at specified yards capable of handling same.

6.0303 Animals in Parks

No person shall ride, drive or lead any horse, mule, cow or other animal in any public park.

6.0304 Cruelty

It shall be unlawful for any person to:

- (a) Cruelly or immoderately beat, maim, wound or injure any animal.
- (b) Neglect or fail to provide food, water, protection from the elements, adequate sanitation, adequate facilities, or care generally considered to be standard and accepted for an animal's health and well-being consistent with the species, breed, physical condition and type of animal.
- (c) Willfully or negligently maltreat or abuse any animal by exposure to heat or cold.
- (d) Keep any animal in suffering which is injured or diseased past recovery, or to willfully abandon any such sick or disabled animal.

Dated November 6, 2017

6.0305 Disposition of Dead Animals

- (a) No dead animal of any kind shall be thrown into or upon the streets or alleys or the City, or left exposed by any person.
- (b) No owner of any dead animal shall permit it to remain undisposed longer than twenty-four (24) hours after its death.

6.0306 Procedure of Detention of Animals

- (a) As used in this section, the following terms shall have the meanings ascribed to them:
 - (1) *Animal* shall mean and include a dog, a cat or any other animal.
 - (2) *Owner* shall mean any person who owns or harbors an animal.
- (b) Any animal which shall bite a person is hereby declared a dangerous animal and a nuisance. If any person shall file a verified complaint in any court, stating that any person has been bitten by an animal, naming the owner as defendant, if he is known or can be learned from the City licenses records, a warrant shall issue to a police officer to take the animal into his possession and isolate it for a period of fifteen (15) days to ascertain if the animal has rabies, the cost of care thereof shall be at the expense of the owner. A copy of the warrant shall be delivered to the owner. With the approval of the court affixed to the warrant, the owner may be authorized to keep, or arrange for the care of, the animal under proper

safeguards for a fifteen (15) day period, during which tests may be made as to the animal's condition.

- (c) The court may fix a time of hearing of the complaint issued pursuant to subsection (b), and give notice to the owner thereof. At the hearing, the court may enter an order authorizing or confirming the acts of the officer and for such judgment as to the care and custody of the animal as may be proper to safeguard it, its owner and the public, and a judgment for the City for the costs of the animal's care against the owner.
- (d) The remedies provided herein shall be in addition to any other remedies allowed by law.

Article II – Dogs and Cats

Division 1 – Generally

6.0307 Applicability of Article to Other Animals

The provision so sections 6.0308-6.0312 and 6.0318-6.0323 shall include cats and other domesticated animals as far as is applicable, but animals other than dogs and cats are not required to be licensed.

6.0308 Dogs and Cats running at large prohibited; impoundment

- (a) It shall be unlawful for any owner of a dog or cat to allow his dog or cat to run at large at any time beyond the limits of the land of its owner, and upon the streets, sidewalks or other public or private property. For the purpose of this section, a dog shall be considered not to be at large whenever the dog is under the immediate control of a person by means of a leash, chain, cord or rope not more than ten (10) feet in length and of sufficient strength to control the dog.
- (b) Any dog or cat found at large in violation of subsection (a) shall be impounded in accordance with the provisions of this article and shall be subject to the charges and provisions of section (e) following.
- (c) The City Council shall be authorized to appoint some person or persons, whose duty is, shall be to impound any animals running at large, contrary to the provisions of this chapter. Any police officer will likewise have such power. No person shall hinder, delay or obstruct the pound master, his assistants or any law enforcement officer when engaged in capturing, securing or impounding any animal or animals.
- (d) Any owner found in violation of this section shall be fined in the amount of twenty dollars (\$20.00) for the first offense, forty dollars (\$40.00) for the second offense and sixty dollars (\$60.00) for each subsequent offense thereafter within any one-year period. Owners must pay the fine, impound fees, show proof of rabies immunization and show proof of having a City dog license before the dog will be released.

- (e) The City Council shall be authorized to enter into a contract with some person or association to establish, operate and maintain an animal pound in and for the City of Freeman. Said contract shall provide for the appointment of a pound master and his duties, for the enforcement of the chapter, for the impounding, destroying and disposal of animals, for a schedule of fees to be charged for services rendered. The Health Authority, law enforcement officers, or other persons whomsoever the City may designate, shall have access to the animal pound at all times and shall make an inspection of the buildings and other facilities at least twice a year and report his findings to the Council of the City of Freeman.

6.0309 Procedures When Dog or Cat is Suspected of Having Rabies

If a dog or cat is believed to have rabies, or has been bitten by an animal which is believed to have rabies, proceedings may be taken as provide by section 6.0306 as to licensed dogs and cats; unlicensed dogs shall be impounded and dealt with as provided in section 6.0318. It shall be the duty of any physician or veterinarian to immediately notify the police department of any injury by dog or cat, or animal bite or of any animal suspected of having rabies. All expenses incurred by the City for the impoundment of the dog or cat will be reimbursed to the City by the owner before the dog or cat is released.

6.0310 Keeping Vicious or Dangerous Dogs

- (a) It shall be unlawful for any person to keep or harbor within the City any vicious or dangerous dog.
- (b) An animal may be declared to be vicious by the police or veterinarian, or the attending physician of the victim of an animal bite or scratch may request such declaration, under the following guidelines:
 - (1) An animal which, in a vicious or terrorizing manner approaches in an apparent attitude of attack, or bites, inflicts injury, assaults or otherwise attacks a person or other animal upon the streets, sidewalks, or any public grounds or places; or
 - (2) An animal which, on private property, in a vicious or terrifying manner, approaches in an apparent attitude of attack or bites, or inflicts injury, or otherwise attacks a mailman, meter reader, serviceman, journeyman, delivery man, or other employed person, or other animal who is on private property by reason of permission of the owner or occupant of such property or who is on private property by reason of a course of dealing with the owner of such private property.
 - (3) No animal may be declared vicious if the injury or damage is sustained to any person or animal who is committing a willful trespass or other tort upon premises occupied by the owner or keeper of the animal, or who was teasing, tormenting, abusing or assaulting the animal or was committing or attempting to commit a crime.

- (c) When the police officer or health authority declares an animal to be vicious, the police officer shall notify the owner of such declaration in writing that such animal must be registered as a vicious animal within five (5) business days after the receipt of such written notice. Such notice shall be served either in person or by mailing such notice by certified mail.
- (d) The owner of an animal that has been declared vicious shall make application to the police department to register such vicious animal and shall comply with the following:
 - (1) The owner of the animal shall notify the police department of any changes in the following:
 - a. Ownership of the animal.
 - b. Name, address and telephone number of a new owner.
 - c. Address change of the owner or any change in where the animal is housed.
 - d. Any change in the health status of the animal.
 - e. Death of the animal.
 - (2) If the animal is indoors, the animal shall be under the control of a person over eighteen (18) years old.
 - (3) If the animal is outdoors and attended, the animal shall be muzzled, on a leash no longer than six (6) feet and under the control of a person over eighteen (18) years of age.
 - (4) If the animal is outdoors and unattended, the animal must be locked in an escape proof kennel approved by the police department. Minimum standards shall include the following:
 - a. Fencing materials shall not have openings with a diameter of more than two inches, in the case of a wooden fence; the gaps shall not be more than two inches.
 - b. Any gates within such pen or structure shall be lockable and of such design to prevent the entry of children or the escape of the animal.
 - c. The required pen or structure shall have secure sides and a secure top. If the pen or structure has no bottom secured to the sides; the sides shall be imbedded into the ground or concrete.
 - d. The pen or structure shall protect the animal from the elements.
 - e. The pen or structure may be required to have double exterior walls to prevent the insertion of fingers, hands or other objects.
 - (5) The animal shall be permanently identified by a tattoo to be applied by the police department or its agents.
 - (6) A universal sign denoting a vicious animal shall be displayed on the kennel or enclosure and on a place visible from the sidewalk or road adjacent to the property where the animal is kept.
 - (7) The owner shall carry \$100,000 liability insurance covering the medical and/or veterinary costs resulting from the vicious actions or any other damage

the animal may do or cause to be done. Proof of such insurance shall be filed.

- (8) The owner shall present proof of current rabies vaccinations and current City license of the animal to the police department.
- (9) The owner shall present proof the animal has been altered to prevent reproduction to the police department.
- (e) The vicious animal shall be impounded by the police department at the owner's expense until such time as all provisions in section (d) are complied with.
- (f) Any person violating this section (d) shall be fined in the amount of one hundred dollars (\$100.00) and the animal shall be subject to the provisions of sections 6.0306. If the owner is unknown, the animal shall be immediately destroyed in a humane manner.
- (g) Any vicious animal found off the premises of its owner, other than provided for in this article, shall be seized by the police officer and impounded. If the animal cannot be captured, it may be destroyed. If the animal has been running at large, or bites a person, or bites another animal, the police officer may order the owner to deliver the animal to the animal shelter named by the City within 24 hours and the owner ordered to appear before the Council to show cause why this animal shall not be destroyed. If the owner of the animal fails to deliver the animal as ordered, the police officer shall use such means as necessary to impound the animal.

6.0311 Disturbance of Peace by Barking Dogs

Exceptions:

- (a) The owner of a dog shall not suffer or allow the animal to disturb the peace and quiet of the City, by allowing the animal to continuously bark or howl.
- (b) Any person having custody or control of any female animal in heat shall be required to keep the same confined in a building, secure enclosure, veterinary hospital, or boarding kennel so that it cannot attract or come into contact with another animal on public or private property except for controlled breeding purposes.
- (c) Upon complaint such owner will be notified by the police department and said owner shall abate such nuisance. If convicted upon failure to abate such nuisance, said owner will be guilty of further violations for each day that such condition is allowed to exist or goes uncorrected.

6.0312 Removal by Owner of Fecal Material Deposited by Dogs on Public or Private Property

The person in control on any dog shall be required to remove and properly dispose of any fecal material deposited by said animal on public property or property other than the property of the dog's owner. Such removal shall take place immediately upon deposition of the fecal material. It shall be the responsibility of the person in control

of the dog to have available such equipment or materials as are necessary to properly dispose of the fecal material.

Division 2 – Licenses*

6.0313 Annual License Fee Required

Each owner, keeper and person in charge of any dog or cat shall, before the first day of July in each year, pay a license fee as established by resolution of the Council of the City of Freeman.

6.0314 When Licensing is not Required

No dog or cat need be licensed pursuant to this division if the dog or cat is under six (6) months of age and is kept on the property of the owner.

6.0315 Rabies Vaccination Prerequisite to License

No license required by the City shall be issued for any dog or cat unless it shall have been vaccinated by a licensed veterinarian with anti-rabic vaccine within three (3) months preceding the date on which the dog or cat is licensed, or prior vaccination within two (2) years shall be deemed vaccination sufficient to permit the issuance of the license required by this division. A veterinarian's certificate to that effect shall be in compliance with this section.

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

All veterinarians or other qualified persons designated to immunize animals against rabies shall provide the owner at the time of immunizations with a certificate or metal tag showing the date of the immunization.

Whenever metallic tags are so given for immunization, such metallic tags shall be worn by all animals on a collar, harness, or chain when off the premises of the owner.

6.0316 Issuance of License Tag; to be worn by Licensed Dog or Cat

The Chief of Police or Deputy shall issue his receipt for the payment of the license fee imposed upon dogs or cats by this division; and the police officer of his designee shall issue to the person a certificate to the effect that the dog or cat therein described has been duly registered and shall also deliver to such a person a metal tag, which certificate and tag shall bear the registry number of the dog or cat together with the year in which the certificate and tag was issued; and the tag shall be securely fastened upon the dog or cat so registered.

6.0317

Kennel Licenses

- (a) Any person desiring to operate a kennel and pay a kennel fee therefore in lieu of the license fee required for dogs imposed by this division may make application for a kennel license, the fee for which shall be established by the Council.
- (b) The application for a kennel license shall state the place and where the kennel will be operated, and the animals must be kept in a substantial enclosure thereon and kept therein at all times, except when the same may be on a leash in the custody of the owner or his agent.
- (c) If dogs are kept as prescribed in this section, they need not be separately licensed, but the kennel fee shall cover all of the dogs while so confined.
- (d) The definition of a kennel shall be: Any premises, or portion thereof, where dogs, cats and other household pets are maintained, boarded, bred or cared for, in return for remuneration, or are kept for the purpose of sale.
- (e) Kennels shall not be allowed in R-1 or R-2 Zoning Districts, as defined and described in City of Freeman Zoning Ordinance.
- (f) Nothing in this section shall be construed to allow the establishment of a kennel in conflict with the provisions of the zoning ordinance.

***State law reference – Authority to license dogs SDCL 1967 & 9-29-12**

Division 3 – Impoundment

6.0318

Duty to Impound Unlicensed or Unvaccinated Dogs or Cats

It shall be the duty of each police officer or other person designated by the Mayor, to apprehend any dog or cat not licensed or not vaccinated as required by this chapter and to impound the dog or cat at a suitable place designated by the Mayor or Council.

6.0319

Notice of Impoundment

The police officer or other designated person shall at his earliest convenience, notify the owner of any licensed dog or cat of the impoundment. In the event of unlicensed dogs or cat, or other animals impounded, the animal control officer or other designated person shall post a written notice at a conspicuous place in the City Hall or have published in a local newspaper this information required by section 6.0316 of this chapter.

6.0320

Impoundment and Maintenance Charges

The Council shall by resolution establish charges for the impoundment and maintenance of animals which charges must be paid to the Finance Officer or kennel attendant prior to recovery of the animal.

- 6.0321** Unlicensed Dogs and Cats to be Vaccinated
An unlicensed dog or cat impounded pursuant to this division must be licensed before it may be released to its owner. Upon release of an unlicensed dog or cat to its owner, a thirty dollar (\$30.00) deposit shall be left by the owner with the Finance Officer or police officer. Such deposit, less the licensing fees provided by section 6.0313, shall be returned to the owner upon proof of the required vaccination provided for in section 6.0315 which shall be established by the Council by resolution.
- 6.0322** Time for Keeping Dogs or Cats Impounded
Licensed dogs or cats impounded pursuant to this division shall be kept for at least three (3) days; and unlicensed dogs, cats or other animals impounded pursuant to this division shall be kept for one (1) day after giving or posting of the notice required by this division at City Hall, and at the expiration of which time the dog or cat shall be destroyed in some humane manner.
- 6.0323** Certain Animals Not to be Released
Any dog, cat or other animal which appears to be suffering from rabies or any other infections or disease, and any animal which is determined to be a vicious animal shall not be released, but may forthwith be destroyed without notice to the owner. Any animal determined not to be a vicious animal shall be confined per section 6.0306, and the owner shall be appropriately notified.

Article III – Exotic Animals and Wildlife

- 6.0324** Exotic and Wild Animals
No person shall have in his possession or on his property any form of wildlife, such as raccoons, fox, bear, bobcat, llama, ostrich, or any other species of dangerous wildlife or exotic animals without registration and pre-approval of the Council of the City of Freeman.

Article IV – General Provisions

- 6.0325** Saving Clause
Should any section, clause, or provision of this ordinance be declared by the courts to be invalid, the same shall not affect the validity of the ordinance as a whole or any part thereof, other than the part so declared to be invalid.
- 6.0326** Effective Clause
This ordinance shall be in full force and effective from and after its passage, approval and publication as required by law.

Dated June 3, 1996

Chapter 6.04 – Offenses as to Public Places

6.0401 Gatherings on Streets Limited

No person shall call or cause the gathering of any crowd of people or address or exhibit any show of performance to such crowd, in any alley, street or other public ground of the City, without written permission of the Mayor.

6.0402 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 a manner as to obstruct free passage thereon, or to annoy other persons passing along the same, and any policeman is authorized to disperse any crowd or group or to cause the removal of any person violating the provision of this section and to summarily arrest any person in case of refusal to obey any reasonable direction given by such officer for the purpose of clearing the way or preventing annoyance to any passerby on any public street or sidewalk.

6.0403 Hindering or Molesting Passerby's

No person shall upon any street or at the entrance of any building on any such street, alley or sidewalk, wrongfully hinder, impede, or molest any passerby, or use any rude, obscene, vulgar, indecent or threatening language to any indecent act, gesture, or noise, molest, annoy or insult or put in fear any person passing or attempting to pass on such street, alley, sidewalk or through the entrance to such building.

6.0404 Certain Advertising Methods Prohibited

No person shall put up, erect, hang, post or suffer to remain so placed, any sign, poster, notice or advertising matter, upon any telephone, telegraph, or electric light pole in the City.

No person shall paint, write, post or in any manner place upon any sidewalk, pavement, or sidewalk in the City, any letters, words, figures, signs, pictures, notices or advertisement of any kind.

6.0405 Littering

Any person who places or allows to be placed any garbage, refuse, ashes, cans, bottles, junk or other waste material or offensive matter on any street, alley, city park, or other city ground except as authorized by the proper city officials having in charge such public places shall be guilty of littering and upon conviction shall be punishable by a fine of not more than one hundred dollars (\$100.00).

6.0406

Trespass

Any person who, knowing that he is not privileged to do so enters or remains in any city property where notice against trespass is given by:

1. Actual communication to the actor;
2. Posting in a manner reasonable likely to come to the attention of intruders, or
3. Fencing or other enclosure which a reasonable person would recognize as being designed to exclude intruders; is guilty of a Class 2 misdemeanor.

Chapter 6.05 – Public Nuisances

6.0501

Public Nuisance Defined, Remedy

A public nuisance consists in unlawfully doing an 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.

Annoys, injures or endangers the comfort, repose, health or safety of others; or offends decency.

The remedies against a public nuisance shall be those prescribed in SDCL 1967, Section 21-10-5 to 21-10-9 inclusive, of the South Dakota Code of 1967, or other statutes.

6.0502

Radio and Television Interference

It shall be unlawful for any person to operate or cause to be operated in the City of Freeman, any machine, device or instrument of any kind whatsoever causing preventable or avoidable interference with radio or television broadcast receiving apparatus, provided however that x-ray pictures, examinations or treatments may be made at any time if the machine or apparatus used therefore are properly equipped to avoid all unnecessary or reasonable preventable interference with radio or television reception, and are not negligently operated, and provided further that violet-ray machines, diathermal machines, or any other electro-medical devices may be operated at any time if the machines or apparatus used therefore are properly equipped to avoid all unnecessary or reasonable preventable interference with radio or television reception and are not negligently operated.

6.0503

Parking Ordinances

Any vehicle parked or left standing on any street, highway or public grounds of the City of Freeman in violation of any of the parking ordinances shall be deemed to constitute a public nuisance. The police department of the City is hereby authorized to abate any such nuisance by impounding, removing and storing such vehicle. For

the purpose of impounding, removing and storing any such vehicle parked in violation of the ordinances as hereinbefore provided, the Chief of Police shall have the authority to contract with a bonded or insured towing service for the removal and storage of such vehicle. Any owner or operator of any such vehicle so impounded shall be liable for the cost of towing or storage in addition to any fine or penalty which shall be assessed against him as to heretofore provided. All City owned vehicles are exempt.

Dated February 6, 2017

- 6.0504** Snow Emergency
Repealed
- 6.050401** Snow Emergency for B-1 (Local Business District)
Repealed
- 6.050402** Failure to Comply
Repealed
- 6.050403** Placement of Naturally Placed Snow on the Sidewalks of the B-1 Local Business District
Repealed
- 6.050404** Repealed

Chapter 6.06 – Offenses as to Property

- 6.0601** Injuring Signs
No person shall deface, remove, change, mar or 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.
- 6.0602** Traffic Signs, Injuring or Placing Unauthorized Prohibited
No person shall deface, injure, move, obstruct or interfere with any official traffic sign or signal, or street sign or parking meter.

No person shall place, maintain, or 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 the same to be removed without notice.

- 6.0603** Destroying Trees and Plants
No person shall willfully injure, destroy or deface any tree, shrub, plant 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 are the property of another.
- 6.0604** Interference with Electric Light Posts and Apparatus
No person shall interfere with, injure, break or jar any electric light, telephone, telegraph or fire alarm system, post or pole or apparatus in any manner, or climb any telegraph, telephone, electric or fire alarm pole without being properly authorized to do so.
- 6.0605** 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 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 there from; 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 other device or disconnect, change or in any manner so interfere with any such meter or 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.
- 6.0606** Interference with City Engineer, Instruments, Stakes
No person shall interfere with the City Engineer while engaged in his 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 any of his assistants or by moving or displacing any stake, monument or bench mark fixed or located by him or his assistants.
- 6.0607** Interference with City Property
No person shall climb or in any manner interfere with any building, water tower, bridge or structure belonging to the City, without being authorized so to do by the City; and person shall in any manner injure or deface any such structure.
- 6.0608** Destroying Property
No person shall willfully damage, deface, break, destroy or interfere with the property of the City or of another person.

6.0609

Fences

No person, firm or corporation shall hereafter construct, erect or maintain or cause to be constructed, erected or maintained in the City of Freeman, any fence of any character or material, exceeding five feet in height when the same is within forty feet of the street line, and provided further that no fence or any part thereof shall be constructed of barbed wire, razor wire or a material intended to cause bodily harm. All fences shall require a building permit. Fences shall be put up with mutual agreement between property owners. Said permit shall require a site plan of the entire lot. A permit is not needed in the following cases:

- The fence or wall is located, or will be erected, within the buildable area of a lot.
- The fence or wall encloses, or will enclose, an area of less than 25 square feet.

Fences, walls, and hedges located along the side of a lot abutting an arterial or collector streets shall be set back at least ten (10) feet from the property line. The arterial and collector streets; Cedar Street and North County Road (278th St.), South County Road (279th St.), or Highway 81. (Additional Criteria (Section 1213 Obstructions, 11 (A))).

This section shall not apply to those entities where safety or controlled access regulations require fencing exceeding these standards. However, said entities shall have written approval by the Zoning Administrator prior to construction.

Dated August 3, 2015

6.0610

Mailboxes

No person, firm, business or corporation shall construct or place a mailbox on any city street, ditch, or public property without permission from the city council except in the designated mailbox locations. Mailbox locations are found in Appendix B.

Dated November 4, 2020

Chapter 6.07 – Alcoholic Beverages

6.0701

License Required

No person shall sell, offer for sale, exchange, distill, manufacture, produce, bottle, blend or otherwise concoct within the City, any alcoholic beverage as defined by statute without having a license therefore as required by the statutes of the State of South Dakota as amended or as authorized by such title as amended.

6.0702

Package with Broken Seal

It shall be unlawful for any person to have in his/her possession on any public street or sidewalk within the City, any alcoholic beverage, except that contained in a sealed original package.

Dated September 9, 2019

6.0703 Sale of Gifts to Minors

No person shall sell or give away any liquor, beer or wine to any person under the age as defined by State statutes.

6.0704 Intoxicating and Non-Intoxicating Liquor Restrictions

Every license authorized to sell, offer or keep for sale intoxicating liquor or non-intoxicating beer or wine in the City of Freeman shall keep the premises upon which such business is conducted in such condition that view through the windows of such premises shall be completely unobstructed either by curtains, advertising, window glazing or any other obstruction whatsoever, and no intoxicating liquor or non-intoxicating beer or wine shall be served in any booth on such premises wherein all the occupants and wholly without full view of every other occupant in the room and observable from any and all points in the said room, and said premises shall be adequately lighted at all times with sufficiently bright lights so that the occupants of such room may be easily observable from any and all points said room, and no licensee shall allow any game of skill or chance or athletic contest on said premises or permit any slot machine or other like device in or about the licensed premises.

6.0705 Obtaining Alcoholic Beverage by Fraud

It shall be unlawful for any person to obtain or attempt to obtain alcohol beverages by fraud or by false representations as to the age of the person obtaining or attempting to obtain or as to the purpose for which it is to be obtained.

6.0706 It shall be unlawful for any person to furnish, purchase for, give away or procure any

alcoholic beverages for any person in the habit of becoming intoxicated, or for any person, where any dealer in intoxicating liquors has been forbidden in writing to furnish or sell alcoholic beverages to such person, by the husband, wife, parent, child, guardian or employer of such person or the Mayor of the City of Freeman, or any member of the County Commissioners of the county where such person shall reside or temporarily remain, and the furnishing, purchasing, giving away or procuring of said alcoholic beverages shall be prima facie evidence on the part of the person so furnishing, purchasing, giving away or procuring said alcoholic beverages of the aforesaid, to violate the law and this ordinance.

6.0707 Time of Closing

No on-sale licensee shall sell, serve or allow to be consumed on the premises covered by the license, alcoholic beverages, between the hours of 2:00 a.m. and 9:00 a.m. or at any time on Christmas Day.

No off-sale licensee shall sell or allow to be sold alcoholic beverages between the hours of 2:00 a.m. and 7:00 a.m., or at any time on Christmas Day.

Dated August 6, 2012

6.0708 Number of On-Sale Licenses, Except Malt Beverage
Pursuant to South Dakota law as set forth in SDCL 35-4-11, the City of Freeman does hereby authorize four (4) on-sale licenses for alcoholic beverages, except malt beverage.

Dated May 21, 2001

6.0709 Number of Off-Sale Licenses, Except Malt Beverage
The City of Freeman does hereby authorize the number of off-sale licenses (for alcoholic beverages, except malt beverages) as is permitted by South Dakota law, as set forth in SDCL 35-4-10. The determination of the number of licenses and fees shall be established by the City provided for by SDCL 35-4-11.

Dated August 5, 2013

6.0710 License Fees
The annual fee for each on-sale or off-sale license, except malt beverage, shall be \$400.00 each.

Dated November 6, 2018

6.0711 Establishment of a Permit

1. Definitions. As used in this ordinance, the following terms shall have the following meanings:

“Person” includes natural persons, partnerships, associations, cooperative corporations, limited liability companies and corporations;

“Public gathering” shall mean any gathering at which more than 10 individuals shall be present and which shall be held at any public location, or at any private location at which the general public is invited or freely allowed to enter;

“Alcoholic beverages” shall mean any distilled spirits, wine and malt beverages as defined in title 35 of the South Dakota Codified Law; and

“Security guard” shall mean a currently South Dakota certified law enforcement officer, or an individual approved by the Chief of Police of the City of Freeman.

2. License Requirements. Any person intending to sponsor a public gathering at which alcoholic beverages will be available for consumption shall be required to purchase a permit from the City of Freeman at least fourteen (14) days prior to the event. The cost of the permit shall be \$15.00

3. Security Requirements. At any public gathering at which alcoholic beverages will be available for consumption, the licensee shall be required to have security guards in the following proportions:

Up to 25 attendees	Two security guards
From 25 to 100 attendees	Four security guards
In excess of 100 attendees	Two security guards for every fifty attendees

4. Markings of Security Guards. Security guards must be clearly identifiable by the wearing of a bright orange t-shirt with the word “security” printed on the back, or the wearing of a bright orange cap or hat with the word “security” printed on the same, or such other distinctive marking on his or her clothing to so indicate.

5. Age Identification. All individuals attending the public gathering intending to partake of any alcoholic beverages shall provide proof to the security guards that they are at least twenty-one (21) years of age, and shall then affix a white wrist band to his or her hand.

6. Restriction on Providing Alcoholic Beverages. An individual who is not wearing a white wrist band shall not be allowed to purchase, attempt to purchase or possess or consume alcoholic beverages at the public gathering.

7. Report of Violations. Any security guard shall have the right to report any and all violations of this ordinance or of any statutes of the State and Federal Government.

8. Exemption of License Holders. This ordinance shall not apply to any person who holds a license for the sale of alcoholic beverages issued pursuant to the provisions of South Dakota law, except for a street dance held in conjunction with a special event under the provisions contained in SDCL 35-4-11.4 providing for security personnel.

9. Penalty Provisions. Every violation of any of the provisions of this ordinance shall be punished by a fine not exceeding two hundred dollars (\$200.00).

Dated June 9, 1999

6.0712 Special Alcoholic Beverage Licenses

Pursuant to SDCL 35-4-124 and SDCL 35-4-125, the City of Freeman regulates and restricts permits for special alcoholic beverage licenses issued in conjunction with special events in the following manner:

1. Any license issued pursuant to SDCL 35-4-124 shall be issued for a period of time established within the sole discretion of the City Council, not to exceed three consecutive days.
2. A public hearing is required before approval and issuance of any license.
3. No person or organization may be issued a permit pursuant to SDCL 35-4-124 more than 10 times in any calendar year.
4. The license must comply with the regulations set forth on the application and all applicable state laws set forth in SDCL chapter 35-4 and City ordinance 6.07 concerning the consumption of alcoholic beverages.
5. No alcoholic beverages will be permitted to be served after 1:00 a.m.
6. The fee for a license issued pursuant to SDCL 35-4-124 and SDCL 35-4-125 and this ordinance shall be \$25.00 per day which must accompany the special alcoholic beverage license application.

The City Council of the City of Freeman reserves the right and authority to review and adjust the aforementioned fee established by this ordinance.

Dated June 4, 2012

Chapter 6.08 – Abandoned, Wrecked, Dismantled or Inoperative Motor Vehicles

6.0801 For the purposes of this article, the following terms, phrases, words and their derivations shall have the meaning given herein.

- (a) City; is the City of Freeman
- (b) Vehicle; any vehicle which is designed to travel along the ground or in the water and shall include, but not limited to, automobiles, buses, motorbikes, motorcycles, motor scooters, trucks, tractors, pull trailers, go carts, boats, campers and trailers.
- (c) Inoperative vehicle; any vehicle, as defined by subsection (b) herein, which is not in operating condition due to damage, removal or inoperability of one or more tires and wheels, the engine or other essential parts required for the operation of the vehicle, or which does not have lawfully affixed thereto a valid state license plate or which constitutes an immediate health, safety, fire or traffic hazard.
- (d) Abandoned vehicle; any vehicle, as defined by subsection (b) herein, which is left unattended or stored on any public property as defined by subsection (g) herein, in the same or substantially same place within the City for longer period than twenty-four (24) hours.

- (e) Person; shall mean any person, firm, partnership, association, corporation, company or organization of any kind.
- (f) Private property; shall mean any real property within the City which is privately owned and which is not public property as defined in this section.
- (g) Public property; shall mean any street, alley or highway which shall include the entire width between the boundary lines of every way publicly maintained for the purposes of vehicular travel and shall also mean any other publicly owned property or facility.
- (h) Removal agency; any public body, private or non-profit organization authorized by the City to remove and salvage abandoned or inoperable vehicles.

6.0802

Storing, parking or leaving dismantled, inoperable or abandoned vehicles declared nuisance.

The presence of an abandoned, discarded, wrecked, burned, dismantled, inoperable, junked or partially dismantled vehicle or parts thereof on private or public property is hereby declared a public nuisance, which may be abated as such in accordance with the provisions of this article. It is unlawful to keep or place any of the above described vehicles or vehicle parts:

- (1) Upon public streets or property except on any emergency basis; or
- (2) Upon the private property of any person owning, in charge of, or in control of any real property within the City, whether as an owner, tenant, occupant, lessee or otherwise for longer than fourteen (14) days unless it is within carport, fully enclosed building or structure. A tarpaulin, tent or other similar temporary structure shall not be deemed to satisfy the requirements of this section.
- (3) In no event shall an inoperable vehicle that constitutes an imminent health, safety or fire hazard be kept or located on any premises.

6.0803

Exceptions

This article shall not apply to:

- (1) One inoperable vehicle kept on private property without being shielded from public view if licensed and kept on a private driveway. In the event this inoperable vehicle is in a state of externally visible disrepair or disassembly, it shall not be kept on the private driveway longer than fourteen (14) days.
- (2) Filling stations, automobile repair shops or any other motor vehicle related businesses in compliance with applicable City ordinances may place inoperable vehicles being repaired or offered for sale on the premises.
- (3) Junkyards operated and maintained in compliance with applicable City ordinances.

6.0804

Removal

Whenever the police department finds an abandoned or inoperable vehicle on public property within the City, it is authorized to place written notice on the vehicle that it

will be removed to a garage or place of safety unless the owner removes the vehicle from public property within twenty-four (24) hours of the giving of the notice. After the expiration of the twenty-four (24) hour period, the vehicle may be removed by a removal agency to a garage or place of safety. Nothing in this section precludes the police department from immediately removing a vehicle that constitutes an imminent health, safety or fire hazard.

6.0805 Disposition of Unclaimed Vehicles

The removal agency shall have the rights and obligations conferred upon it by SDCL chapter 32-36 in regard to titling or disposition of such unclaimed vehicle, except that, if not otherwise provided by state law, it shall have a possessory lien upon any vehicle removed under provisions of this article for the costs or reasonable charges in taking custody of and storing such vehicles.

6.0806 Duty of Private Property Owners

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

6.0807 Notice to Remove

A notice in writing shall be served by the City upon any person having an abandoned or inoperable vehicle on their property requesting the removal of such motor vehicle in the time specified in this article.

6.0808 Responsibility for Removal

Upon proper notice, the owner of the abandoned or inoperable vehicle and the owner or occupant of the private property on which the same is located, either or all of them, shall be responsible for its removal.

6.0809 Notice Procedure

The City shall give notice of removal to the owner or occupant of the private property where it is located. It shall constitute sufficient notice, when a copy of same is sent by registered or certified mail to the owner or occupant of the private property at his last known address.

6.0810 Content of Notice

The notice shall contain the request for removal within fourteen (14) days after the mailing of such notice, and the notice shall advise that failure to comply with the notice to remove shall be a violation of this article.

Chapter 6.09 – Automotive and Farm Equipment Repair and Sales

- 6.0901** (a) All automotive and farm equipment repair and sales establishments shall confine all their repair work to their own property and shall not perform any repair work upon the streets and alleys of the City of Freeman.
- (b) All establishments referred to in subparagraph (a) shall park all automobile and farm equipment which is to be sold or repaired on their own property, and shall not permit said property to remain on the streets and alleys of the City of Freeman.
- (c) All establishments referred to in subparagraph (a) shall keep their property free from trash and litter.
- (d) This ordinance may be enforced by criminal procedures as well as by nuisance and abatement procedures.

Chapter 6.10 – Curfew

- 6.1001** No minor under the age of 18 years shall be or remain in or upon the public streets, alleys, parks, playgrounds, public grounds, public places, public buildings, public places of amusement and entertainment, vacant lots or other unsupervised public places within the City between the hours of 12:00 a.m. and 6:00 a.m.
- 6.1002** Provisions of this ordinance imposing curfew on minors shall not apply to minor accompanied by his or her parent, guardian or other adult person having the care and custody of the minor, or where the minor is upon an emergency errand or business directed or authorized in writing by his or her parent, guardian, or such adult person having the care and custody of the minor, said authorization shall be on file with the City police department or in the personal possession of the minor.
- 6.1003** It shall be unlawful for the parents, guardian or other adult person having the care and custody of a minor under the age of 18 years to knowingly permit such minor to be or remain in or upon public streets, alleys, parks, playgrounds, public grounds, public places, public buildings, public places of amusement or entertainment, vacant lots or other unsupervised public places within the City between the hours listed in section 6.1001 above, except when the minor is accompanied by his or her parent, guardian or other adult person having the care and custody of the minor, or when the minor is upon an emergency errand or business directed or authorized in writing by his or her parent, guardian, or other adult person having the care and custody of the minor, said authorization must be on file with the City police department or in the

personal possession of the minor. Violation of this provision shall be a misdemeanor.

August 3, 2015

6.1004

It shall be the right of any authorized officer of person to detain or take into custody any minor violating the curfew and to keep said minor detained until his or her parent, guardian or custodian is notified when said minor may be released upon the giving of a promise by the minor and his parent, guardian or custodian will appear at a state time before the proper authority to answer the charges.

TITLE 7 – SIDEWALKS, STREETS AND ALLEYS

Chapter 7.01 – Sidewalks

7.0101

Permit Required

No sidewalks shall be constructed within the City of Freeman without first obtaining a permit for the construction thereof. For sidewalks constructed beginning with the effective date of this ordinance until December 1, 2003, no fee shall be required for the building permit

Dated July 2, 2001

7.010201

Construction Specification

Sidewalk shall be laid and constructed according to the lines and grades established by the streets and alleys committee. The sidewalk elevation, to the extent possible, shall match adjoining sidewalks, if any, and be of the proper height so as to allow for proper drainage.

Construction of sidewalk shall conform to generally accepted construction practices and conform to the following minimum requirements.

The base shall be well tamped and compacted. A two-inch (2") gravel cushion is recommended.

The depth shall be a minimum of four (4) inches thick.

The concrete mix shall not be weaker than 3500 PSL.

Be well spaded against forms.

The sidewalk shall be finished by striking off with a straight edge, after which it shall be floated, troweled smooth, and brushed crosswise.

The sidewalk shall contain construction joints at approximately five foot (5') intervals and they shall be tooled in or sawed in to a depth of one-quarter (1/4) of the concrete.

The streets and alleys committee shall have full power to condemn the work not in accordance with the requirements of these specifications.

The width of sidewalks in the residential districts shall be four feet or wider to match adjoining sidewalks. The outer edge of such sidewalk shall be the property line. In the business districts, the width of sidewalks shall be five feet or wider to match

adjoining sidewalks. In the Main Street business district, the sidewalk shall be constructed from the curb line to the property line.

The sidewalk grade shall not exceed five percent (5%) in addition to the contour of the lot.

Where trees have raised panels, the tree roots shall be cutaway or the sidewalk may be built a maximum of one foot (1) away from the base of the tree trunk.

When curbs are constructed pursuant to this ordinance, a permit for the construction shall be obtained if no building permit has previously been issued and in effect for the building or sidewalk construction. Concrete specifications for sidewalks shall apply in curb construction. The streets and alleys committee shall establish the line and grade of such construction. On all streets of a width of sixty-six feet (66'), the outer edge of such curb shall be ten feet (10') from the property line, and such curb shall be a thickness of at least six (6) inches. On narrower streets, the streets and alleys committee shall determine the width of such curbs.

Curb culverts shall be placed ten feet (10') from the property line, and shall run parallel to the sidewalk. Culverts and the installation thereof shall be provided at the owner's expense.

Dated July 2, 2001

7.010202 Criteria for Replacement of Sidewalk

Sidewalks shall be replaced or repaired if the following conditions exist:

- a. Vertical separations of three-quarters (3/4) inch or more (trip hazard);
- b. Horizontal separations of three-quarters (3/4) inch or more;
- c. Holes or depressions of three (3) inches or more in diameter and one-half (1/2) inch or more in depth;
- d. Spalling (aggregate exposed) over seventy-five percent (75%) of a single square and panel of the sidewalk with one or more depressions of one-half (1/2) inch or more;
- e. A single square or panel of sidewalk cracked in such a manner that no part has a piece greater than one square foot or is cracked in such a manner that it constitutes a danger or potential danger to the public;
- f. A sidewalk with any part missing to the full depth; or if the concrete settled, allowing water to pond to a depth of three-quarters (3/4) inch or more.

Dated July 2, 2001

7.0103 Notices to Owners

Whenever the City Council shall deem it necessary to construct, rebuild or repair any sidewalk, it shall notify the owner of lots adjoining such sidewalk to construct,

rebuild, or repair the same at their own expense, within a time designated, such notice shall be in writing and either personally or by return receipt on each owner or by publication once each week for two successive weeks. The notice shall set forth the character of the work and the time within which it shall be done. Such notice may be general as to owners but must be specific as to the descriptions of the lots.

Dated July 2, 2001

7.0104 Work Performed by Owners or City

If such sidewalk is not constructed, reconstructed or repaired in the manner within the time prescribed, the City Council by resolution, may cause the same to be done, and the cost thereof assessed against the lots, plots, or parcels fronting on the property or abutting upon the sidewalk so constructed, reconstructed or repaired, as provided in this title.

In estimating such assessment, the entire cost the improvement fronting on the property to be assessed shall be divided by the number of feet fronting or abutting the same and the quotient shall be the sum assessed per front foot against each lot so fronting abutting. The cost of the sidewalk as aforesaid shall be assessed against the fronting or abutting lots as a special assessment, or may be collected by suit.

Dated July 2, 2001

7.0105 Liability for Damages

Any owner of real property, who shall fail to keep in repair the sidewalks in front of or along such property, shall be held liable to the City for any damage caused by such neglect.

Dated July 2, 2001

7.0106 Removal of Existing Sidewalk

It shall be unlawful for any person or property owner to remove an existing sidewalk without replacing said sidewalk in accordance with the specifications set forth in the ordinance.

Dated July 2, 2001

7.0107 Wheelchair Curb Ramps

Any new or replacement sidewalk, curb or gutter installed in both business and residential areas shall be installed in such a manner as to make transition from street to sidewalk easily negotiable for handicapped persons in wheel chairs in accordance with the provisions of SDCL 9-46-101, as amended from time to time.

Dated July 2, 2001

- 7.0108** Sidewalks
Any principal buildings constructed within the City limits of Freeman as of January 1, 1990 must have sidewalks.
Dated July 2, 2001
- 7.0109** Culverts
Curb culverts shall be placed ten feet (10') from the property line, and shall run parallel to the sidewalk. Culverts and the installation thereof shall be provided at the owner's expense.
Dated July 2, 2001
- 7.0110** Cost and Maintenance
Cost and maintenance of alleys and sidewalks shall be the responsibility of the property owner, with the exception of the alleys on either side of Main Street between 2nd and 5th Streets, which shall be maintained by the City.
Dated July 2, 2001
- 7.0111** Alternate Materials for Sidewalks
A property owner not intending to construct a sidewalk out of concrete may apply to the streets and alleys committee for approval of use of an alternate material. Before acceptance of the alternate material, the streets and alleys committee shall determine that the use of any alternate material does not compromise the standards set forth in chapter 7.01.
Dated July 2, 2001
- 7.0112** Access from Streets
The owner of property adjacent to any street intersection shall be responsible for the construction, repair and replacement of the sidewalk access to the adjoining streets. The City shall provide any culvert necessary.

For any sidewalk access constructed during the period beginning with the effective date of this ordinance and ending December 1, 2002, the City shall contribute fifty percent (50%) of the cost for the new sidewalk access provided the owner has received approval of the construction from the streets and alleys committee prior to the commencement of the construction.
Dated July 2, 2001

Chapter 7.02 – Snow Removal

- 7.0201** 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 plat of ground fronting or abutting upon any sidewalk, to keep such

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

7.0202 City Shall Remove

If the owner or person in possession or in charge of any said lots, parcels, or plots or grounds fails or refuses to remove the snow or ice from such sidewalk within 24 hours of the falling of said snow or the forming of said snow, without notice from the City, the City shall remove or cause to be removed said snow or ice each time it is necessary and assess the cost thereof against the fronting or abutting property.

7.0203 Owner Liable for Damages

The owner of such real property who shall fail to remove the snow and ice from the sidewalks abutting his property shall be held liable for any damage caused by such failure or neglect.

7.020401 Definitions:

- Snow Emergency: A snow emergency shall be deemed to exist anytime there is a snow accumulation exceeding 2 inches, due to blowing or drifting snow or snow fall; or, when declared by the City. The snow emergency shall continue and remain in effect until canceled.
- B-1 Local Business District: B-1 Local Business District as established in Ordinance 99-6, known as the “City of Freeman Zoning Ordinance”

7.020402 Snow Emergency Parking

No person shall stop, stand or park any vehicle on any street, highway or public grounds of the City, when a snow emergency exists.

7.020403 Snow Emergency for B-1 (Local Business District)

No person shall stand or park any vehicle on any street that abuts any lot, parcel or plat of ground in the B-1 Local Business District between the hours of 2:00 am and 7:00 am during a snow emergency.

7.020404 Failure to Comply

Vehicles parked in violation of 7.0204(3) may be cited, towed or both at the owner’s expense.

7.020405 Removal of snow from sidewalks in the B-1 Local Business District

Snow must be removed from sidewalks in the B-1 Local Business District by 6:30 am whenever snow accumulation exceeds 1 inch. Prior to 6:30 am it is lawful to remove naturally placed snow from the sidewalks onto the street.

If Snow is not removed from a sidewalk in the B-1 Local Business District by 6:30 am in accordance with the above paragraph, the City of Freeman may cause the snow to be removed and assess the cost thereof against the fronting or abutting property.

Dated March 18, 2020

Chapter 7.03 – Use of Streets

7.0301

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 Freeman, 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 in this City, bicycles, any other article, substance or material which may obstruct free use of said street, road, alley, sidewalk or public ground, except as hereinafter provided. No signs are permitted on any public streets or sidewalks in the City of Freeman without permission from the City Administrator or designee.

Dated January 8, 2009

7.0302

Materials in Streets, Permits

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

7.0303

Cleaning Streets or Sidewalk of Rubbish

Every person to whom permission may be granted, as in the last section provided, to place and keep 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 Council; and any person depositing and keeping any building material on such sidewalk or in such street, road or alley under a permit from the Council, shall during every night while the material shall there remain, keep one or more lighted lanterns or flares so placed that such material may be easily seen by persons passing along such sidewalk, street, road or alley.

7.0304

Excavation near Street

It shall be unlawful for any person, owner or occupant of any lot or parcel of land within the City of freeman, to make or cause to be made any excavation of said lot or parcel of land, except the same be securely guarded so as to prevent the injury of any

person or persons or animals passing upon or along said sidewalks, street, alleys or public grounds or traveled path or roadway.

7.0305 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 or alley or sidewalk in said City, or so constructed that any part of the building 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 (18”).

7.0306 Eave Pipes

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

7.0307 Garbage in Streets

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

7.0308 Vehicles on Sidewalks

No person shall drive or operate, or cause to be driven or operated, any motor vehicle upon any sidewalk in said City of Freeman, except that the same be driven across any sidewalk in entering or leaving the premises of any person if there shall be constructed a driveway across said sidewalk at said premises.

7.0309 Awnings

No person shall place, hang or maintain on or over any sidewalk, any sign which shall extend more than four feet from the building to which it is attached or belongs; the said sign shall suspend from above and be at least eight feet from the surface of the sidewalk; and all awnings used or placed so as to project over any sidewalk in said City shall be at least seven and one-half feet above the surface of the sidewalk over which the same projects.

7.0310 Goods on Sidewalk

It shall be lawful for any person to place on the outer three feet of the sidewalk in front of his premises, for a period not exceeding ten hours, any goods, wares or

merchandise, which he may be in the act of receiving or delivering. It shall also be lawful for any person to display on and over the sidewalk in front of and within three feet of the building by him used as his place of business, any goods, wares or merchandise; provided that no goods or merchandise thus displayed shall be left on or over such sidewalks during the night.

7.0311 Hindering Street Improvements

No person shall hinder or obstruct the street commissioner or any employee of the City in lawfully making any improvement in any public street, road or alley, or any public ground of said City; nor shall any person without proper authority tear up, break or injure any pavement, crosswalk or other improvement in any public street, road or alley or public ground in said City.

Chapter 7.04 – Moving Buildings on Streets

7.0401 Permission to Move Building on Streets

It shall be unlawful for anyone to move any building into, along or across any public street, alley or highway within the City of Freeman without having obtained permission to do so in compliance with the provisions of this chapter.

7.0402 Application Must State

Anyone desiring to move any building into, along or across any public street, alley or highway within the City of Freeman, shall first apply in writing for permission so to do, to the office of Finance Officer, fully stating the name of the applicant, the name of the owner of the building, the description of the lot on which such building is standing and the lot to which it is to be moved, the street along which it is proposed to move such building, the time when such removal will take place and the size of the building; which application shall be accompanied with the sum of at least one thousand dollars (\$1000.00) to be deposited with the City Finance Officer as a pledge or guarantee fund to protect the City against loss or damage to crossing, sidewalks, or other public or private property, or expense for protecting such property against the injuries that may be caused by the removal of such building; said deposit or the balance thereof, after deducting the amount of damages or expenses, if any, caused by such removal, to be returned to the person depositing same upon an official report of the condition of the streets, sidewalks, crossings other public or private property after such removal, made by the Chief of Police to the City Finance Officer.

7.0403 Permits, Contents

On the receipt of the application and guarantee fund as hereinbefore provided, the City Finance Officer may personally, or through the Chief of Police, investigate the

representation of such applicant. The Council shall review the application and shall consider the following factors in their approval or denial of the permit:

1. Whether the surrounding property owners are in support or opposed to the permit.
2. Whether the building intended to be moved adds or detracts from the aesthetics of the location, area, and community; and
3. Whether the use complies with all other ordinances;
4. The permit must be approved by a majority vote of the Council.

If the Council approves the permit, the Finance Officer shall hold such guarantee fund and issue to the said applicant a permit in writing for the removal of such building along or across the streets, highways or alleys to be designated by the City Finance Officer, said removal to be finished prior to the time stated in such permit.

7.0404 Refunding Guarantee Fund

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

7.0405 Applicant must Serve Notice to Owner of Wires, Etc

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

Chapter 7.05 – Excavation in Public Places

7.0501 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 there from without having first obtained a permit therefore as hereinafter provided.

7.0502 Application and Deposit

Application for such permit shall be made to the City Finance Officer, who shall secure the approval of the supervisor or streets before issuing any such permit. Such

application shall be accompanied by a non-refundable fee of fifty dollars (\$50.00), which amount shall be considered compensation to the City for the granting of such permit and the necessary investigation prior thereto and to insure the replacement, refilling and maintenance of any such excavation. Before any such permit be issued, the person requiring the same shall state in his application therefore where such excavation is to be made, the extent thereof, in front of what lot or lots, for what purpose said excavation is to be made, and whether or not such person has paid the required deposit of fifty dollars, if such applicant shall make the deposit as provided with the City Finance Officer.

7.0503 Maintenance of Excavation

Upon payment of the deposit required by section 7.0502 and obtaining of the excavation permit referred to, the City of Freeman shall be responsible for the proper maintenance of the excavation.

7.0504 Supervision of Excavations

The street commissioner shall supervise all excavations made any purpose in the streets, alleys, or public grounds, and he shall require that all excavations be backfilled in the manner specified.

7.0505 Guarding Excavations

Any person receiving a permit to make excavations in or upon any street, alley, sidewalk or public ground shall, during the progress and continuance of the work erect and maintain around the same both day and night suitable guards, fences, flares and signals so as to prevent injury to persons, animals or vehicles on account of such excavations. Such flares shall be kept lighted from sundown to sunrise.

7.0506 Refilling Excavations

Any person making such excavation shall, when the same shall be completed, promptly and without delay, refill the same as herein provided. In refilling any excavation the earth shall be thoroughly settled as the refilling progresses by using water to compact earth; or the earth shall be thoroughly tamped in successive layers of approximately six inches, in such a manner that all the earth shall be replaced in the excavation leaving the surface in its original condition.

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

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

7.0507 Excavations near Street

It shall be unlawful for any person, owner or occupant of any lot to make 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 injury of any person or animal passing upon or along the same.

7.0508 Certificate of Insurance

No person shall perform any digging or excavations on public property without first having provided to the Municipal Finance Officer a certificate of insurance certifying coverage of the person for general liability in an amount of no less than \$100,000/\$300,000 and coverage of all employees under a worker's compensation insurance company policy.

TITLE 8 – TRAFFIC

Chapter 8.01 – General Regulations

8.0101

Definitions

Whenever in this title the following terms are used they shall have the meaning respectively ascribed to them in this section.

1. Authorized Emergency Vehicle - Vehicles of the fire department (fire patrol), police vehicles and such ambulances and emergency vehicles of municipal department or public service corporations as are designated or authorized by the Chief of Police.
2. Crosswalk – That portion of a roadway ordinarily included within the prolongation of curb and property lines at intersections, or any other portion of a roadway clearly indicated for pedestrian crossing by lines or other markings on the surface.
3. Intersections – The area embraced within the prolongation of the lateral curb lines, or if none, than the lateral boundary lines of two or more streets or highways which join one another at an angle whether or not one such street or highway crosses the other.
4. Operator – Any person who is in actual physical control of a vehicle.
5. Parking – The standing of a vehicle whether attended or unattended, upon a roadway or street otherwise than temporarily for the purpose of and while actually engaged in loading or unloading, or in obedience to traffic regulations or traffic signs or signals.
6. Motor Vehicle – Every vehicle, as herein defined, which is self-propelled.
7. Vehicle – Every device in, upon or by which any person or property is or may be transported or drawn upon a public highway excepting devices moved by human power or used exclusively upon stationary rails or tracks.
8. Business District – The term “business district” as used in this title, shall include the territory contiguous to a highway when fifty percent or more of the frontage thereon for a distance of three hundred feet or more is occupied by buildings is used for business.
9. Residential District – The term “residential district” as used in this title shall include the territory contiguous to a highway not comprising a business district when the frontage of such highway for a distance of three hundred feet or more is mainly occupied by dwellings and buildings in use for business.

8.0102

Persons Propelling Push Carts, Riding Bicycles or Animals shall Obey Traffic Regulations

Any person propelling any push cart or riding a bicycle or an animal upon a roadway and every person driving any animal, shall be subject to the provisions of this title applicable to the operator of any vehicle, except those provisions of this title with

reference to the equipment of vehicles and except those provisions which by their very nature can have no application.

8.0103 The Term Highway

Whenever the term “highway” is used herein, the name shall be construed to include streets.

Chapter 8.02 – Operation of Vehicles

8.0201 Drivers Must Keep to Right Side of Streets

All persons operating, using or driving any vehicle or vehicles upon any of the streets of the City of Freeman shall keep to the right hand side of the center of the street, except as herein provided, and no vehicle shall be turned around on any street except in the square formed by the intersections thereof with another street.

8.0202 Overtaking

The operator of any vehicle overtaking another vehicle proceeding in the same direction shall pass at a safe distance to the left thereof, but only when such left side is clearly visible and is free from oncoming traffic for a sufficient distance ahead to permit such overtaking and passing to be made in safety and shall not cut in front of the overtaken vehicle until safely clear of the same.

8.0203 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 highway.

8.0204 Vehicles shall not be driven on Sidewalks

The operator of a vehicle shall not drive within any sidewalk area except at a permanent or temporary driveway.

8.0205 Brakes, Lights and Horn

Every motor vehicle operated or driven upon the public highways 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 by the statutes of the State of South Dakota or acts amendatory thereto.

8.0206 License Plates

No person shall operate or drive a motor vehicle within the City of Freeman without having conspicuously displayed thereon number 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 number plate or plates shall be clearly legible by other persons upon said highway.

8.0207 Driver's Permit Required

No person shall drive or operate upon any of the streets or highways within the City of Freeman, any motor vehicle without first having secured and having in his possession a permit so to do issued by the State of South Dakota under the provisions of the statutes of the State of South Dakota and any acts amendatory thereto.

8.0208 Reckless, Exhibition and Careless Driving

- (a) Reckless Driving. Any person who drives any vehicle upon a highway carelessly and heedlessly in disregard of the rights or 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 reckless driving.
- (b) Careless Driving. Any person who drives any vehicle carelessly and without due caution, at a speed or in a manner so as to endanger or be likely to endanger any person or property, not amounting to reckless driving as defined in the previous subsection, shall be guilty of careless driving, and upon conviction shall be punished by a fine not less than \$12.00 or more than the amount of the current fine and bond schedule as set by the circuit court, State of South Dakota.
- (c) Exhibition Driving. Any person who drives a vehicle within the limits of the City of Freeman, South Dakota, in such a manner that creates unnecessary engine noise, or tire squeal, skid or slide upon acceleration or stopping, or that simulates a temporary race, or that causes the vehicle to unnecessarily turn abruptly or sway shall be guilty of exhibition driving, and upon conviction shall be punished by a fine of not less than \$10.00.

In addition to any penalty provided for violation of this section, the court may prohibit the defendant from operating a motor vehicle upon the public streets, alleys and highways within the limits of the City under such restriction and in such manner as the court may determine for a period not exceeding one year.

8.0209 Driving While Intoxicated

It shall be unlawful for any person to drive or operate, or attempt to drive or operate any motor vehicle upon any of the public streets, alleys or public grounds of the City of Freeman, while such person is in an intoxicated or drunken condition, or under the influence of intoxicating liquor, or any drug as defined by laws of the State of South Dakota.

8.0210 Turning Movement and Required Signals

- a. At any intersection where there is displayed an official traffic sign displaying the words “no U turn” it shall be unlawful for the operator of any vehicle to turn such vehicle at the intersection in a complete circle or so as to proceed in the opposite direction.
- b. No person shall turn a vehicle at an intersection unless the vehicle is in proper position upon the roadway, or turn vehicle from a direct course or move right or left upon a roadway unless and until such movement can be made with reasonable safety. No person shall so turn vehicle without giving an appropriate signal in the manner herein provided in the event any other traffic may be affected by such movements.
- c. A signal of intention to turn right or left when required shall be given continuously during no less than the last 100 feet traveled by the vehicle before turning.
- d. 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.

8.0211 Signals by Hand and Arm or Signal Device

Any stop or turn signal when required herein shall be given either by the hand or signal device, but when a vehicle is so constructed or loaded that 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.

8.0212 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:

1. Left Turn – Hand and arm extended horizontally.
2. Right Turn – Hand and arm extended upward.
3. Stop or Decrease Speed – Hand and arm extended downward.

8.0213 Right of Way

Subject to the exceptions stated in the next succeeding section, the right of way rule as between vehicles at intersections is hereby declared as follows:

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

8.0214 Exceptions to the Right of Way Rule

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 therefore 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.

8.0215 Racing Prohibited

It shall be unlawful for the operator or driver of any vehicle to race with any other vehicle on said streets or thoroughfares of the City of Freeman, or to engage in any contest of speed with any other vehicle, or the drive thereof, on said streets and thoroughfares.

8.0216 Mufflers

No person shall drive a motor vehicle on a highway within the City of Freeman unless such motor vehicle is equipped with a muffler in good working order and in constant operation to prevent excessive or unusual noise and annoying smoke. The use of Smitty or Hollywood mufflers or other devises of like character which make loud noises or explosions are hereby declared unlawful and it shall be unlawful to use a muffler cut-out on any motor vehicle.

8.0217 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 areas extending across any alleyway.

8.0218 Stop at Intersections

Every operator of a vehicle approaching a stop sign shall come to a complete stop at a clearly marked stop line, but if none, then within 10 (ten) feet before the stop sign and shall remain stopped until safe to proceed.

Dated September 5, 2018

8.0219 Snowmobiles

1. No person shall operate a snowmobile on the private property of another without the express permission to do so by the owner of the property.
2. No person shall operate a snowmobile unless he/she has a valid driver's license in his/her possession.
3. No person shall operate a snowmobile unless the vehicle shall have a red or blaze pennant flag of a size not less than 12 inches by 12 inches attached at a height of not less than 54 inches from the ground.

4. No person shall operate a snowmobile within the city limits of the City of Freeman, South Dakota between the hours of 1 a.m. and 6 a.m.
5. The operator of a snowmobile within the city limits of the City of Freeman, South Dakota must take the shortest and most direct route to the edge of the city limits from his or her home.
6. Any person who violates any of the foregoing parts of this ordinance shall be guilty of unlawful operation of a snowmobile and upon conviction shall be punished by a fine of not more than the maximum penalty of the South Dakota Codified Law (Statute 22-6-2 (2)).

Dated August 3, 2015

8.0220

Speed

It shall be unlawful for any person to drive a vehicle on a street or highway at a speed greater than is reasonable and prudent under the conditions then existing or at a speed in excess of those fixed by this chapter or established by the City Council or the statutes of the State of South Dakota.

When no special hazard exists the following speeds shall be lawful but any speed in excess of said limits shall be prima facie evidence that the speed is not reasonable or prudent and that is unlawful:

- a. Fifteen (15) miles per hour when passing a school building or grounds thereof during school recess or while children are going to school or leaving school during opening or closing hours, provided that the City Council by resolution may require a complete stop before passing a school building.
- b. Twenty-five (25) miles per hour in all other business or residential districts unless otherwise marked.

The driver of every vehicle shall be consistent with the requirements of this section, drive at an appropriate reduced speed when approaching and going around a curve, when approaching and crossing intersection, when traveling upon any narrow roadway, and when a special hazard exists with respect to pedestrians or other traffic or by reason of weather or street conditions.

8.0221

Mufflers

Every motor vehicle shall at all times be equipped with a muffler in good working order and in constant operation to prevent noise and annoying smoke, and no person shall use a muffler cutout, bypass, or similar device on a motor vehicle on any street or highway in the City of Freeman. Said muffler shall be at least as effective in reduction of exhaust noises of the vehicle as the type of muffler furnished by the manufacture of the vehicle as standard equipment for purposes of the first sale of retail of said class.

8.0222 Parking and Stopping Prohibited in Certain Places

No person (including operators, owners, or vehicle custodians) shall stop, stand, allow to stand, or park a 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 traffic control sign or signal:

- a. Within an intersection;
- b. On a crosswalk
- c. Within fifteen (15) feet of a driveway entrance to any fire station, or directly across the street from such entrance;
- d. Within fifteen (15) feet of a hydrant;
- e. In front of a private driveway;
- f. On a sidewalk;
- g. Against the direction of traffic;
- h. On the roadway side of any other vehicle stopped or parked at the edge or curb of a street except temporarily engaged in loading or unloading of passengers or materials.

Dated January 21, 2019

8.0223 Restricted Parking Signs

The Chief of Police, with the approval of the Council is hereby authorized to limit or prohibit parking in such places and at such times as in his or their discretion is necessary by reason of traffic or other local conditions and to place at such restricted or limited spaces appropriate signs indicating such restrictions of limitations and it shall be unlawful for any vehicle to park in such restricted or limited area contrary to the regulations as indicated by said signs.

8.0224 Twenty-Four Hour Parking

It shall be unlawful for any person to park or the owner of a vehicle to permit to be parked, any vehicle for a longer period than seventy-two hours at one time, upon the streets of the City of Freeman, South Dakota.

8.0225 Handicapped Parking

1. Whenever parking spaces whether on street or off street, have been provided exclusively for use by physically handicapped persons, signs shall be erected or otherwise designated by painting indicating that such space are reserved for vehicles which have on display special license plates issued under section 32-5-76 or a serial numbers certificate issued under section 32-30-11.5 of the South Dakota Codified Laws.
2. All signs erected or otherwise designated by painting under this section display the international symbol of accessibility.
3. The City Council shall authorize and determine the number, location, size and legend of each sign erected. The Signs and other designations shall be permanent or may be portable but shall not be covered.

4. Parking spaces designated and posted as indicated in this section shall meet the specifications set forth in the 1980 edition of the American National Standard, "Specification for Making Buildings and Facilities Accessible to and Usable by Physically Handicapped People."

8.0226 Punishment

Any person violating any of the provisions of this chapter, or failing to comply with any of the provisions thereof, shall upon conviction therefore be punished by a fine not exceeding State of South Dakota regulations.

Chapter 8.03 – Emergency Vehicles and Fire Regulations

8.0301 Exemption to Authorized Emergency Vehicles

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

8.0302 Emergency Vehicle Exceeding Speed Limit to Give Warning of Approach

The speed limits set out in this title shall not apply to authorized vehicles when responding to emergency calls, provided the driver thereof sounds an audible signal by siren or horn and the vehicle is equipped with two lighted red lights or rotary red flasher which are displayed to the front. This provision shall not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons using the street nor shall it protect the driver of any such vehicle from the consequences of a reckless disregard for the safety of others.

8.0303 Crossing Fire Hose

No vehicle shall be driven over any unprotected fire 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 department official in charge.

8.0304 Following Fire Apparatus

It shall be unlawful for the operator of any vehicle, other than one of official business, to follow closer than five hundred feet of any emergency vehicle, or to park or leave standing any vehicle within four hundred feet of any emergency vehicle.

Chapter 8.04 – Truck and Tractor Route

8.0401 The following streets are hereby designated as the official truck and tractor route for the City of Freeman:

North County Road from Highway 81 one mile west to Cedar Street

South County Road from Highway 81 one mile west to Cedar Street
Highway 81 from North County Road one mile south to South County Road
Cedar Street from North County Road one mile south to South County Road
Juniper Street from North County Road six blocks south to Railway Street
Main Street from North County Road nine blocks south to Seventh Street
Cherry Street from North County Road two blocks south to Railway Street
Railway Street from Cherry Street four blocks west to Cedar Street
Plum Street between Main Street and Juniper Street
Third Street between Juniper Street and Poplar Street
Fourth Street between Juniper Street and Poplar Street
Fifth Street between Cherry Street and Main Street
Poplar Street between Third Street and Fifth Street
Cherry Street between Fifth Street and Sixth Street
Sixth Street from Highway 81 eight blocks west to Cherry Street
Seventh Street between Main Street two blocks west to Cedar Street

8.0402 On all other streets, it shall be delivery and moving vehicles only, during the time necessary to accomplish the delivery to the commercial and business establishments, hospitals, schools and residential moving.

8.0403 It shall be unlawful for trucks or tractors to park on any streets not designated above, or on any residential streets.

8.0404 Penalty – Civil
For any violation of this ordinance, the violator shall be subject to civil damages for the amount of damage actually caused.

8.0405 In addition to the above, a violation of any of the provisions of this ordinance shall be punished by a fine not exceeding the maximum penalty of the South Dakota Codified Law (Statute 22-6-2 (2)).

Dated August 3, 2015

TITLE 9 – WATER AND SEWER

Chapter 9.01 – Water Regulations

- 9.0100** Sole Water System
The City water distribution system shall be the source of water for residential and commercial use, and the sinking of wells for water usage or the presence, existence or use of any other distribution system, public or private, within the City limits of Freeman, South Dakota, shall be prohibited.
- 9.0101** Application for Connection
Application for water service must be made by the consumer to the City Council, stating in writing the legal description of the premises to be served, name of occupant, name of owner, if other than occupant, address of property.
Dated November 5, 1990
- 9.0101-1** Deposit
Along with the application for water service, an applicant who does not own the property where service is being requested shall be required to pay to the City of Freeman a deposit of one hundred dollars (\$100.00).
Dated September 20, 2010
- 9.0101-2** Refund of Deposit
Upon application of the depositor, refund of deposits made for water service may be made after two (2) years or the termination of utility service after all indebtedness to the City for all utility service is paid.
Dated November 5, 1990
- 9.0101-3** Effect of Transfer, Moving
There shall be no transfer from one location to another of deposits made for water service and in each case said transfer shall be considered a new application for service and should be treated as such. When premises are vacated any amount due for water service shall be paid in full and water service shall not be commenced at another place until this is done, such removal from one place to another shall be considered as a new request for utility service and applicants shall be required to make the current deposit that shall be in effect at the time such request is made.
Dated November 5, 1990
- 9.0102** Connection Fees
The water connection fees shall be five hundred dollars (\$500.00) for one family residential user and six hundred dollars (\$600.00) for commercial users, except on those streets where the City has already brought the water line up to the curb or lot

line, including the curb stop, in which instance, the additional cost of one hundred fifty-five dollars (\$155.00) shall be added. All costs and expenses incidental to the installation and connection of the building water shall be borne by the owner. The owner shall indemnify the City for any loss or damage that may directly or indirectly be occasioned by the installation of the building water.

Notwithstanding the above, the water connection fees shall be two hundred fifty (\$250.00) for one family residential user and three hundred dollars (\$300.00) for commercial users, for those properties which were annexed into the City of Freeman on December 30, 1993 except on those streets where the City has already brought the waterline up to the curb including curb stop, in which instance, the additional cost of one hundred fifty-five dollars (\$155.00) shall be added.

Dated September 23, 1996

- 9.0103** City shall not be Liable
The City shall not be liable for any inconvenience or damages resulting from any breaks in the City water system, or because the water is shut off for repair or in case of fires, or caused by any variation of water pressure. The water user shall at his own expense, keep his water line running from the curb stop to his residence in good repair as well as all valves upon his premises so as to prevent waste of water.
- 9.0104** Discontinuation of Change or Users
Owners and consumers of City water desiring to discontinue the use of City water shall notify the water commissioner. They shall also give notice of change in user.
- 9.0105** Sprinkling
The use of water for lawn or garden sprinkling may be restricted by the City by resolution at any time should a shortage of water or an emergency require such restriction. No sprinkling shall be permitted in case of a fire.
- 9.0106** Only One Consumer Permitted from One Connection Fee
Only once consumer shall be permitted from one connection line, except by special permission for the City Council and then only upon such conditions and charges as the Council shall require.
- 9.0107** Water Commissioner may Enter Premises When Necessary
The water commissioner or other employee under his direction may enter upon the premises and buildings of the water user at any reasonable time, for the purpose of reading the water meter, repairing, testing, or examining such meter or water line.
- He shall also have the authority to shut off the water for non-payment of water bills, or to enforce repairs in the water line, valves or meter, or to prevent waste of water.

9.0108 Meters failing to Register
In case water meters fail to properly register the amount of water consumed, the quantity used shall be determined and the charge based upon the average used during two or more previous quarters. Such meters shall be replaced or repaired at once.

9.0109 Unlawful Use of Water and Damages to Fire Hydrants
No person shall at any time take any City water from a fire hydrant, or interfere with, injure or deface any fire hydrant belonging to the City of Freeman.

9.0110 Water Commissioner Keeps Plats
The water commissioner shall at all times keep and maintain a plat on which all water mains, service lines, taps and such other information as may be required of him, are shown.

9.0111 Charges for Turning Water Off and On
There shall be a charge of twenty-five dollars (\$25.00) for turning City water on for user after water has been shut off for non-payment of water bills, or for any violation herein necessitating such shut-off, except emergency maintenance.

9.0112 Water Rates
Effective July 1, 2020 the rates for the City water sold or furnished by the City of Freeman shall be increased from the previous rates as adopted in Ordinance #99-4 and thereafter revised at the following monthly rates, to wit:

1. For any amount up to 1,000 gallons, the sum of \$16.25 per month which shall be the minimum charge; provided however that users who are certified to be a recipient of fuel assistance under the Low Income Energy Assistance Program (LIEAP) shall after application to the Municipal Finance Officer pay a monthly minimum charge of \$10.25 for the first 1,000 gallons;
2. From 1,000 gallons to 499,000 gallons per month, the sum of \$5.02 per 1,000 gallons together with the above rate;
3. For usage of 500,000 gallons and over per month, the sum of \$3.45 per 1,000 gallons, which rate shall be for all gallons used and not cumulative with the above rates.

The City Council is authorized to make special rates with consumers using an extra large amount of water for commercial purposes; also, to builders and contractors for water used during the construction of buildings and other projects.

The charge for water loaded into tanks or other containers at the water plant or any other authorized place shall be \$5.00 per 1,000 gallons.

Dated May 27, 2020

9.0113 Emergencies – Limitation of Use of Water

The water commissioner may limit or entirely prohibit temporarily the use of City water from the City distribution system in the event of a plant breakdown, shortage of water supply, or from any other cause requiring such action in order that proper protection from fires may be maintained and when such order or orders are given by the commissioner, reasonable notice shall be given to the water users.

9.0114 Excavations

No excavations in any street or alley for any water pipes or lines shall be made without first obtaining permission from the water commissioner or the City Council.

9.0115 Plastic Pipe

Only plastic pipe 160 psi or stronger shall be used in connecting with the City water system, from the City water main to the meter of the water use. Such work must be done under the supervision of the water commissioner.

9.0116 Delinquent Water and Sewer Bills

Any bill for water or sewer services which is not paid when due shall be delinquent and a ten dollar (\$10.00) penalty shall be added to the amount due. In addition, the City may disconnect the water service of any user whose water or sewer bill is delinquent upon ten days' notice in writing to such user. Any user whose water service is disconnected for delinquency in the payment of any water or sewer service charges shall be required to pay a twenty-five dollar (\$25.00) connection fee, in addition to all delinquent bills and penalties, before such water service is restored. In addition, the City may require a deposit from any delinquent water or sewer user, to guarantee future payments of water and sewer bills. The deposit will be determined by calculating the average monthly sewer/water bill of the user.

Dated February 3, 2014

9.0117 Breaking Seals

No person shall break any seal upon any meter, valve, private fire hydrant, or other fixtures that may be sealed by the water department, except 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 water department within twenty-four hours.

9.0118 Violations

Any master plumber or other person, firm or corporation who shall violate any of the provisions of this title, other than those rules governing consumers shall be deemed guilty of a misdemeanor and each and every violation of the provisions of this title shall constitute a separate offense.

9.0119

Penalty

Any person or persons, firm or corporation violating the provisions of this title or failing to comply with any of the provisions thereof, shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be punished by a fine of not exceeding fifty dollars or by imprisonment for a period of not to exceed fifteen days, or by both such fine and imprisonment. Whenever any person such as a clerk, servant, agent or employee of any other person, or of any firm or corporation, violates any of the provisions of this title, he shall be deemed guilty as well as the principal and they shall be punished as herein provided.

Chapter 9.02 – Sewer Regulations

9.0201

There shall be Two Classes of Building Sewer Permits

- 1. For residential and commercial users
- 2. For service to establishments producing industrial wastes

In either case, the owner or his agent shall make application on a special form furnished by the City. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the superintendent.

A permit and inspection fee of five hundred dollars (\$500.00) of residential or church buildings sewer permit and six hundred dollars (\$600.00) for business, commercial, school or industrial buildings sewer permit shall be assessed, except on those streets where the City has already brought the sewer line to the lot line, the additional cost of sixty (\$60.00) shall be added. The permit and inspection fee including any additional charge involved in the case where the City has brought the sewer line to the lot line shall be paid to the City at the time application is filed.

Notwithstanding the above, the sewer connection fees shall be two hundred fifty dollars (\$250.00) for one family residential user and three hundred dollars (\$300.00) for commercial users, for those properties which were annexed into the City of Freeman on December 30, 1993, except on those streets where the City has already brought the waterline up to the curb including the curb stop, in which instance, the additional costs of sixty dollars (\$60.00) shall be added.

Dated September 23, 1996

9.0202

Users Wastewater Rates and Charges

9.020201

Residential Users

The City hereby establishes rates of charge for all residential users as follows:

1. For purposes of this chapter, a residential user shall be a utility customer who occupies a building or portion of a building the principal purpose of which is for a dwelling or dwellings by a human.
2. Residential users shall be billed monthly. The charges shall be based on the average monthly water usage during the fall and winter months of October through March and remain the same for all months of the following year. The charge shall be adjusted annually to reflect any changes in the water usage during the base period.
3. The charge for each monthly billing period shall be \$6.65 for each 1,000 gallons or major fraction thereof water metered to the user during the average month of the above referenced period, or a minimum charge of \$16.00 whichever is greater.
4. The charge for a residential user not receiving water service from the City water system, shall be \$6.65 for each 1,000 gallons or major fraction thereof of water metered to the user during the average month of the above referenced period by other water systems when usage information is available, or a minimum charge of \$16.00 whichever is greater.
5. The Council of the City of Freeman is hereby allowed to review and determine a residential user's rate in abnormal situations, or when the method prescribed in paragraph 1 is not applicable, including the effective date, based on the following factors:
 - a. a change of occupancy of a residence,
 - b. a new sewer installation,
 - c. discrepancies in water meter readings,
 - d. excessive water usage as a result of watering of lawns, gardens, trees, shrubs, waterline breaks, fixture leaks or other similar situations, or
 - e. a residential user has installed a City approved water metering device monitoring the watering of lawns, gardens, trees or shrubs, or other similar horticultural situations.

A request for a review and determination of sewer rate under the above situations must be made by March 1 for the year of the rate as calculated above is imposed.

Dated October 4, 2010

9.020202

Commercial Users

The City hereby establishes rates for charge for all commercial users as follows:

1. For purposes of this chapter, a commercial user shall be a utility customer who is neither a residential user nor industrial user.

2. The charges for the commercial user shall be computed in the same manner and rate as for residential users.
3. Notwithstanding the above, a commercial user can elect to be charged for its wastewater charge based upon its actual use of water for the previous month at the same rates as stated above, rather than the usage computation formula set forth above. To implement this alternate computation, the commercial user must file a written notification of election for imposition of the rates in this manner prior to December 1, for implementation in the following calendar year. An election so made shall remain in effect for the following calendar year, and each calendar year thereafter until revoked. Any revocation shall not be effective unless notification of revocation of election is made prior to December 1, effective for the following calendar year. The City shall provide an appropriate form for making and revoking the election.

Dated October 4, 2010

9.020203 Industrial Users

The City hereby establishes rates of charge for industrial users as follows:

1. For purposes of this chapter, an industrial user shall be a utility customer who uses 500,000 or more gallons of water per month.
2. Industrial users shall be billed monthly. The charge shall be based on the metered waste volume and the strength of the wastes discharged to the wastewater system.
3. The charge for each monthly billing period shall be the sum of \$1.28 for each 1,000 gallons of wastewater of major fraction thereof, \$0.1875 for each pound of BOD and \$0.125 for each pound of SS.
4. The charge for industrial users without flow metering installations or where data on volume and strength is not available shall be based upon metered water consumption.

Dated October 4, 2010

9.020204 Effective date for the implementation of the above charges as amended is January 1, 2011.

Dated October 4, 2010

9.020205 All ordinances in conflict herewith are hereby repealed.

Dated October 4, 2010

9.020206 Surcharge for Improvements

1. Surcharge for Borrower Bond. There shall be charged a monthly surcharge for the services provided by the improvement financed by the CW-03 Conservancy District Loan. The surcharge for each loan shall be segregated from other revenues of the city and shall be used for the payment of the Borrower Bond CW-

03 (the “Borrower Bond”). Provided that such surcharge shall create net income, remaining from time to time after first paying all reasonable and current expenses of maintenance, repairs, replacements and operation, sufficient to fund interest, reserve and debt service fund annual requirements.

2. Rates and collection. The City does hereby establish the special charge or surcharge payable by each customer of its system who receives or benefits from the services of the project financed with the Borrower Bond. Such charge or surcharge shall be set at a level which, assuming a 10% delinquency rate, will produce income at the times and in amounts sufficient to pay when due the principal of and interest on the Borrower Bond and the administrative expense surcharge and all other payments as may be required under the loan agreement and Borrower Bond.
3. Borrower Bond. The following sewer debt service surcharge shall be applicable to all customers served:

Borrower Bond CW-03 Surcharge: \$10.00 per user.

This surcharge shall remain in effect until such time as the revenue bond is paid in full. The initial surcharge shall be collected at the same time as other charges of the system. The surcharge is found to be equitable for the services provided by the improvements.

4. Segregation. The debt service surcharge shall be segregated from other income of the system in a separate book keeping account and is pledged to the South Dakota Conservancy District for the payment of the loan payments on the Borrower Bond.
5. Yearly review. The amount of the surcharge shall be reviewed from year to year and may be modified in order to provide such funds as are set forth herein. The charges shall be reviewed yearly by City personal and administratively adjusted, upwards or downwards, to such amounts as may be necessary to pay principal, interest, administrative surcharge and other charges as may become due and owing under the loan agreement or Borrower Bond.
6. Billing and Accounting. The surcharges shall be included in the monthly user bill. Nothing contained herein requires the surcharge be indicated on the billing, however, the surcharge segregation shall be indicated on the books of the City.
7. Automatic Repeal. The surcharge for the Borrower Bond shall be automatically repealed when the Borrower Bond is paid in full.

8. Partial Invalidity. If any one or more of the provisions of the ordinance shall be held invalid, illegal, or unenforceable in any respect, by final decree of any court of lawful jurisdiction, such invalidity, illegality, or unenforceability shall not affect any other provision hereof.

Dated March 2, 2015

9.0203 Entering Sewer System

It shall be unlawful for any person to enter any manhole associated with the City of Freeman sewer system without first testing same with appropriate gas detector or putting on an approved gas mask. Any employee of the City violating this provision may be subject to termination of employment.

9.0204 Entering Lagoon Complex

It shall be unlawful for any employee, council member, or mayor of the City of Freeman to go to the Freeman City sewer lagoon alone. At least one other adult person must accompany above said people. A violation of this provision may subject any employee to termination of employment.

9.0205 Sewer Connection Apparatus

All sewer connections, including sewer liners, to the City's sewer lines shall be connected through the use of a saddle apparatus which shall first be approved by the sewer superintendent.

Dated June 19, 2000

9.0206 No person shall discharge or cause to be discharged any storm water, surface water, ground water, roof runoff, subsurface drainage, uncontaminated cooling water or unpolluted process waters to any sanitary sewer; provided however, that any structures erected prior to December 3, 1973, wherein the tiling was installed directing the discharge directly into the sanitary sewer and which does not have a separate discharge hole shall be exempt from this provision.

Dated August 16, 1993

TITLE 10 – PARKS AND TREES

Chapter 10.01 - Parks

10.0101

Supervision

The City parks and swimming pool shall be supervised by the committee on parks and pools of the City Council.

Chapter 10.02 – Trees

10.0201

Purpose

The preservation of existing urban trees and the encouragement of the planting of additional trees is an important public purpose. The City can play an important role in urban forestry through providing advice, expert information and recommendations to the citizens of Freeman. It is the intent of the governing body that this chapter provides guidelines and assistance to the citizens of the City and to initiate a general policy for the planting of trees and woody shrubs on the public property.

10.0202

Definitions

- (a) City: Shall mean the City of Freeman, South Dakota, and collectively, the elected and or designated official, authorized agent or employees of the City of Freeman assigned to carry out the enforcement of this chapter.
- (b) Tree Board: An advisory board consisting of five (5) members, three (3) of which shall be citizens and residents of Freeman, who shall be responsible for the study, recommendation and encouragement of a program for the care, preservation, pruning, planting and replanting of trees and shrubs in parks, along streets, and in other public areas in the City.

Dated December 17, 2007

- (c) Parks: All public parks within the City having individual names.
- (d) Person: Any person, firm, partnership, association, corporation, company, organization or political subdivision of any kind.
- (e) Pests: An insect or disease that attacks a tree or woody vegetation.
- (f) Plants: Any growing “non-woody” vegetation.
- (g) Property Owner: The person owning such property as shown by the records on file at the office of the Register of Deeds of Hutchinson, South Dakota.
- (h) Public Places: All property and grounds owned by the City lying within the County of Hutchinson, State of South Dakota or under its control or supervision whether owned, leased or under contract of the City.
- (i) Trees:
Street trees: Trees, shrubs and all other woody vegetation on boulevards or in parkways which are those parking areas lying between the established curb line and the street right-of-way line within the City.

Park trees: Trees, shrubs and all other woody vegetation in public parks having individual names, and all areas owned by the City or to which the public has access as a public park.

Private trees: Those trees and all other woody vegetation on privately owned lots and residences within the City.

Public trees: All trees now or hereafter growing on any street, park or any public areas of the City.

Small trees: Trees less than twenty (20) feet tall at maturity.

Large trees: Trees larger than forty (40) feet tall at maturity.

- (j) Trees and Shrubs: All woody vegetation now or hereafter growing on any public or private property.

10.0203

City Tree Board

- (a) There is hereby created and established an advisory board to be known as the Tree Board of the City of Freeman, which shall consist of five (5) members, three of which shall be citizens and residents of the City. They shall be appointed by the mayor with the approval of the city council. One (1) member shall be a member of the city park and recreation staff; one (1) member shall be a current member of the city council; one (1) member shall be nominated by the governing body of the Freeman Lions organization, and the other two (2) shall be appointed at large.

Dated December 17, 2007

- (b) The term of the five (5) persons to be appointed shall be the terms of those representing the city council and recreation staff shall expire at the expiration of their terms of office or employment. In the event that a vacancy shall occur during the term of any member, his/her successor shall be appointed for the unexpired portion of the term.
- (c) Members of the city tree board shall serve without compensation.
- (d) Subject to the control of the governing body of the City, it shall be the responsibility of the tree board to enlist and solicit the participation of individuals, community and service groups of Freeman to develop a long-term commitment to improve the tree and shrub landscaping of city parks, parkways, boulevards, as well as other public property. They shall also be responsible for the study, recommendation and encouragement for the care, preservation, pruning, planning and replanting of trees and shrubs in these areas.
- (e) The tree board shall choose its own officers, make its own rules and regulations and keep a journal of its proceedings. A majority of the members shall be a quorum for the transactions of business. Its purpose shall be to review, from time to time, conditions relating to tree and plant growth in the City and to recommend procedures and policies calculated to maintain and improve a healthy forestation program for the City.

Dated August 3, 2015

10.0204

Planting

- (a) The permit requirements of this chapter shall not apply to the planting of grass, annual flowers or similar non-woody vegetation.
- (b) The City is herein responsible for tree planting in all city parks, and will make recommendations or give advice for the care of street trees. Planting of trees on private property is not subject to the control of the tree board; however, the City encourages desirable species and planting practices.
- (c) No person shall plant or set out any tree or plant on a boulevard, parkway or other public place without first filing an application and procuring a permit from the City. The application required herein shall state the number of trees or plants to be planted or set out, the location and variety of each tree or plant, and such other information as the City shall find reasonably necessary to a fair determination of whether a permit should be issued hereunder.
- (d) The city shall issue the permit for the planting of a tree or plant on a boulevard or other public place if it is found that the proposed planting is of a type and species which reasonably conforms to the established plan and existing practices within the City as determined by resolution of the governing body.
- (e) The City may designate agents to accept applications and issue permits for the planting of trees and other vegetation covered under this chapter. No fee shall be charged for any permit issued under this section.
- (f) The City will issue a desirable species list for tree planting in the City. The list will contain a minimum of ten (10) species in order to provide a diversity of tree types.
- (g) No hedges, conifer trees or conifer shrubs may be planted in the boulevard or public right of way.

10.0205

Spacing

The spacing for all street tree plantings will be in accordance with specifications more particularly set forth in the desirable species list; provided that in general, no small trees shall be planted less than twenty (20) feet apart, no medium trees shall be planted less than thirty (30) feet apart, and no larger trees shall be planted less than 30 feet apart.

10.0206

Distance from Curb and Sidewalk

No tree shall be planted in a boulevard where the distance between the curb and sidewalk is less than seven (7) feet.

August 3, 2015

- 10.0207** Distance from Street Corners and Fireplugs
Street trees shall be planted no closer than thirty (30) feet of any street corner, measured from the point of nearest intersecting curbs or curb lines. No street tree shall be planted closer than ten (10) feet of any fireplug.
- 10.0208** Utilities
No street trees, except small trees, may be planted under or within ten (10) feet of overhead utility wires or streetlights. No trees shall be planted over or within five (5) feet of any underground water, sewer or other service lines.
- 10.0209** Tree Care
(a) The City will herein be responsible for all tree care of park trees and will make recommendations or give advice to adjoining property owners for care of street trees.
(b) For any trees or shrubs now situated on or hereafter planted in the public right-of-way, it shall be the duty of the abutting property owner to maintain trees in a safe and healthy condition and in every way in compliance with the provisions of this chapter.
- 10.0210** Clearance
(a) All trees and shrubs overhanging within less than seven (7) feet in height from any sidewalk or boulevard or fourteen (14) feet in height from the traveled portion or parking area of any street or road right-of-way, within the City shall be trimmed in such a manner so as to allow seven (7) feet clearance over sidewalks or boulevards and fourteen (14) feet clearance over all streets.
(b) All trees and shrubs shall have the branches trimmed so that such branches will not block or otherwise obstruct the view within the traffic visibility triangle as established in the zoning ordinance of the City of Freeman.
August 3, 2015
- 10.0211** Tree Topping
Tree topping is not recommended as a normal practice for any person, firm or city department of any street tree, park tree or other tree on public property. Topping is defined as the severe cutting back of limbs to stubs larger than three (3) inches in diameter within the tree's crown to such a degree so as to revoke the normal canopy and disfigure the tree. Trees severely damaged by storms or other causes, aged trees, or certain trees under utility wires or other obstructions where other pruning practices are impractical may be exempted from the recommendations contained in this section at the determination of the City.

10.0212

Tree Removal

- (a) The city will be responsible for the removal of dead, hazardous, or diseased park and street trees. For removal of street trees, whether they are dead, hazardous or diseased, or not dead, hazardous or diseased, any private landowner or resident must obtain permission from the City.
- (b) Determination of a pest problem will be made as the governing body deems necessary.
- (c) Wood from dead, substantially dead or infected trees may be used as firewood as long as that wood does not harbor a contagious pest or can be treated to prevent harboring contagious pests.

10.0213

Removal of Stumps

All stumps of street and park trees shall be removed below the surface of the ground so that the tops of the stump shall not project above the surface of the ground. The City shall be responsible only for the removal of those stumps of trees of which the City has primary responsibility.

10.0214

Abatement

Any property owner who fails to comply with the planting, spacing, minimum distance, utilities, trimming, and tree removal provisions of this chapter shall be liable under the penalty provision of the ordinances of the City. In addition, the City shall have the authority to trim any trees which are in violation of any of the provisions of this chapter, and to assess the cost of such trimming against the owner of the property upon which the trees are located. The City shall have the authority to remove trees improperly located as not to conform to the provisions of this chapter and to assess the cost of removal against the owner of the property on which the same were improperly located. Prior to any trimming or removal, the City shall give the offending property owner written notice; outline the specific violation of this Chapter, and specifying a reasonable amount of time for such owner to bring trees into compliance. Any notice which specifies that the time for compliance is two weeks or more (max 30 days) following service of the notice is deemed a 'reasonable time for compliance'.

Dated August 3, 2015

10.0215

Interference with City

It shall be unlawful for any person to prevent, delay or interfere with the City while engaging in the inspection, planting, pruning or removal of any street trees or park trees, as authorized in this chapter.

10.0216 Review by City Council

Any person aggrieved by the action of any agent or officer of the City designated to enforce this chapter or to carry out its purpose may appeal from any such action to the City Council who may hear the matter and make final decision.

Dated December 15, 2003

TITLE 11 – UTILITY EASEMENTS

11.0101 Telephone Easements

The right is hereby granted to the Great Plains Telephone Company of Scotland, South Dakota a South Dakota Corporation, its successor and assigns, to occupy any of the streets, alleys and other public places of the City of Freeman, South Dakota for the following purposes.

To place, construct and maintain upon and through the streets, alleys and right-of-ways of said City, all poles, guys, supports and other wires, cables and fixtures proper and necessary for supplying to the citizens of said city and to the public, communication by telephone and other improved appliances.

To construct and maintain an underground cable system of wiring, the said system to be constructed so as not to interfere with any other necessary municipal improvements, and said system shall not be interfered with, damaged, or destroyed, except in cases of emergency to be declared by the City Council of said City.

All supports, wires, poles and cables shall be placed and maintained so as to conform with the rules and regulations governed by the Public Utilities Commission of the State of South Dakota, covering clearance and maintenance.

All poles shall be set so as not to interfere with construction, placing or proper maintenance of any water pipe, or sewer that has or may be authorized by said City.

This franchise shall be in effect for twenty (20) years from and after August 1, 1964.

11.0102 Northwestern Public Service

The right is hereby granted to Northwestern Public Service Company, its successors and assigns, to occupy any of the streets, alleys or public places of the City of Freeman, South Dakota, for the purpose of transmitting or distributing electricity for a period of twenty (20) years from the 7th day of August, 1972, provided however, that the right herein granted shall not be exclusive.

The grantee shall be liable for all damages due to its negligence in constructing, operating or maintaining its electric system within the said municipality, and shall at all times save the said municipality harmless from any and all liability arising out of the negligence of the grantee.

TITLE 12 – VOLUNTARY AMBULANCE SERVICE

12.0101 Voluntary Ambulance Service

There is hereby established a volunteer ambulance service for the City of Freeman to be composed of not less than 10 members.

12.0102 Bylaws

The ambulance service shall have the power to formulate and adopt bylaws for its government not inconsistent with provisions of this chapter. These bylaws shall be submitted to the City Council for approval.

12.0103 Officers

The officers of the ambulance service shall be a captain, secretary, assistant captain and maintenance officer who shall be elected in accordance with the bylaws of the ambulance service.

The captain after the election of its officers shall file a list of names of such officers as well as a list of the members of the ambulance service, in the office of the Municipal Finance Officer. The City Council shall have the right to approve or disapprove any officers so elected.

Dated March 4, 2002

12.0104 Members

The members of the ambulance service shall be able bodied men and women of good moral character recommended by the ambulance service officers and shall be approved by the City Council.

Dated March 4, 2002

12.0105 Removal of Officers

The City Council shall have the power to remove a member of the ambulance service when it deems it for the best interest of the City; but such removal shall be made after a hearing at which the accused officer may appear and show cause why he should not be removed.

The charges against the member shall be put in writing and filed in the office of the Finance Officer, who shall present the same to the City Council at its next meeting. The Council shall fix a day of hearing and serve upon him a copy of the charges brought against him. If the charges at such hearing are substantial, the member may be removed by the Council.

- 12.0106** Duties of the Captain
The captain shall have the supervision of the property used by the ambulance service and shall see to it that the same is kept in good working order and is available at all times to care for patients. He shall be responsible to purchase all necessary equipment and repairs, but no major expenses shall be incurred without approval of the Council.
- 12.0107** Members shall Receive Compensation
The members of the ambulance service shall receive compensation from the City for services rendered to the City as certified emergency medical technicians, and the ambulance captain shall receive annual salary per year as provided by the City ordinances.
Dated March 4, 2002
- 12.0108** Qualifications
Only persons who have reached the age of twenty-one (21) and have successfully complete the emergency medical technician course and have become certified in the State of South Dakota or are nationally certified may become members of the ambulance service. They must maintain their certification by completing the appropriate number of hours of continuing education as required by the State of South Dakota or the national registry.
Dated March 4, 2002
- 12.0109** Ambulance Equipment
Equipment of the ambulance service shall not be used for private or municipal purpose except in cases of emergency, and then only under the direction of the ambulance captain, to the end that such equipment and apparatus shall at all times be available and ready for any such ambulance service call. Such equipment shall be kept in good workable condition, and shall meet as far as possible the requirements and regulations of the State and Federal government. Every member of the ambulance service, by joining the ambulance service and the City will not assume the responsibility of such accidents or injuries, but the City shall carry workmen's compensation insurance for its members and also carry malpractice insurance of its members.
- 12.0110** Ambulance Committee
The operation of the ambulance service shall be under the ambulance committee of the Freeman City Council.

TITLE 13 – LIBRARY AND GOLF COURSE

Chapter 13.01 – Library

13.0101 Public Library Trustees, Appointments

The Freeman public library board of trustees is made up of four residents from within the City limits and two within the library service area. These trustees shall serve staggered 3-year terms beginning on January 1 of the corresponding year. Two consecutive terms may be served. Trustees are appointed by the City Council. One City Council representative shall serve as a liaison between the Council and library, attending board meetings as a voting member.

Dated December 23, 2019.

13.0102 Public Library Trustees, Duties

Trustees shall meet and organize by electing from the members a president. They shall appoint a librarian and make all necessary rules and regulations pertaining to the use and circulation of library materials and also relating to the duties of the librarian and management of the library as are consistent with the laws of the State of South Dakota.

13.0103 Duties of City Finance Officer

The City Finance Officer is hereby declared to be the treasurer of the funds belonging to and under the control of said public library. It shall also be the duty of said City Finance Officer to keep all funds derived from the levy for the support of said public library in a separate fund apart from all other funds in his hands or under his control.

13.0104 Report of Trustees

Said public library trustees and/or the librarian shall submit to the City Council of Freeman a copy of the annual report for the South Dakota State Library before July 1 of each year for the approval, information and guidance of said City Council.

Chapter 13.50 – Golf Course

13.5101 Valley View Golf Course Board of Directors, Appointments

The Valley View Golf Course board of directors is made up of three members that are residents from within the City limits, two members that are members of the golf course, and one resident from within the City limits. These directors shall serve staggered 3-year terms beginning on January 1 of the corresponding year. Directors are appointed by the City Council. One City Council representative shall serve as a liaison between the Council and golf course, attending board meetings as a voting member and the Mayor shall serve as a non-voting member.

- 13.5102** Valley View Golf Course Directors, Duties
Directors shall meet and organize by electing from the members a president. They shall make all necessary rules and regulations pertaining to the use and direction of the golf course and clubhouse within the budget of the City of Freeman.
- 13.5103** Duties of City Finance Officer
The City Finance Officer is hereby declared to be the treasurer of the funds belonging to and under the control of said public golf course. It shall also be the duty of said City Finance Officer to keep all funds derived from the levy for the support of said public course in a separate fund apart from all other funds in his hands or under his control.
- 13.5104** Report of Directors
Said public golf course directors shall submit to the City Council of Freeman an annual report each year for the approval, information and guidance of said City Council.

Dated July 27, 2020

TITLE 14 – ABATEMENT OF DANGEROUS BUILDINGS

Chapter 14.01 – Definitions

14.0101

For the purpose of this chapter, any buildings or structure which has any or all of the conditions or defects hereinafter described shall be deemed to be a dangerous building, provided that such conditions or defects exist to the extent that the life, health, or safety of the occupants thereof or of the public are endangered.

1. Whenever a door, aisle, passageway, stairway or other means of exit is not of sufficient width or size, or is not so arranged as to provide safe and adequate means of exits in case of fire or panic.
2. Whenever the stress in any materials, member or portion thereof, due to all dead and live loads, is more than one and one-half times the working stress or stresses allowed in the Uniform Building Code for new buildings of similar structure, purpose or location.
3. Whenever any portion thereof has been damaged by fire, earthquake, wind, flood or by any other cause, to such an extent that the structural strength or stability thereof is materially less than it was before such catastrophe and is less than the minimum requirements of the Uniform Building Code for new buildings of similar structure, purpose or location.
4. Whenever any portion or member or appurtenance thereof is likely to fail, or to become detached or dislodged, or to collapse and thereby injure persons or damage property.
5. Whenever any portion of a building, or any member, appurtenance or ornamentation on the exterior thereof is not of sufficient strength or stability, or is not so anchored, attached or fastened in place so as to be capable of resisting a wind pressure of one-half of that specified in the Uniform Building Code for new buildings of similar structure, purpose, or location without exceeding the working stresses permitted in the Uniform Building Code for such buildings.
6. Whenever any portion thereof has wrecked, warped, buckled or settled to such an extent that walls or other structural portions have materially less resistance to winds or earthquakes than is required in the case of similar new construction.
7. Whenever the building or structure, or any portion thereof, because of:
 - a. dilapidation, deterioration, or decay;
 - b. faulty construction;
 - c. the removal, movement or instability of any portion of the ground necessary for the purpose of supporting such building;
 - d. the deterioration, decay, or inadequacy of its foundation; or
 - e. any other cause, is likely to partially or completely collapse
8. Whenever, for any reason, the building or structure or any portion thereof, is manifestly unsafe for the purpose for which it is being used.

9. Whenever the exterior walls or other vertical structural members list, lean or buckle to such an extent that a plumb line passing through the center of gravity does not fall inside the middle one-third of the base.
10. Whenever the building or structure, exclusive of the foundation, shows 33 percent or more damage or deterioration of its supporting members, or 50 percent damage or deterioration of its non-supporting members, closing or outside walls or coverings.
11. Whenever the building or structure has been so damaged by fire, wind, earthquake or flood, or has become so dilapidated or deteriorated as to become:
 - a. an attractive nuisance to children;
 - b. a harbor for vagrants, criminals or immoral persons; or
 - c. as to enable persons to resort thereto for the purpose of committing unlawful or immoral acts
12. Whenever any building or structure has been constructed, exists or is maintained in violation of any specific requirements or prohibition applicable to such building or structure provided by the building regulations of this City, as specified in the Uniform Building Code, or of any law or ordinance of this state of City relating to the condition, location or structure of buildings.
13. Whenever any building or structure which, whether or not erected in accordance with all applicable laws and ordinances, has in any non-supporting part, member or portion less than 50 percent, or in any supporting part, member or portion less than 66 percent of the:
 - a. strength,
 - b. fire-resisting qualities or characteristics, or
 - c. weather-resisting qualities or characteristics required by law in the case of a newly constructed building of like area, height and occupancy in the same location
14. Whenever a building or structure, used or intended to be used for dwelling purposes, because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangement, determined by the housing inspector to be unsanitary, unfit for human habitation or in a condition that is likely to cause sickness or disease.
15. Whenever any building or structure, because of obsolescence, dilapidated, condition, deterioration, damage, inadequate exits, lack of sufficient fire-resistive construction, faulty electric wiring, gas connections or heating apparatus, or other cause, is determined by the housing inspector to be a fire hazard.
16. Whenever any building or structure is in such a condition as to constitute a public nuisance, as defined by the laws of the State of South Dakota, City ordinance, the common law or equity jurisprudence.
17. Whenever any portion of a building or structure remains on a site after the demolition or destruction of the building or structure or whenever any building or

structure is abandoned for a period in excess of six months, so as to constitute such building or portion thereof an unattractive nuisance or hazard to the public.

Chapter 14.02 – Enforcements

14.0201 Administration

The housing inspector shall be appointed by and serve at the pleasure of, the City Council, which also may appoint in a similar manner deputy housing inspector, and such persons so appointed are hereby authorized to enforce the provisions of this chapter.

14.0202 Right of Entry

Whenever necessary to make an inspection or whenever the housing inspector has reasonable cause to believe that there exists in any building or upon any premises dangerous as defined in 14.0101, the housing inspector may enter such building or premises at all reasonable times to inspect the same or perform any duty imposed upon the housing inspector by this chapter; provided that:

1. if such building or premises be occupied, he shall first present proper credentials and demand entry; and
2. if such building or premises be unoccupied, he shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and demand entry

If such entry is refused, the housing inspector shall have recourse to every remedy provided by law to secure entry.

14.0203 Declaration as Public Nuisance

All buildings or portions thereof which are determined after inspection by the housing inspector to be dangerous as defined in this chapter are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition or removal in accordance with the procedure specified in chapter 14.03.

Chapter 14.03 – Notices and Orders

14.0301 Commencement of Proceedings

Whenever the housing inspector has inspected any buildings and determined that such building is a dangerous building, he shall commence proceedings to cause the repair, vacation or demolition of the building.

14.0302

Notice and Order

The housing inspector shall issue a notice and order directed to the record owner of the building. The notice and order shall contain:

- A. The street address and legal description sufficient for identification of the premises upon which the building is located.
- B. A statement that the housing inspector has found the building to be dangerous with a brief and concise description of the conditions found to render the building dangerous under the provisions of 14.01
- C. A statement of the action required to be taken as determined by the housing inspector.
 1. If the housing inspector 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 within such time (not to exceed 60 days from the date of the order) and completed within such time as the housing inspector shall determine is reasonable under all of the circumstances.
 2. If the housing inspector has determined that the building or structure must be vacated, the order shall require that the building or structure shall be vacated within a time certain from the date of the order as determined by the housing inspector to be reasonable.
 3. If the housing inspector has determined that the building or structure must be demolished, the order shall require that the building be vacated within such time as the housing inspector shall determine is reasonable (not to exceed 30 days from the date of the order), that all required permits be secured therefore within 30 days from the date of the order, and that the demolition be completed within such time as the housing inspector shall determine is reasonable.
 4. Statement advising that if any required repair or demolition work (without vacation also being required) is not commenced within the time specified, the housing inspector will order the building vacated and posted to prevent further occupancy until the work is completed.
 5. Statements advising (a) that any person having any record title or legal interest in the building may appeal from the notice and order or any action of the housing inspector to the board of appeals, provided the appeal is made in writing as provided in this chapter, and filed with the housing inspector within 30 days from the date of service of such notice and order; and (b) that failure to appeal will constitute a waiver of all right to an administrative hearing and determination of the matter.

14.0303

Service of Notice and Order

The notice and order, and any amended or supplemental notice and order, shall be served upon the record owner, and posted on the property, and one copy thereof shall be served on each of the following if known to the housing inspector or disclosed

from official public records, the holder of any mortgage or deed of trust or other lien or encumbrance or record, the owner or holder of any lease of record and the holder of any other estate or legal interest of record in or to the building or the land on which it is located. The failure of the housing inspector to serve any persons required herein to be served shall not invalidate any proceedings hereunder as to any other person duly served or relieve any such person from any duty or obligation imposed on him by the provisions of 14.03.

14.0304 Method of Service

Service of the notice and order shall be made upon all persons entitled thereto either personally or by mailing a copy of such notice and order by certified mail, postage prepaid, return receipt requested, to each such person at his address as it appears on the last equalized assessment roll of the county or as known to the housing inspector. If no address of any such person so appears or is known to the housing inspector, then a copy of the notice and order shall be published two consecutive times in the legal newspaper. The failure of any such person to receive such notice shall not affect the validity of any proceedings taken under this section. Service by certified mail in the manner herein provided shall be effective on the date of mailing. Service by legal publication shall be effective on the date of final publication.

14.0305 Proof of Service

Proof of service of the notice and order shall be certified to at the time of service by a written declaration under penalty of perjury executed by the person effecting service, declaring the time, date and manner in which service is made. The declaration, together with any receipt card returned in acknowledgement of receipt by certified mail, shall be affixed to the copy of the notice and order retained by the housing inspector. Failure by any person to actually receive any document sent to him by certified mail or to sign and return any receipt card acknowledging receipt by certified mail shall not invalidate service made upon such person by certified mail.

14.0306 Recordation of Notice and Order

If compliance is to be with the order within the time specified therein, and no appeal has been properly and timely filed, the housing inspector shall file in the office of the County Auditor a certificate describing the property and certifying (1) that the building is a dangerous building and (2) that the owner has been so notified. Whenever the corrections ordered shall thereafter have been completed or the building demolished so that it no longer exists as a dangerous building on the property described in the certificate, the housing inspector shall file a new certificate with the County Auditor certifying that the building has been demolished or all required corrections have been made so that the building is no longer dangerous whichever is appropriate.

14.0307

Standards to be Followed in Repair, Vacation and Demolition

The following standards shall be followed by the housing inspector (and by the board of appeal if an appeal is taken) in ordering the repair, vacation or demolition of any dangerous building or structure.

- A. Any building declared a dangerous building under this ordinance shall either be repaired in accordance with the current building code or shall be demolished at the option of the building owner.
- B. If the building or structure is in such condition as to make it immediately dangerous to the life, limb, property or safety of the public or its occupants, it shall be ordered to be vacated.

14.0308

Posting of Notice to Vacate

Every notice shall, in addition to being served as provided in this section, be posted at or upon each exit of the building, and shall be in substantially the following form.

“DO NOT ENTER
 UNSAFE TO OCCUPY
 It is a misdemeanor to occupy this
 building, or to remove or deface this notice.

Housing Inspector
 City of Freeman”

14.0309

Compliance

Whenever such notice is posted, the housing inspector shall include a notification thereof in the notice and order issued by him under this section, reciting the emergency and specifying the conditions which necessitate the posting. No persons shall remain in or enter any building which has been so posted, except that entry may be made to repair, demolish or remove such building under permit. No person shall remove or deface any such notice after it is posted until the required repairs, demolition, or removal has been completed.

Chapter 14.04 – Appeal

14.0401

Board of Appeals

In order to provide for final interpretation of the provisions of this chapter and to hear appeals provided for hereunder, there is hereby established a board of appeals which shall be the City Commission of Freeman. The housing inspector shall be an ex-officio member of and shall act as Secretary to said board. The board may adopt reasonable rules and regulations for conducting its business and shall render all decision and findings in writing to the appellant with a copy to the housing inspector.

Copies of all rules or regulations adopted by the board shall be delivered to the housing inspector who shall make them freely accessible to the public.

14.0402 Form of Appeal

Any person entitled to service under 14.03 may appeal from any notice and order or any action of the housing inspector under this chapter by filing at the office of the Municipal Finance Officer within 30 days from the date of the service of such order, a written appeal containing:

- A. A heading in the word; “Before the board of appeals in the City of Freeman”
- B. A caption reading; Appeal of _____ giving the names and addresses of all appellants participating in the appeal.
- C. A brief statement setting forth the legal interest of each of the appellants in the land involved in the notice and order.
- D. A brief statement of the specific order or action protested, together with any material facts claimed to support the contentions of the appellant.
- E. A brief statement of the relief sought, and reasons why it is claimed the protested order or action should be reversed, modified, or otherwise set aside.
- F. The signatures of all parties names as appellants, and their official mailing addresses.
- G. The verification (by declaration under penalty of perjury) of at least one appellant as to the truth of the matters stated in the appeal.

14.0403 Processing of Appeal

Upon receipt of any appeal filed pursuant to this section, the housing inspector shall present it at the next regular or special meeting of the board of appeal.

14.0404 Scheduling and Noticing Appeal for Hearing

As soon as practicable after receiving the written appeal, the board of appeals shall fix a date, time and place for the hearing of the appeal by the board. Such date shall be not less than 10 days and not more than 60 days from the date the appeal was filed with the Municipal Finance Officer. Written notice of the time and place of the hearing shall be given at least 10 days prior to the date of the hearing to each appellant by the secretary of the board either by causing a copy of such notice to be delivered to the appellant personally or by mailing a copy thereof, postage prepaid, addressed to the appellant at his address shown on the appeal.

14.0405 Effect of Failure to Appeal

Failure of any person to file an appeal in accordance with the provisions of this section shall constitute a waiver of his right to an administrative hearing and adjudication of the notice and order, or any portion thereof.

14.0406 Scope of Hearings on Appeal
Only those matters or issues specifically raised by the appellant shall be considered in the hearing of the appeal.

14.0407 Staying of Order under Appeal
Except for vacation orders made pursuant to 14.03, enforcement of any notice and order of the housing inspector issued under this chapter shall be stayed during the pendency of an appeal therefrom which is properly and timely filed.

14.0408 Form of Notice of Hearing
The notice to appellant shall be substantially in the following form, but may include other information.

“You are hereby notified that a hearing will be held before (the board or name of hearing examiner) at _____ on the ____ day of _____, 20____, at the hour of _____, upon the notice and order served upon you. You may be present at the hearing. You may be, but need not be, represented by legal counsel. You may present any relevant evidence and will be given full opportunity to cross-examine all witnesses testifying against you.”

14.0409 Inspection of the Premises
The board or the hearing examiner appointed by the board may inspect any building or premises involved in the appeal during the course of the hearing provided that (1) notice of such inspection shall be given to the parties before the inspection is made, (2) the parties are given an opportunity to be present during the inspection, and (3) the board shall state for the record upon completion of the inspection the material facts observed and the conclusion drawn therefrom. Each party then shall have a right to rebut or explain the matters so stated by the board.

14.0410 Form of Decision
The decision shall be in writing and shall contain findings of fact, a determination of the issues presented, and the requirements to be complied with. A copy of the decision shall be delivered to the appellant personally or sent to him by certified mail, postage prepaid, return receipt requested. The effective date of the decision shall be as stated therein.

Chapter 14.05 – Enforcement of Appeals

14.0501 Failure to Commence Work
Whenever the required repair or demolition is not commenced within 30 days after a final notice and order issued under this chapter becomes effective:

- A. The housing inspector shall cause the building described in such notice and order to be vacated by posting at each entrance thereto a notice reading:

“DANGEROUS BUILDING
DO NOT OCCUPY”

It is a misdemeanor to occupy this building
or to revoke or deface this notice.

Housing Inspector
City of Freeman”

- B. No person shall occupy any building which has been posted as specified in this section. No person shall revoke or deface any such notice so posted until the repairs, demolition, or removal ordered by the housing inspector has been completed.

The housing inspector may, in addition to any other remedy herein provided, order the building to be repaired to the extent necessary to correct the conditions which render the building dangerous as set forth in the notice and order; or, if the notice and order required demolition, to cause the building to be sold and demolished or demolished and the materials, rubble, and debris therefrom removed and the lot cleaned. Any such repair or demolition thereof, over and above the cost of demolition and of cleaning the lot, shall be paid over to the person or persons lawfully entitled thereto.

14.0502 Extension of Time to Perform Work

Upon receipt of an application from the person required to conform to the order and an agreement by such person what he will comply with the order if allowed additional time, the housing inspector may, in his discretion, grant an extension of time, not to exceed an additional 120 days, within which to complete said repair, rehabilitation, or demolition, if the housing inspector determines that such an extension of time will not create or perpetuate a situation imminently dangerous to life or property. The housing inspector’s authority to extend time is limited to the physical repair, rehabilitation, or demolition of the premises and will not in any affect or extend the time to appeal his notice and order.

14.0503 Interference with Repair or Demolition Work Prohibited

No person shall obstruct, impede or interfere with, any officer, employee, contractor or authorized representative of the City, or with any person who owns or holds any estate of interest in any building which has been ordered repaired, vacated or demolished under the provisions of this chapter.

14.0504**Violations and Penalties**

Any person violating any provision of this chapter or failing to obey any order of the housing inspector or board of appeals made pursuant to this chapter, after such order has become final, shall be subject to a fine not to exceed \$100.00, if convicted, and each day such violations or failure to obey shall occur may be considered a separate violation of this chapter. The housing inspector is authorized to initiate prosecutions for the violation of this chapter or for the failure to obey such orders.

Chapter 14.06 – Recovery of Cost of Repairs or Demolition**14.0601**

The City may recover the total cost of the repair or demolition of dangerous buildings or structures through any means available under the laws of the State of South Dakota, including, but not limited to, any special assessment procedure provided by such laws, as from time to time amended.

Should any section, paragraph, sentence, clause or phrase of this chapter be declared by a court of competent jurisdiction to be unconstitutional or invalid for any reason, the remainder of this chapter shall not be affected thereby.

TITLE 15 – GENERAL PENALTIES

15.0101 Punishment

Any person violating any of the provisions of this ordinance for failing to comply with any of the provisions thereof, shall upon conviction therefore be punished by a fine and/or jail time not exceeding the maximum penalty of the South Dakota Codified Law (Statute 22-6-2 (2)).

Dated November 7, 2016

15.0102 Agent Punished as Principal

Whenever any person as clerk, servant, agent, or employee of any other person, shall violate any of the provisions of this ordinance, he shall be deemed guilty as a principal and punished as herein provided.

15.0103 Punishment of Principal

Whenever any person shall authorize, direct, or knowingly permit a violation of this ordinance by any clerk, agent, or employee under his control as to the act constituting such violation, he shall be deemed guilty of such violation and be punished as herein provided.

15.0104 Separate Offenses

Each and every violation of this ordinance shall constitute a separate offense.

15.0105 Bond Schedule

The following bond schedule shall apply to the offenses identified therein. Court costs are initially set at \$62.50; but such costs amount is subject to change from time to time. The amount due for court costs shall be the same as that set by the Unified Judicial System, for municipal offenses.

ORDINANCE	OFFENSE	FINE	COSTS	TOTAL
4.0101	Creating or maintaining a nuisance	\$60.00	\$62.50	\$122.50
4.0207	Failure to remove noxious weeds	\$60.00	\$62.50	\$122.50
4.0302	Permitting blood, manure, meat, lard into sewer system	\$100.00	\$62.50	\$162.50
4.0404	Unlawful Dumping at Rubble Site	\$200.00	\$62.50	\$262.50
4.0406	Unlawful Deposit of waste	\$90.00	\$62.50	\$152.50
5.0101	Peddling without proper permit or license	\$90.00	\$62.50	\$152.50
5.0201	Unlicensed Transient Merchant	\$90.00	\$62.50	\$152.50
5.0210	House to house solicitation prohibited	\$100.00	\$62.50	\$162.50
6.0101	Public Intoxication	\$60.00	\$62.50	\$122.50
6.0102	Disorderly Conduct	\$60.00	\$62.50	\$122.50
6.0103	Disturbing the Peace	\$60.00	\$62.50	\$122.50

6.0104	Vagrancy	\$60.00	\$62.50	\$122.50
6.0106	Resisting or Obstructing Law Enforcement	\$100.00	\$62.50	\$162.50
6.0107	Impersonating Law Enforcement	\$100.00	\$62.50	\$162.50
6.0108	Public Indecency	\$100.00	\$62.50	\$162.50
6.0111	Circulating Obscene Material	\$100.00	\$62.50	\$162.50
6.0112	Making false alarm to cause Emergency Response	\$100.00	\$62.50	\$162.50
6.0113	Displaying an unlawful License	\$60.00	\$62.50	\$122.50
6.0114	Discharge of fire arm	\$100.00	\$62.50	\$162.50
6.0118	Tampering with City Water System	\$90.00	\$62.50	\$152.50
6.0302	Permitting Livestock to run at large	\$60.00	\$62.50	\$122.50
6.0302(d)	Drenching Livestock while in an enclosed vessel	\$60.00	\$62.50	\$122.50
6.0303	Livestock in parks	\$60.00	\$62.50	\$122.50
6.0304	Abuse or Cruelty to Animals	\$100.00	\$62.50	\$162.50
6.0305	Improper disposal of dead animals	\$60.00	\$62.50	\$122.50
6.0308	Dogs and Cats running at large 1st offense	\$20.00	\$62.50	\$82.50
6.0308	Dogs and Cats running at large 2nd offense	\$40.00	\$62.50	\$102.50
6.0308	Dogs and Cats running at large 3rd offense or subsequent	\$60.00	\$62.50	\$122.50
6.0310	Keeping a vicious or dangerous dog	\$100.00	\$62.50	\$162.50
6.0311	Dog barking disturbing the peace	\$60.00	\$62.50	\$122.50
6.0312	Duty of Owner to remove waste from public or private property	\$40.00	\$62.50	\$102.50
6.0313	Failure to license pet	\$40.00	\$62.50	\$102.50
6.0324	Possession of Exotic or wild Animal	\$60.00	\$62.50	\$122.50
6.0401	Unlawful Gathering on Public Street	\$60.00	\$62.50	\$122.50
6.0403	Hindering or Molesting Passerby	\$100.00	\$62.50	\$162.50
6.0404	Advertising Method Prohibited	\$40.00	\$62.50	\$102.50
6.0405	Littering	\$60.00	\$62.50	\$122.50
6.0406	Trespassing	\$60.00	\$62.50	\$122.50
6.0501	Causing a or creating a public nuisance	\$60.00	\$62.50	\$122.50
6.0504	Hindering Snow removal for snow emergency	\$40.00	\$62.50	\$102.50
6.0601	Defacing signs	\$60.00	\$62.50	\$122.50
6.0602	Defacing or unlawfully placing signs	\$60.00	\$62.50	\$122.50
6.0603	Destroying Trees and Plants	\$60.00	\$62.50	\$122.50
6.0604	Interference with electric light post apparatus	\$40.00	\$62.50	\$102.50
6.0605	Unauthorized connection with Utility Pipe	\$100.00	\$62.50	\$162.50
6.0606	Interference with City Worker	\$60.00	\$62.50	\$122.50
6.0607	Interference with City Property	\$60.00	\$62.50	\$122.50
6.0608	Destroying Property	\$60.00	\$62.50	\$122.50
6.0609	Unlawful Fence	\$40.00	\$62.50	\$102.50
6.0702	Open Alcohol Container	\$60.00	\$62.50	\$122.50

6.0705	Possession of Alcohol By Minor	\$100.00	\$62.50	\$162.50
6.0707	Alcohol Establishment Open past hours	\$90.00	\$62.50	\$152.50
6.0802	Junked or abandoned vehicle	\$60.00	\$62.50	\$122.50
6.1001	Curfew	MCA	\$62.50	MCA
6.1003	Duty of Parent to ensure child not out past curfew	\$60.00	\$62.50	\$122.50
7.0301	Obstructing City Street	\$60.00	\$62.50	\$122.50
7.0306	Improper placement of Eave Pipe	\$40.00	\$62.50	\$102.50
7.0307	Dumping Waste on City Street or Public Ground	\$60.00	\$62.50	\$122.50
7.0311	Hindering Street Improvement	\$60.00	\$62.50	\$122.50
8.0201	Driving on Wrong Side of Road	\$60.00	\$62.50	\$122.50
8.0201	Illegal U Turn	\$60.00	\$62.50	\$122.50
8.0202	Illegal Passing	\$60.00	\$62.50	\$122.50
8.0203	Following Too Close	\$60.00	\$62.50	\$122.50
8.0204	Driving on Sidewalk	\$60.00	\$62.50	\$122.50
8.0206	License Plate Required	\$60.00	\$62.50	\$122.50
8.0207	Driver License Required	\$60.00	\$62.50	\$122.50
8.0208(b)	Careless Driving	\$60.00	\$62.50	\$122.50
8.0208(c)	Exhibition Driving	\$60.00	\$62.50	\$122.50
8.0210(a)	Prohibited U Turn in intersection	\$60.00	\$62.50	\$122.50
8.0210(b)	Turn Signal Required when Impeding flow of traffic	\$60.00	\$62.50	\$122.50
8.0213	Fail to Yield Right of Way	\$60.00	\$62.50	\$122.50
8.0215	Racing	\$100.00	\$62.50	\$162.50
8.0216	Muffler or Exhaust Required	\$60.00	\$62.50	\$122.50
8.0217	Stop at Sidewalk	\$40.00	\$62.50	\$122.50
8.0218	Stop Sign Violation	\$40.00	\$62.50	\$102.50
8.0219	Snowmobile Violation	\$60.00	\$62.50	\$122.50
8.0220	Speeding			
	1-5 over posted speed limit	\$25.00	\$62.50	\$87.50
	6-10 over posted speed limit	\$45.00	\$62.50	\$107.50
	11-15 over posted speed limit	\$65.00	\$62.50	\$127.50
	16-20 over posted speed limit	\$85.00	\$62.50	\$147.50
	21-25 over posted speed limit	\$105.00	\$62.50	\$167.50
	26 and over posted speed limit	\$160.00	\$62.50	\$222.50
8.0221	Improper Muffler	\$60.00	\$62.50	\$122.50
8.0222	Illegal Parking	\$35.00	\$62.50	\$97.50
8.0401	Violation of Truck Route	\$100.00	\$62.50	\$162.50

Dated September 5, 2018

TITLE 16 – REPEALING CLAUSE AND GENERAL PROVISIONS

16.0101 Penalty – General

Repealed

Dated November 21, 2016

16.0102 Conflicting Ordinances Repealed

All ordinances and parts of ordinances in conflict with the provisions of this ordinance, or relating to the subject matter of this ordinance and not reenacted as part of this ordinance, excepting as stated in this chapter, are hereby repealed; provided however, that nothing herein shall be construed as repealing any special ordinance, appropriation ordinance, franchise ordinances, levying ordinances for the issuance of bonds or other special ordinances of like character, nor shall this ordinance repeal or modify the provision of any resolutions heretofore adopted by the City of Freeman unless provisions of this ordinance in effect, either modify, repeal and amend such resolutions.

16.0103 Publication and Effect

This ordinance shall take effect immediately upon its adoption and complete publication of the notice of such adoption.

16.0104 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.

16.0105 Title

This ordinance shall be known as the “Revised Ordinances of Freeman, (1990)” and may be so cited.

TITLE 17 – ZONING

17.0101 Zoning Ordinance

The City of Freeman shall be subject to the terms of the City of Freeman Zoning Ordinance all as provided in Appendix “A” and incorporated by this reference to this ordinance in revision.

TITLE 18 – FLOOD DAMAGE PREVENTION

Chapter 18.01 – Statutory Authorization, Findings of Fact, Purpose and Methods

18.0101 Statutory Authorization

The Legislature of the State of South Dakota has in (statutes) SDCL 9-36 and 7-18-14 delegated the responsibility of local governmental units to adopt regulations designed to minimize flood losses. Therefore, the City Council of Freeman, South Dakota, does ordain as follows:

The city/town of Freeman elects to comply with the requirements of the National Flood Insurance Act of 1968 (P.L. 90-488, as amended). The National Flood Insurance Program, established in the aforesaid act, provides that areas of the town having a special flood hazard be identified by the Federal Emergency Management Agency and that floodplain management measures be applied in such flood hazard areas. The National Flood Insurance Program was broadened and modified with the passage of the Flood Disaster Protection Act of 1973 and other legislative measures. It was further modified by the National Flood Insurance Reform Act of 1994. The National Flood Insurance Program is administered by the Federal Emergency Management Agency, a component of the U.S. Department of Homeland Security.

18.0102 Findings of Fact

(1) The flood hazard areas of the Corporate Boundaries are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, and extraordinary public expenditures for flood protection and relief, all of which adversely affect the public health, safety and general welfare.

(2) These flood losses are created by the cumulative effect of obstructions in floodplains which cause an increase in flood heights and velocities, and by the occupancy of flood hazards areas by uses vulnerable to floods and hazardous to other lands because they are inadequately elevated, flood proofed or otherwise protected from flood damage.

18.0103 Statement of Purpose

It is the purpose of this ordinance to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- (1) Protect human life and health;
- (2) Minimize expenditure of public money for costly flood control projects;
- (3) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) Minimize prolonged business interruptions;
- (5) Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains;
- (6) Help maintain a stable tax base by providing for the sound use and development of flood-prone areas in such a manner as to minimize future flood blight areas; and
- (7) Insure that potential buyers are notified that property is in a flood area.

18.0104 Methods of Reducing Flood Losses

In order to accomplish its purposes, this ordinance uses the following methods:

- (1) Restrict or prohibit uses that are dangerous to health, safety or property in times of flood, or cause excessive increases in flood heights or velocities;
- (2) Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- (3) Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of flood waters;
- (4) Control filling, grading, dredging and other development which may increase flood damage;
- (5) Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.

Chapter 18.02 - Definitions

18.0201 Unless specifically defined below, words or phrases used in this ordinance shall be interpreted to give them the meaning they have in common usage and to give this ordinance its' most reasonable application.

1. Area of future-conditions flood hazard means the land area that would be inundated by the 1-percent-annual-chance (100-year) flood based on future-conditions hydrology.
2. Area of shallow flooding means a designated AO, AH, AR/AO, AR/AH, or VO zone on a community's Flood Insurance Rate Map (FIRM) with a 1 percent or greater annual chance of flooding to an average depth of 1 to 3 feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.
3. Area of special flood-related erosion hazard is the land within a community which is most likely to be subject to severe flood-related erosion losses. The area may be designated as Zone E on the Flood Hazard Boundary Map (FHBM). After the detailed evaluation of the special flood-related erosion hazard area; in preparation for publication of the FIRM, Zone E may be further refined.
4. Area of special flood hazard is the land in the flood plain within a community subject to a 1 percent or greater chance of flooding in any given year. The area may be designated as Zone A on the FHBM. After detailed ratemaking has been completed in preparation for publication of the flood insurance rate map, Zone A usually is refined into Zones A, AO, AH, A1-30, AE, A99, AR, AR/A1-30, AR/AE, AR/AO, AR/AH, AR/A, VO, or V1-30, VE, or V. For purposes of these regulations, the term "special flood hazard area" is synonymous in meaning with the phrase "area of special flood hazard".

5. Base flood means the flood having a one percent chance of being equaled or exceeded in any given year.
6. Base Flood Elevation (BFE) – Is the water surface elevation of the one (1) percent annual chance flood. The height in relation to mean sea level expected to be reached by the waters of the base flood at pertinent points in the floodplains of coastal and riverine areas.
7. Basement means any area of the building having its floor subgrade (below ground level) on all sides.
8. Breakaway wall means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.
9. Building--see structure.
10. Development means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.
11. Erosion means the process of the gradual wearing away of land masses. This peril is not per se covered under the Program.
12. Existing construction means for the purposes of determining rates, structures for which the “start of construction” commenced before the effective date of the FIRM or before January 1, 1975, for FIRMs effective before that date. “Existing construction” may also be referred to as “existing structures.”
13. Existing manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.
14. Existing structures--see existing construction.
15. Expansion to an existing manufactured home park or subdivision means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufacturing homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).
16. Flood or Flooding means:
 - a. A general and temporary condition of partial or complete inundation of normally dry land areas from:

- i. The overflow of inland or tidal waters.
 - ii. The unusual and rapid accumulation or runoff of surface waters from any source.
 - iii. Mudslides (i.e., mudflows) which are proximately caused by flooding as defined in paragraph (a)(2) of this definition and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.
 - b. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph (a)(i) of this definition.
17. Flood elevation determination means a determination by the Administrator of the water surface elevations of the base flood, that is, the flood level that has a one percent or greater chance of occurrence in any given year.
18. Flood Insurance Rate Map (FIRM) means an official map of a community, on which the Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community.
19. Flood Insurance Study or Flood elevation study means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e., mudflow) and/or flood-related erosion hazards.
20. Flood plain or flood-prone area means any land area susceptible to being inundated by water from any source (see definition of “flooding”).
21. Flood proofing means any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.
22. Floodway--see regulatory floodway.
23. Floodway encroachment lines mean the lines marking the limits of floodways on Federal, State and local flood plain maps.
24. Freeboard means a factor of safety usually expressed in feet above a flood level for purposes of flood plain management. “Freeboard” tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave

action, bridge openings, and the hydrological effect of urbanization of the watershed.

25. Functionally dependent use means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.
26. Highest adjacent grade means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.
27. Historic Structure means any structure that is:
 - a. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
 - b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
 - c. Individually listed on a state inventory of historic places in states with historic reservation programs which have been approved by the Secretary of the Interior; or
 - d. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - i. By an approved state program as determined by the Secretary of the Interior or
 - ii. Directly by the Secretary of the Interior in states without approved programs.
28. Levee means a man-made structure usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water so as to provide protection from temporary flooding.
29. Levee System means a flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.
30. Lowest Floor means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; Provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of Title 18.

31. Manufactured home means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term “manufactured home” does not include a “recreational vehicle”.
32. Manufactured home park or subdivision means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.
33. Map means the Flood Hazard Boundary Map (FHBM) or the Flood Insurance Rate Map (FIRM) for a community issued by the Agency.
34. Mean sea level means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.
35. New construction means, for the purposes of determining insurance rates, structures for which the “start of construction” commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, new construction means structures for which the start of construction commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.
36. New manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.
37. Recreational vehicle means a vehicle which is:
 - a. Built on a single chassis;
 - b. 400 square feet or less when measured at the largest horizontal projection;
 - c. Designed to be self-propelled or permanently towable by a light duty truck; and
 - d. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.
38. Regulatory floodway means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.
39. Special flood hazard area: see “area of special flood hazard”.

40. Special hazard area means an area having special flood, mudslide (i.e., mudflow), or flood-related erosion hazards, and shown on an FHBM or FIRM as Zone A, AO, A1-30, AE, AR, AR/A1-30, AR/AE, AR/AO, AR/AH, AR/A, A99, AH, VO, V1-30, VE, V, M, or E.
41. Start of Construction (for other than new construction or substantial improvements under the Coastal Barrier Resources Act (Pub. L. 97-348)), includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.
42. Structure means, for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank that is principally above ground, as well as a manufactured home. Structure, for insurance purposes, means:
- a. A building with two or more outside rigid walls and a fully secured roof that is affixed to a permanent site;
 - b. A manufactured home (“a manufactured home,” also known as a mobile home, is a structure: built on a permanent chassis, transported to its site in one or more sections, and affixed to a permanent foundation); or
 - c. A travel trailer without wheels built on a chassis and affixed to a permanent foundation, that is regulated under the community's floodplain management and building ordinances or laws.
- For the latter purpose, “structure” does not mean a recreational vehicle or a park trailer or other similar vehicle, except as described in paragraph (c) of this definition, or a gas or liquid storage tank.
43. Substantial damage means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.
44. Substantial improvement means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the “start of construction” of the improvement. This term includes structures which have incurred “substantial

damage”, regardless of the actual repair work performed. The term does not, however, include either:

- a. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions or
- b. Any alteration of a “historic structure”, provided that the alteration will not preclude the structure's continued designation as a “historic structure.”

45. Variance means a grant of relief by a community from the terms of a flood plain management regulation.

46. Violation means the failure of a structure or other development to be fully compliant with the community's flood plain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in Sec. 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided.

47. Water surface elevation means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, (or other datum, where specified) of floods of various magnitudes and frequencies in the flood plains of coastal or riverine areas.

Chapter 18.03 – General Provisions

- 18.0301** Lands to Which this Ordinance Applies
The ordinance shall apply to all areas of special flood hazard within the jurisdiction of the City of Freeman.
- 18.0302** Basis for Establishing the Areas of Special Flood Hazard
The areas of special flood hazard identified by the Federal Emergency Management Agency in a scientific and engineering report entitled, "The Flood Insurance Study for the City of Freeman," dated September 2, 2009, with accompanying Flood Insurance Rate Maps (FIRM), dated September 2, 2009 and any revisions thereto are hereby adopted by reference and declared to be a part of this ordinance.
- 18.0303** Establishment of Development Permit
A Development Permit shall be required to ensure conformance with the provisions of this ordinance.
- 18.0304** Compliance
No structure or land shall hereafter be located, altered, or have its use changed without full compliance with the terms of this ordinance and other applicable regulations.

- 18.0305** Abrogation and Greater Restrictions
This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.
- 18.0306** Interpretation
In the interpretation and application of this ordinance, all provisions shall be; (1) considered as minimum requirements; (2) liberally construed in favor of the governing body; and (3) deemed neither to limit nor repeal any other powers granted under State statutes.
- 18.0307** Warning and Disclaimer or Liability
The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. On rare occasions greater floods can and will occur and flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of the community or any official or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.
- 18.0308** Severability
If any section, provision, or portion of this ordinance is adjudged unconstitutional or invalid by a court, the remainder of the ordinance shall not be affected.

Chapter 18.04 - Administration

- 18.0401** Designation of the Floodplain Administrator
The Mayor is hereby appointed the Floodplain Administrator to administer and implement the provisions of this ordinance and other appropriate sections of 44 CFR (National Flood Insurance Program Regulations) pertaining to floodplain management.
- 18.0402** Duties & Responsibilities of the Floodplain Administrator
Duties and responsibilities of the Floodplain Administrator shall include, but not be limited to, the following:
- (1) Maintain and hold open for public inspection all records pertaining to the provisions of this ordinance.
 - (2) Review the permit application to determine whether proposed construction or other development, including the placement of manufactured homes, will be reasonably safe from flooding.
 - (3) Review, approve or deny all applications for development permits required by adoption of this ordinance.

(4) Review permits for proposed development to assure that all necessary permits have been obtained from those Federal, State or local governmental agencies (including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334) from which prior approval is required.

(5) Where interpretation is needed as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the Floodplain Administrator shall make the necessary interpretation.

18.0403

Permit Procedures

1. Application for a Development Permit shall be presented to the Floodplain Administrator on forms furnished by him/her and may include, but not be limited to, plans in duplicate drawn to scale showing the location, dimensions, and elevation of proposed landscape alterations, existing and proposed structures, including the placement of manufactured homes, and the location of the foregoing in relation to areas of special flood hazard.

Additionally, the following information is required:

- a. Elevation (in relation to mean sea level), of the lowest floor (including basement) of all new and substantially improved structures at least one foot above;
 - b. Elevation in relation to mean sea level to which any nonresidential structure shall be flood proofed;
 - c. A certificate from a registered professional engineer or architect that the nonresidential flood proofed structure shall meet the flood proofing criteria of this ordinance;
 - d. Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development; and
 - e. Maintain a record of all such information.
2. Approval or denial of a Development Permit by the Floodplain Administrator shall be based on all of the provisions of this ordinance and the following relevant factors:
 - a. The danger to life and property due to flooding or erosion damage;
 - b. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - c. The danger that materials may be swept onto other lands to the injury of others;
 - d. The compatibility of the proposed use with existing and anticipated development;
 - e. The safety of access to the property in times of flood for ordinary and emergency vehicles;
 - f. The costs of providing governmental services during and after flood conditions including maintenance and repair of streets and bridges, and public utilities and facilities such as sewer, gas, electrical and water systems;
 - g. The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site;
 - h. The necessity to the facility of a waterfront location, where applicable;

- i. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
- j. The relationship of the proposed use to the comprehensive plan for that area.

18.0404

Variance Procedures

1. The appeal Board as established by the community shall hear and render judgment on requests for variances from the requirements of this ordinance.
2. The Appeal Board shall hear and render judgment on an appeal only when it is alleged there is an error in any requirement, decision, or determination made by the Floodplain Administrator in the enforcement or administration of this ordinance.
3. Any person or persons aggrieved by the decision of the Appeal Board may appeal such decision in the courts of competent jurisdiction.
4. The Floodplain Administrator shall maintain a record of all actions involving an appeal and shall report variances to the Federal Emergency Management Agency upon request.
5. Variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the relevant factors in Section C of this Article have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
6. Upon consideration of the factors noted above and the intent of this ordinance, the Appeal Board may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this ordinance.
7. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
8. Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
9. Prerequisites for granting variances:
 - a. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
 - b. Variances shall only be issued upon,
 - (i) showing a good and sufficient cause;
 - (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and
 - (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public

expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

- c. Any application to whom a variance is granted shall be given written notice that the structure will be permitted to be built with the lowest floor elevation below the base flood elevation, and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.
10. Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that
- (i) The criteria outlined in Article 4, Section D (1)-(9) are met, and
 - (ii) The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

Chapter 18.05 – Provisions for Flood Hazard Reduction

18.0501

General Standards

In all areas of special flood hazards the following provisions are required for all new construction and substantial improvements.

1. All new construction or substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
2. All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;
3. All new construction or substantial improvements shall be constructed with materials resistant to flood damage;
4. All new construction or substantial improvements shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
5. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
6. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharge from the systems into flood waters; and,
7. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

18.502

Standards for Subdivision Proposals

1. All subdivision proposals including the placement of manufactured home parks and subdivisions shall be consistent with this ordinance.
2. All proposals for the development of subdivisions including the placement of manufactured home parks and subdivisions shall meet Development Permit requirements of this ordinance.
3. All subdivision proposals including the placement of manufactured home parks and subdivisions shall have adequate drainage provided to reduce exposure to flood hazards.
4. All subdivision proposals including the placement of manufactured home parks and subdivisions shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.

18.0503

Penalties for Noncompliance

In accordance with Section 59.2(b) of CFR 44, Chapter 1, of the National Flood Insurance Program (NFIP) regulation, to qualify for the sale of Federally-subsidized flood insurance, a community must adopt floodplain management regulations that meet or exceed the minimum standards of Section 60. "These regulations must include effective enforcement provisions." In accordance with Section 60.1(b) of CFR 44, Chapter 1, of the NFIP regulations, "These regulations must be legally-enforceable, applied uniformly throughout the community to all privately and publicly owned land within flood-prone (i.e. mudflow) or flood-related erosion areas, and the community must provide that the regulations take precedence over less restrictive conflicting local laws, ordinances or codes."

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this ordinance and other applicable regulations. Violation of the provisions of this ordinance by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$ 500.00 or imprisoned for not more than 30 days, or both, for each violation, and in addition shall pay all costs and expenses involved in the case. Nothing herein contained shall prevent the City of Freeman from taking such other lawful action as is necessary to prevent or remedy any violation.

Dated this 6th day of June, 2016